

If a built-in fire extinguishing system is used in lieu of manual fire fighting, then the fire extinguishing system must be designed so that no hazardous quantities of extinguishing agent will enter other compartments occupied by passengers or crew; the system must have adequate capacity to suppress any fire occurring in the crew rest compartment, considering the fire threat, volume of the compartment and the ventilation rate.

13. There must be a supplemental oxygen system equivalent to that provided for main deck passengers for each seat and berth in the crew rest compartment. The system must provide an aural and visual warning to warn the occupants of the crew rest compartment to don oxygen masks in the event of decompression. The warning must activate before the cabin pressure altitude exceeds 15,000 feet. The aural warning must sound continuously until a reset push button in the crew rest compartment is depressed.

14. The following requirements apply to a crew rest compartment that is divided into several sections by the installation of curtains or partitions:

(a) To compensate for sleeping occupants, there must be an aural alert that can be heard in each section of the crew rest compartment that accompanies automatic presentation of supplemental oxygen masks. A minimum of two supplemental oxygen masks are required in each section whether or not seats or berths are installed in each section. There must also be a means by which the oxygen masks can be manually deployed from the flight deck.

(b) A placard is required adjacent to each curtain that visually divides or separates, for privacy purposes, the overhead crew rest compartment into small sections. The placard must require that the curtain(s) remain open when the private section it creates is unoccupied. The vestibule section adjacent to the stairway is not considered a private area and, therefore, does not require a placard.

(c) For each crew rest section created by the installation of a curtain, the following requirements of these special conditions must be met with the curtain open or closed:

(1) No smoking placard (Special Condition No. 1),

(2) Emergency illumination (Special Condition No. 5),

(3) Emergency alarm system (Special Condition No. 7),

(4) Seat belt fasten signal (Special Condition No. 8), and

(5) The smoke or fire detection system (Special Condition No. 10).

(d) Overhead crew rest compartments visually divided to the extent that evacuation could be affected must have exit signs that direct occupants to the primary stairway exit. The exit signs must be provided in each separate section of the crew rest compartment, and must meet the requirements of 25.812(b)(1)(i).

(e) Sections within an overhead crew rest compartment that are created by the installation of a rigid partition with a door physically separating the sections, the following requirements of these special conditions must be met with the door open or closed:

(1) There must be a secondary evacuation route from each section to the main deck, or alternatively, it must be shown that any door between the sections has been designed to preclude anyone from being trapped inside the compartment.

(2) Any door between the sections must be shown to be openable when crowded against, even when crowding occurs at each side of the door.

(3) There may be no more than one door between any seat or berth and the primary stairway exit.

(4) There must be exit signs in each section meeting the requirements of 25.812(b)(1)(i) that direct occupants to the primary stairway exit. An exit sign with reduced background area as described in Special Condition No. 4(a) may be used to meet this requirement.

(f) For each smaller section within the main crew rest compartment created by the installation of a partition with a door, the following requirements of these special conditions must be met with the door open or closed:

(1) No smoking placards (Special Condition No. 1),

(2) Emergency illumination (Special Condition No. 5),

(3) Two-way voice communication (Special Condition No. 6),

(4) Emergency alarm system (Special Condition No. 7),

(5) Seat belt fasten signal (Special Condition No. 8),

(6) Emergency fire fighting and protective equipment (Special Condition No. 9), and

(7) Smoke or fire detection system (Special Condition No. 10).

15. The requirements of two-way voice communication with the flight deck and provisions for emergency firefighting and protective equipment are not applicable to lavatories or other small areas that are not intended to be occupied for extended periods of time.

16. Where a waste disposal receptacle is fitted, it must be equipped with an automatic fire extinguisher that meets

the performance requirements of 25.854(b).

17. Materials (including finishes or decorative surfaces applied to the materials) must comply with the flammability requirements of 25.853(a), as amended by Amendment 25-83. Mattresses must comply with the flammability requirements of 25.853(c), as amended by Amendment 25-83.

Issued in Renton, Washington on September 17, 2001.

**Ali Bahrami,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 01-23785 Filed 9-21-01; 8:45 am]

**BILLING CODE 4910-13-P**

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## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 915

[SPATS No. IA-012-FOR]

#### Iowa Regulatory Program

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

**ACTION:** Proposed rule; public comment period and opportunity for public hearing.

**SUMMARY:** The Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of a proposed amendment to the Iowa regulatory program (Iowa program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Iowa proposes revisions to its April 1999 revegetation success guidelines concerning normal husbandry practices; minimum planting arrangements and tree and shrub stocking requirements for recreational, wildlife, and forested lands; and criteria for dry weight determinations for corn, soybean, oat, and wheat crops. Iowa intends to revise its program to be consistent with the corresponding Federal regulations.

This document gives the times and locations that the Iowa program and the proposed amendment to that program are available for public inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

**DATES:** We will accept written comments until 4 p.m., c.d.t., October 24, 2001. If requested, we will hold a public hearing on the amendment on October 19, 2001. We will accept

requests to speak at the hearing until 4 p.m., c.d.t. on October 9, 2001.

**ADDRESSES:** You should mail or hand deliver written comments and requests to speak at the hearing to John W. Coleman, Mid-Continent Regional Coordinating Center, at the address listed below.

You may review copies of the Iowa program, the amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Mid-Continent Regional Coordinating Center.

John W. Coleman, Mid-Continent Regional Coordinating Center, Office of Surface Mining, Alton Federal Building, 501 Belle Street, Alton, Illinois 62002, Telephone: (618) 463-6460.

Iowa Department of Agriculture and Land Stewardship, Division of Soil Conservation, Henry A. Wallace Building, Des Moines, Iowa 50319, Telephone: (515) 281-6147.

**FOR FURTHER INFORMATION CONTACT:** John W. Coleman, Mid-Continent Regional Coordinating Center. Telephone: (618) 463-6460. Internet: jcoleman@osmre.gov.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background on the Iowa Program**

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, “\* \* \* a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act \* \* \*; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act.” See 30 U.S.C. 1253(a)(1) and (7). On the basis of this criteria, the Secretary of the Interior conditionally approved the Iowa program on January 21, 1981. You can find background information on the Iowa program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the January 21, 1981, **Federal Register** (46 FR 5885). You can find later actions on the Iowa program at 30 CFR 915.10, 915.15, and 915.16.

##### **II. Description of the Proposed Amendment**

By letter dated August 17, 2001 (Administrative Record No. IA-446),

Iowa sent us an amendment to its program under SMCRA and the Federal regulations at 30 CFR 732.17(b). Iowa sent the amendment in response to required program amendments at 30 CFR 915.16(b), (d), and (e). Iowa is proposing changes to its April 1999 revegetation success guidelines, entitled “Revegetation Success Standards and Statistically Valid Sampling Techniques.” Below is a summary of the changes proposed by Iowa. The full text of the Iowa program amendment is available for public inspection at the locations listed above under **ADDRESSES**.

##### *A. Normal Husbandry Practices*

Section III, Part H of Iowa's April 1999 revegetation success guidelines describes normal husbandry practices that can be used by the permittee in the repair of rills and gullies without restarting the responsibility period. It includes requirements for terrace repair and maintenance; riprap repair and maintenance; land smoothing and reseeding; and liming, fertilizing and interseeding. In our final rule dated November 26, 1999, we did not approve Section III, Part H because Iowa did not submit documentation that demonstrated that the proposed normal husbandry practices were the usual or expected state, form, amount, or degree of management performed habitually or customarily to prevent exploitation, destruction, or neglect of the resources on similar unmined lands in the State (64 FR 66388-66389). We required Iowa to either remove its guidelines for normal husbandry practices at Section III, Part H or submit documentation that support the proposed normal husbandry practices. We codified this requirement at 30 CFR 915.16(b).

In response to the required program amendment at 30 CFR 915.16(b), Iowa proposed changes to Section III, Part H of its April 1999 revegetation success guidelines and included documentation for support of the proposed normal husbandry practices. The documentation included copies of four publications: (1) Iowa Natural Resources Conservation Service (NRCS) Conservation Practice Standard 466, Land Smoothing; (2) Iowa NRCS Conservation Practice Standard 590, Nutrient Management; (3) Iowa NRCS Conservation Practice Standard 600, Terraces; and (4) Iowa State University Extension Service Publication Pm-1097, Interseeding and No-till Pasture Renovation.

Iowa is proposing the following substantive changes to Section III, Part H:

1. Iowa is revising Section III, Part H, Step 1 concerning terrace repair and

maintenance by removing Item (e). Item (e) allows the extension of a terrace to intercept additional drainage area when the extension is no greater than 25 percent of the original terrace length. Items (f) and (g) were relettered as (e) and (f), respectively.

2. Iowa is revising Section III, Part H, Step 2 concerning riprap repair and maintenance by removing Item (b). Item (b) allows the extension of an undersized ditch when the extension is no more than a 25 percent increase in the length of the ditch. Items (c) and (d) were relettered as (b) and (c), respectively.

3. Iowa is revising Section III, Part H, Step 4(a) concerning lime applications. The revised provision reads as follows:

(a) Lime Applications: Lime applications may be made based on soil test recommendations for the appropriate crop or vegetation. These maintenance applications should follow the guidelines of Natural Resources Conservation Service Conservation Practice Standard, Nutrient Management (Acre), Code 590. Prior to any lime applications the Permittee shall be required to submit, to the Division, the original copies of the soil test recommendations and a map of the permit area indicating where each soil sample was taken. Under no circumstances will lime applications greater than the soil test recommendations for that crop or vegetative cover be permitted. If subsequent submittals of lime weight tickets show any lime applications in a significant excess of the soil test recommendations, it shall be grounds for the Division to restart the responsibility period.

4. Iowa is revising Section III, Part H, Step 4(b) concerning fertilizer applications. The revised provision reads as follows:

(b) Fertilizer Applications: Fertilizer applications may be made based on soil test recommendations for the appropriate crop or vegetation. These maintenance applications should follow the guidelines of Natural Resources Conservation Service Conservation Practice Standard, Nutrient Management (Acre), Code 590. Prior to any fertilizer applications the Permittee shall be required to submit, to the Division, the original copies of the soil test recommendations and a map of the permit area indicating where each soil sample was taken. Under no circumstances will the fertilizer applications be greater than the soil test recommendations for that crop (at a realistic median crop yield) or vegetative cover be permitted. If subsequent submittals of fertilizer weight tickets prove that any fertilizer applications were in significant excess of the soil test recommendations, that shall be grounds for the Division to restart the responsibility period.

5. Iowa is revising the introductory paragraph of Section III, Part H, Step 4(c) concerning interseeding by adding the following sentence to the end of the paragraph:

Any species to be interseeded must be approved by the Division before the seed is planted.

6. Iowa is revising Section III, Part H, Step 4(c)(ii) to read as follows:

(ii) Interseeding of a single species in the permit approved seeding mixture, or interseeding of a replacement species, that has been approved by the Division, to improve the vegetative cover when unfavorable weather conditions adversely affect the germination success of the original revegetation effort.

7. Finally Iowa is deleting the existing provisions at Section III, Part H, Step 4(c)(iv) and (v).

*B. Recreational, Wildlife, and Forested Lands*

Section IV, Part E of Iowa's April 1999 revegetation success guidelines contains the revegetation success standards for recreational areas, wildlife areas, and forested lands. In our final rule dated November 26, 1999, we approved Section IV, Part E with two exceptions (64 FR 66388). First, Iowa's guidelines did not contain any planting arrangement provisions for these land uses as required by 30 CFR 816.116(b)(3)(i) and 817.116(b)(3)(i). Second, Iowa did not submit any documentation to prove that the State agencies responsible for the administration of forestry and wildlife programs approved its minimum stocking provisions as required by 30 CFR 816.116(b)(3)(i) and 817.116(b)(3)(i). We required Iowa to either add planting arrangement provisions for recreational, wildlife, and forested land to its guidelines and obtain program-wide concurrence from the State agencies responsible for the administration of forestry and wildlife programs or add a provision to its guidelines that requires permit-specific concurrence for planting arrangements from the State agencies responsible for the administration of forestry and wildlife programs. We also required Iowa to either obtain program-wide concurrence for its minimum stocking provisions or add a provision to its guidelines that requires permit-specific concurrence for minimum stocking from the State agencies responsible for the administration of forestry and wildlife programs. We codified these requirements at 30 CFR 915.16(d)(1) and (2).

Iowa is proposing the following changes to Section IV, Part E to address our required program amendments at 30 CFR 915.16(d)(1) and (2).

1. Iowa is adding the following new provision to the beginning of the second paragraph of Section IV, Part E:

The wildlife and recreational lands have site specific vegetation. Each permit with these types of post-mining land use have been approved by the Division in concurrence with the Iowa Department of Natural Resources.

2. Iowa is adding the following new provision to Section IV, Part E, Step 2:

2. Tree and Shrub Stocking Requirements: The tree and shrub planting shall be spaced such that there are a minimum of five hundred (500) seedlings per acre. Acceptable tree and shrub spacing, which will meet or exceed the minimum number of seedlings per acre, are listed below. Narrower spacing is used for timber production. Wider spacing and planting in groups or clumps is used for wildlife and recreational tree and shrub plantings. These group or clump plantings should consist of a minimum of five (5) or more trees, and fifteen (15) or more shrubs per group.

TREE AND SHRUB SPACING FOR PLANTING

Spacing in feet	Number of seedlings per acre
5 x 5 .....	1,742
5 x 10 .....	871
6 x 6 .....	1,210
6 x 10 .....	726
7 x 7 .....	889
7 x 10 .....	622
8 x 8 .....	681
8 x 10 .....	545

3. The existing provisions in Section IV, Part E, Step 2 were renumbered to Step 3.

*C. Corn, Soybean, Oat, and Wheat Crops*

Section V of Iowa's April 1999 revegetation success guidelines contains sampling procedures and techniques to determine productivity for corn, soybeans, oats, wheat, and forage crops; to determine ground cover percentage; and to determine if trees and shrubs meet minimum density standards. In our final rule dated November 26, 1999, we approved Section V of Iowa's April 1999 revegetation success guidelines with one exception (64 FR 66388). We did not fully approve Section V, Part A, Item 2, which contains the grain sampling techniques for test plot harvesting, because it did not specify how the permittee is to obtain the dry weight of the test plot grain samples. The dry weight is used in a calculation to determine the moisture percentage for each test plot sample. We required Iowa to revise its April 1999 revegetation success guidelines at Section V, Part A, Step 2 by adding a provision that specifies the standard method that permittees are to use for obtaining the dry weight of test plot grain samples.

We codified this requirement at 30 CFR 915.16(e).

In response to the required amendment at 30 CFR 915.16(e), Iowa is adding the following new provision to the beginning of Step 2(l):

(l) The grain samples collected and labeled in Step 2.g. above must be oven dried until a constant dry weight is obtained. Weighing will be performed immediately after oven drying to avoid absorption of water from humid air. This dry weight will equal zero percent (0%) moisture. All samples will be adjusted to the appropriate percent moisture for that grain.

**III. Public Comment Procedures**

Under the provisions of 30 CFR 732.17(h), we are seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Iowa program.

*Written Comments:* If you submit written or electronic comments on the proposed rule during the 30-day comment period, they should be specific, should be confined to issues pertinent to the notice, and should explain the reason for your recommendation(s). We may not be able to consider or include in the Administrative Record comments delivered to an address other than the one listed above (see **ADDRESSES**).

*Electronic Comments:* Please submit Internet comments as an ASCII, WordPerfect, or Word file avoiding the use of special characters and any form of encryption. Please also include "Attn: SPATS NO. IA-012-FOR" and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Mid-Continent Regional Coordinating Center at (618) 463-6460.

*Availability of Comments:* Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours at OSM's Mid-Continent Regional Coordinating Center (see **ADDRESSES**). Individual respondents may request that we withhold their home address from the administrative record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We

will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

**Public Hearing:** If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., c.d.t. on October 9, 2001. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at a public hearing provide us with a written copy of his or her testimony. The public hearing will continue on the specified date until all persons scheduled to speak have been heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

If you are disabled and need a special accommodation to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

**Public Meeting:** If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. If you wish to meet with us to discuss the proposed amendment, you may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We will also make a written summary of each meeting a part of the Administrative Record.

#### IV. Procedural Determinations

##### *Executive Order 12866—Regulatory Planning and Review*

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

##### *Executive Order 12630—Takings*

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulations.

##### *Executive Order 13132—Federalism*

This rule does not have federalism implications. SMCRA delineates the roles of the Federal and State

governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to “establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.” Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be “in accordance with” the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations “consistent with” regulations issued by the Secretary under SMCRA.

##### *Executive Order 12988—Civil Justice Reform*

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

##### *Executive Order 13211—Regulations That Significantly Affect The Supply, Distribution, or Use of Energy*

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866 and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

##### *National Environmental Policy Act*

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed State regulatory program provision does not constitute a major Federal action within the meaning of

section 102(2)(C) of the National Environmental Policy Act (NEPA) (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

##### *Paperwork Reduction Act*

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

##### *Regulatory Flexibility Act*

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

##### *Small Business Regulatory Enforcement Fairness Act*

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of \$100 million.

b. Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

##### *Unfunded Mandates*

This rule will not impose a cost of \$100 million or more in any given year

on any governmental entity or the private sector.

### List of Subjects in 30 CFR Part 915

Intergovernmental relations, Surface mining, Underground mining.

Dated: August 30, 2001.

**Charles E. Sandberg,**

*Acting Regional Director, Mid-Continent Regional Coordinating Center.*

[FR Doc. 01-23732 Filed 9-21-01; 8:45 am]

BILLING CODE 4310-05-P

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 3 RIN 2900-AK23

#### Renouncement of Benefits

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to amend the Department of Veterans Affairs (VA) adjudication regulation concerning the renouncement of benefits. A substantive change in the effective date of a renouncement is proposed. The intended effect of this amendment is to present the existing regulation in plain language so that it is easier to understand and to establish a rule for the effective date of a renouncement of benefits when the award is in suspense.

**DATES:** Comments must be received on or before November 23, 2001.

**ADDRESSES:** Mail or hand deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1154, Washington, DC, 20420; or fax comments to (202) 273-9289; or e-mail comments to

*OGCRegulations@mail.va.gov.*

Comments should indicate that they are submitted in response to "RIN 2900-AK23." All comments received will be available for public inspection in the Office of Regulations Management, Room 1158, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

**FOR FURTHER INFORMATION CONTACT:** Bob White, Team Leader, Plain Language Regulations Project, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC, 20420. Telephone: (202) 273-7228 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** VA proposes to rewrite 38 CFR 3.106 in plain language. This regulation concerns the renouncement of VA pension, compensation, or dependency and

indemnity compensation (DIC) benefits. It explains who has the right to renounce benefits, how to renounce benefits, and what renouncement will mean to a beneficiary. There is also a discussion about the right to reapply for benefits that have been renounced, as well as effective dates for the termination of renounced benefits. The current regulation is located in Subpart A of Part 3. We propose to create new § 3.2145 to restate the current regulation and to amend the effective date portion of it. The new section would be located in Subpart D—Universal Adjudication Rules that Apply to Benefit Claims Governed by part 3 of this title.

Paragraph (a)(1) of proposed new § 3.2145 informs readers that only primary beneficiaries have the right to renounce VA pension, compensation, or DIC benefits, and the term "primary beneficiary" is defined as anyone who is entitled to receive benefits in his or her own right. It explains that when a primary beneficiary decides to renounce his or her benefits, the entire benefit is renounced, not just a portion of it. The renouncement must be in writing and be signed by the primary beneficiary or his or her fiduciary. This language was added to clarify that fiduciaries may sign renouncements on behalf of minors and incompetents. The effective date of the renouncement will be the last day of the month in which VA receives it or, if the award is in suspense, the date of last payment. This is a restatement of § 3.106(a), except for the last sentence. The last sentence incorporates our proposed effective date change to the regulation by adding "or, if payments have been suspended, the date of last payment."

Prior to January 21, 1992, the effective date for renouncement under 38 CFR 3.106 was the date of last payment. The date of last payment is the last date that VA sent a beneficiary his or her regular monthly benefit payment. However, using the date of last payment created a problem due to workload differences among regional offices, as well as fluctuations within the same office. This often resulted in the termination of two beneficiaries' benefit payments on different dates even though VA had received both beneficiaries' renouncements on the same date. For example, VA receives two renouncements from two beneficiaries on April 19th. Both beneficiaries were last paid on April 1. One renouncement gets processed immediately. That beneficiary's benefits are renounced effective April 1st, the date of last payment, and no more payments are made. The other renouncement isn't processed for two weeks. That

beneficiary's May 1st benefit payment has already been issued. Now the date of last payment is May 1st and that is when the renouncement becomes effective. The result is an additional payment sent to a beneficiary who wanted to terminate benefits immediately.

On January 21, 1992, the effective date for a renouncement was changed from the date of last payment to the last day of the month in which the renouncement was received. This eliminated the problem illustrated by the example in the preceding paragraph. However, it did not take into account beneficiaries whose awards were already in suspense when their renouncements were received.

VA proposes to add "or, if payments have been suspended, the date of last payment" to the existing regulation to avoid sending additional payments to a beneficiary who wants to terminate his or her benefits immediately, but currently has an award in suspended status. If a beneficiary has an award that has been suspended, it means that he or she has not received any benefit payments for some length of time. Under normal circumstances when VA is able to resume a beneficiary's suspended award, those payments that are due but not yet paid would be released to the beneficiary. In the case of renouncement, however, releasing those payments to a beneficiary seeking to terminate benefits would be inconsistent with the expressed desire of the beneficiary to stop receiving benefits. The proposed wording for paragraph (a) of § 3.2145 would make sure that beneficiaries who renounce their rights to receive VA benefits are not sent any additional benefit payments.

Paragraph (a)(2) of proposed § 3.2145 has been added to clearly state that apportionees and dependents on the awards of other persons are not primary beneficiaries and may not renounce benefits.

Paragraph (b) of proposed § 3.2145 explains that a primary beneficiary who renounces the right to receive VA benefits may reapply for the same benefit at any time. VA will treat the new application as the first claim for that benefit, and no payments may be made for any period prior to its receipt (except as noted in paragraph (c) of this section). This is a restatement of § 3.106(b).

Paragraph (c) of proposed § 3.2145 states the exception to paragraph (b), which concerns reapplication for pension or parents' DIC benefits. When an application for one of these benefits