

will be assessed and the effective date of registration will be the date the group of photographs was originally submitted in conformity with then current regulations. With respect to any applications including more than 50 continuation sheets that are received by the Office on or after the effective date of this amendment, the applicant will be given the option of obtaining a registration certificate that does not include the continuation sheets, with the continuation sheets being included with the deposit to identify the dates of publication of the photographic images as permitted under § 202.3(b)(9)(iv).

This amendment is therefore issued as a final rule effective on the date it is published in the **Federal Register**.

Regulatory Flexibility Act

The Copyright Office, though located in the Library of Congress and part of the legislative branch, is not an "agency" subject to the Regulatory Flexibility Act, 5 U.S.C. 601-612. Nevertheless, the Register of Copyrights has considered the effect of a proposed amendment on small businesses. This amendment continues to offer photographers, who usually constitute small businesses, the ability to register their copyrights in large groups for a modest fee while it ensures that the Copyright Office can process those registrations in an efficient manner and at a reasonable cost.

List of Subjects in 37 CFR Part 202

Claims, Copyright.

Final Regulation

■ For the reasons set forth in the preamble, the Copyright Office amends 37 CFR part 202 as follows:

PART 202—REGISTRATION OF CLAIMS TO COPYRIGHT

■ 1. The authority citation for part 202 continues to read as follows:

Authority: 17 U.S.C. 408, 702.

■ 2. Section 202.3 is amended as follows:

- (a) By revising paragraph (b)(9)(iv);
- (b) By redesignating paragraphs (b)(9)(v) through (ix) as paragraphs (vi) through (x); and
- (c) By adding a new paragraph (b)(9)(v).

The additions and revisions to § 202.3 read as follows:

§ 202.3 Registration of copyright.

* * * * *

- (b) * * *
- (9) * * *

(iv) If the photographs in a group were all published on the same date, the date of publication must be identified in

space 3b of the application. If the photographs in a group were not all published on the same date, the range of dates of publication (e.g., February 15-September 15, 2004) must be provided in space 3b of the application, and the date of publication of each photograph within the group must be identified either:

- (A) On each deposited image;
 - (B) In a text file on the CD-ROM or DVD that contains the deposited photographic images;
 - (C) On a list that accompanies the deposit and provides the publication date for each image; or
 - (D) On a special continuation sheet provided by the Copyright Office. Dates of publication must be provided in a way that clearly identifies the date of publication for each individual photograph in the group.
- (v) If the applicant chooses to identify the date of publication for each photograph in the group on a continuation sheet, the application may include no more than 50 continuation sheets identifying no more than 750 photographs. For these purposes, the applicant must use the special continuation sheet for registration of a group of photographs made available by the Copyright Office.

* * * * *

Dated: March 18, 2005.

Marybeth Peters,

Register of Copyrights.

Approved by:

James H. Billington,

The Librarian of Congress.

[FR Doc. 05-6059 Filed 3-25-05; 8:45 am]

BILLING CODE 1410-30-P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900-AM14

Exclusions From Income and Net Worth Computations

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Department of Veterans Affairs (VA) adjudication regulations to exclude from income and net worth computations in the pension and parents' dependency and indemnity compensation programs benefits or payments received pursuant to the Medicare Prescription Drug Discount Card and Transitional Assistance Program in the Medicare Prescription Drug, Improvement, and Modernization Act of 2003. This

amendment is necessary to conform the regulations to statutory provisions.

DATES: *Effective date:* March 28, 2005.

FOR FURTHER INFORMATION CONTACT: Maya Ferrandino, Consultant (211A), Compensation and Pension Service, Policy and Regulations Staff, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273-7232.

SUPPLEMENTARY INFORMATION: All income is countable when VA determines entitlement to income-based benefits unless specifically excluded by law. Section 101 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA), Public Law 108-173, added section 1860D-31 to the Social Security Act (42 U.S.C. 1395w-141), creating a Medicare prescription drug discount card and transitional assistance program. This program allows Medicare beneficiaries to pool their purchasing power to secure substantial discounts on their medicines. Medicare beneficiaries at or below 135 percent of the federal poverty level can qualify for \$600 in additional assistance for the remainder of 2004 and another \$600 in 2005. The drug discounts and \$600 in transitional assistance became available on June 1, 2004.

A provision of the MMA clarifies the potential interaction between the drug discount card and transitional assistance and VA's pension and parents dependency and indemnity compensation benefits by stating that, "[t]he availability of negotiated prices or transitional assistance under this Section shall not be treated as benefits or otherwise taken into account in determining an individual's eligibility for, or the amount of benefits under, any other Federal program." Section 1860D-31(g)(6) of the Social Security Act. Therefore, the transitional assistance program and any savings associated with the prescription drug discount card are not income or net worth for VA purposes. This document amends 38 CFR 3.261, 3.262, 3.263, 3.272, and 3.275 to reflect this statutory change.

This final rule merely restates statutory provisions. Accordingly, there is a basis for dispensing with prior notice and comment and the delayed effective date provisions of 5 U.S.C. 552 and 553.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501-3521).

Regulatory Flexibility Act

Because no notice of proposed rulemaking was required in connection with the adoption of this final rule, no regulatory flexibility analysis is required under the Regulatory Flexibility Act (5 U.S.C. 601–612). Even so, the Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, 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

(adjusted annually for inflation) in any given year. This rule would have no such effect on State, local, or tribal governments, or the private sector.

Catalog of Federal Domestic Assistance Numbers

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

List of Subjects in 38 CFR Part 3

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

Approved: February 10, 2005.

Gordon H. Mansfield,
Deputy Secretary of Veterans Affairs.

■ For the reasons set forth in the preamble, 38 CFR part 3 is amended 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.

■ 2. In § 3.261, paragraph (a) is amended by adding entry (42) at the end of the table to read as follows:

§ 3.261 Character of income; exclusions and estates.

* * * * *
(a) * * *

| Income | Dependency (parents) | Dependency and indemnity compensation (parents) | Pension; old-law (veterans, surviving spouses and children) | Pension; section 306 (veterans, surviving spouses and children) | See— |
|--|----------------------|---|---|---|--------------|
| * | * | * | * | * | * |
| (42) Income received under the Medicare prescription drug discount card and transitional assistance program (42 U.S.C. 1395w–141(g)(6)). | Excluded | Excluded | Excluded | Excluded | § 3.262 (aa) |

■ 3. Section 3.262 is amended by:
■ a. Adding paragraph (aa) immediately following the first authority citation at the end of paragraph (z); and
■ b. Removing the second authority citation at the end of the section.
The addition reads as follows:

§ 3.262 Evaluation of income.

* * * * *
(aa) *Medicare Prescription Drug Discount Card and Transitional Assistance Program.* For purposes of old law pension, section 306 pension, and parents' dependency and indemnity compensation, the payments received under the Medicare transitional assistance program and any savings associated with the Medicare prescription drug discount card will not be considered income.
(Authority: 42 U.S.C. 1395w–141(g)(6))

■ 4. Section 3.263 is amended by:
■ a. Adding an authority citation at the end of paragraph (f).
■ b. Adding paragraph (i) immediately following the first authority citation at the end of paragraph (h).
■ c. Removing the second authority citation at the end of section.
The additions read as follows:

§ 3.263 Corpus of estate; net worth.

* * * * *
(f) * * *
(Authority: Sec. 105, Pub. L. 100–383; 102 Stat. 905; Sec. 6, Pub. L. 102–371; 106 Stat. 1167, 1168)

* * * * *
(i) *Medicare Prescription Drug Discount Card and Transitional Assistance Program.* There shall be excluded from the corpus of estate or net worth of a claimant payments received under the Medicare transitional assistance program and any savings associated with the Medicare prescription drug discount card.
(Authority: 42 U.S.C. 1395w–141(g)(6))

■ 5. Section 3.272 is amended by:
■ a. Revising the authority citation at the end of paragraph (u).
■ b. Adding paragraph (w) immediately following the first authority citation at the end of paragraph (v).
■ c. Removing the second authority citation at the end of the section.
The revision and addition read as follows:

§ 3.272 Exclusions from income.

* * * * *
(u) * * *

(Authority: 38 U.S.C. 1833(c))

* * * * *
(w) *Medicare Prescription Drug Discount Card and Transitional Assistance Program.* The payments received under the Medicare transitional assistance program and any savings associated with the Medicare prescription drug discount card.
(Authority: 42 U.S.C. 1395w–141(g)(6))

■ 6. Section 3.275 is amended by:
■ a. Revising the authority citation for paragraph (i).
■ b. Adding paragraph (k) immediately following the first authority citation at the end of paragraph (j).
■ c. Removing the second authority citation at the end of the section.
The revision and addition read as follows:

§ 3.275 Criteria for evaluating net worth.

* * * * *
(i) * * *
(Authority: 38 U.S.C. 1833(c))

* * * * *
(k) *Medicare Prescription Drug Discount Card and Transitional Assistance Program.* There shall be excluded from the corpus of estate or

net worth of a claimant payments received under the Medicare transitional assistance program and any savings associated with the Medicare prescription drug discount card.

(Authority: 42 U.S.C. 1395w-141(g)(6))

[FR Doc. 05-5973 Filed 3-25-05; 8:45 am]

BILLING CODE 8320-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX-107-1-7496; FRL-7890-1]

Approval and Promulgation of Implementation Plans; Texas; Post 1996 Rate-of-Progress Plan, Adjustments to the 1990 Base Year Emissions Inventory, and Motor Vehicle Emissions Budgets for the Dallas/Fort Worth Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision for the State of Texas. This revision includes the Post 1996 Rate-of-Progress (ROP) plan, adjustments to the 1990 base year emissions inventory, and ROP Motor Vehicle Emissions Budgets for the Dallas/Fort Worth (DFW) ozone nonattainment area. This plan shows planned emission reductions required by the Clean Air Act (Act) from 1996 to 1999 to improve air quality in the Dallas/Fort Worth Area. The reductions are from the 1990 base year emissions inventory. The adjustments to the 1990 base year emissions inventory improve that inventory. The Motor Vehicle Emissions Budgets are used for determining conformity of transportation projects to the SIP. This action satisfies the Act's requirements for a serious ozone nonattainment area's Post 1996 Rate-of-Progress requirements and approves the Motor Vehicle Emissions Budgets under the Rate-of-Progress Plan.

DATES: This rule is effective on April 27, 2005.

ADDRESSES: Copies of the documents relevant to this action are in the official file which is available at the Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal

holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

Copies of any State submittals and EPA's technical support document are also available for public inspection at the State Air Agency listed below during official business hours by appointment:

Texas Commission on Environmental Quality, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Herbert R. Sherrow, Jr., Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone (214) 665-7237; fax number 214-665-7263; e-mail address sherrow.herb@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document wherever "we," "us," or "our" is used, we mean the EPA.

Outline

- I. What Action Is EPA Taking?
- II. What Is the Background for This Action?
- III. What Comments Were Received During the Public Comment Period, January 18, 2001, to March 19, 2001?
- IV. Final Action
- V. Statutory and Executive Order Reviews

I. What Action Is EPA Taking?

EPA is approving the Post 1996 Rate of Progress (ROP) plan, the adjustments to the 1990 base year emissions inventory, and the Motor Vehicle Emissions Budgets (MVEB) for the DFW ozone nonattainment area, submitted by Texas on October 25, 1999 and found complete on January 6, 2000.

II. What Is the Background for This Action?

We proposed approval of these SIP elements on January 28, 2001. We waited to take final action until the issue on the appropriate use of the MOBILE5 on-road mobile emission model was determined in *Sierra Club v. EPA*, 356 F.3d 296 (DC Cir. 2004). The Court found that the use of MOBILE5 was acceptable even if a more recent version was available because MOBILE5 was the best available version at the time the plan was prepared.

The Post 1996 ROP plan (9% plan) was designed to reduce ozone forming emissions from the baseline emissions

by 9% in the DFW nonattainment area for the years 1997-1999. We received no new information that would change the approvability of the ROP target calculations and none of the credits relied upon for meeting the ROP targets have changed since our proposal date. Therefore, this plan meets the Reasonable Further Progress requirements of the Act (section 182(c)(2)). The MVEBs associated with the 9% plan have been found to meet the adequacy criteria, effective January 27, 2000, and are consistent with the ROP plan. Therefore, they too are approvable. The adjustments to the 1990 base year emissions inventory improved the inventory through improvements in methodology implemented subsequent to the submission of the original inventory.

Please refer to 66 FR 4764, January 18, 2001, and its technical support document for details on the 9% Plan, the adjusted 1990 emissions inventory, and the MVEBs.

III. What Comments Were Received During the Public Comment Period, January 18, 2001, to March 19, 2001?

We did not receive any comments on the 9% Plan, the MVEBs, or the adjustments to the 1990 base year emissions inventory.

IV. Final Action

EPA is approving the Post 1996 Rate of Progress plan, the adjustments to the 1990 base year emissions inventory, and the Motor Vehicle Emissions Budgets submitted by Texas on October 25, 1999, for the DFW ozone nonattainment area. The VOC MVEB for the ROP plan is 147.22 tons per day and the NO_x MVEB is 284.14 tons per day.

V. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies 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.*). Because this rule approves pre-existing requirements