

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

is received within one year from the date a renouncement of the same benefit was received, it will not be considered a new application. VA will determine entitlement as if the renouncement had never been received. This is a restatement of § 3.106(c).

Paragraph (d) of proposed § 3.2145 clarifies that renouncement by a primary beneficiary does not increase benefits or create independent entitlement to benefits in any other person. While current § 3.106(d) and (e) address this issue with respect to DIC only, the proposed paragraph (d) makes clear that renouncement has the same affect on compensation and pension as well.

This rulemaking reflects VA's goal of making government more responsive, accessible, and comprehensible to the public. The Plain Language Regulations Project was developed as a long-term comprehensive project to reorganize and rewrite in plain language the adjudication regulations in Part 3 of Title 38, Code of Federal Regulations. This proposed rule is part of a series of proposed revisions to those regulations.

#### Unfunded Mandates

The Unfunded Mandates Reform Act, Public Law 104-4, March 22, 1995, requires (in section 202) that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of \$100 million or more in any given year. This proposed rule would have no consequential effect on State, local, or tribal governments.

#### Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501-3520).

#### Regulatory Flexibility Act

The Secretary certifies that the adoption of the proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. The proposed rule does not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

#### Catalog of Federal Domestic Assistance Program Numbers

The Catalog of Federal Domestic Assistance program numbers for this proposal are 64.104, 64.105, 64.109, and 64.110.

#### List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability Benefits, Health care, Pensions, Veterans, Vietnam.

Approved: March 26, 2001.

**Anthony J. Principi,**  
*Secretary of Veterans Affairs.*

For the reasons set forth in the preamble, VA proposes to amend 38 CFR Part 3 as follows:

### PART 3—ADJUDICATION

#### Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for Part 3, Subpart A continues to read as follows:

**Authority:** 38 U.S.C. 501(a), unless otherwise noted.

#### § 3.106 [Removed]

2. Section 3.106 is removed.

#### Subpart D—Universal Adjudication Rules That Apply to Benefit Claims Governed by Part 3 of This Title

3. The authority citation for part 3, subpart D continues to read as follows:

**Authority:** 38 U.S.C. 501(a), unless otherwise noted.

4. New § 3.2145 is added under the undesignated center heading **GENERAL** to read as follows:

#### § 3.2145 Can I voluntarily give up my VA benefits?

(a)(1) Only a primary beneficiary may renounce (give up) the right to receive VA pension, compensation, or dependency and indemnity compensation (DIC) benefits. A primary beneficiary is anyone who is entitled to receive benefits in his or her own right. The renouncement of the right to receive benefits must be in writing and must be signed by the primary beneficiary or his or her fiduciary. No specific form is required to do so. Any renouncement must be for the entire benefit, not just a portion of it. VA will stop the renounced benefit payments effective the last day of the month in which the renouncement is received or, if payments have been suspended, the date of last payment.

(2) Apportionees and dependents on a primary beneficiary's award may not renounce benefits.

(b) A primary beneficiary who renounces the right to receive a VA benefit may reapply for the same benefit at any time. Except as provided in paragraph (c) of this section, VA will treat the new application as an original claim for that benefit. No payments may be made for any period prior to the receipt of the new application.

(c) If a former primary beneficiary reapplies for pension or parents' DIC within one year of renouncing the same benefit, then VA will determine entitlement as if the renouncement had never been received.

(d) The renouncement of benefits by a primary beneficiary does not increase benefits or create independent entitlement to benefits for any other person.

(Authority: 38 U.S.C. 5306)

[FR Doc. 01-23801 Filed 9-21-01; 8:45 am]

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### POSTAL SERVICE

#### 39 CFR Part 111

#### Production, Distribution, and Use of Postage Meters (Postage Evidencing Systems) and Postal Security Devices

**AGENCY:** Postal Service.

**ACTION:** Extension of comment period.

**SUMMARY:** The Postal Service published a proposed rule for public comment in the **Federal Register** (66 FR 42820-42831) on August 15, 2001. Comments were due September 14, 2001. The comment period is hereby extended until September 25, 2001.

**DATES:** The Postal Service must receive your comments on or before September 25, 2001. No additional extensions on the comment period will be granted.

**ADDRESSES:** Mail or deliver written comments to the Manager, Postage Technology Management, 1735 N Lynn Street, Room 5011, Arlington, VA 22209-6050. You can view and copy all written comments at the same address between 9 a.m. and 4 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** James Luff, 703-292-3693.

**Stanley F. Mires,**  
*Chief Counsel, Legislative.*

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