Commission shall provide individuals with disabilities covered by this section with the information and data involved by an alternative means of access that allows the individual to use the information and data.

14. Section 1615.140 is revised to read as follows:

§ 1615.140 Employment.

No qualified individual with a disability shall, on the basis of disability, be subjected to discrimination in employment under any program or activity conducted by the Commission. The definitions, requirements, and procedures of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), as established by this Commission in 29 CFR part 1614, shall apply to employment in federally conducted programs or activities. As noted in 29 CFR 1614.203(b), the standards used to determine whether section 501 of the Rehabilitation Act has been violated in a complaint alleging non-affirmative action employment discrimination under part 1614 shall be the standards applied under Title I and Title V (sections 501 through 504 and 510) of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. 12101, 12111, 12201) as such sections relate to employment. These standards are set forth in the Commission's ADA regulations at 29 CFR part 1630. If a section 501 complaint is filed against the Commission in the part 1614 process and it is found to include a separate section 508 claim, the part 1614 process will be used to process the section 501 claim. The section 508 claim will be processed separately in accordance with the procedures set forth at § 1615.170.

§ 1615.150 [Amended]

15. Section 1615.150(c) and (d) are removed.

16. Section 1615.170 is amended as follows:

A. Revise paragraphs (a), (b), and (c).

B. Revise the first sentences of paragraphs (d)(1) and (d)(2).

C. Revise the third and fourth sentences of paragraph (i).

D. Revise paragraph (j).

E. Revise the first sentence of paragraph (k).

F. Add a new paragraph (n).

The revisions and additions read as follows:

§ 1615.170 Compliance procedures.

(a) Except as provided in paragraph (b) of this section, this section applies to all allegations of discrimination on the basis of disability in programs or activities conducted by the Commission in violation of section 504. This section also applies to all complaints alleging a violation of the agency's responsibility to procure electronic and information technology under section 508 whether filed by members of the public or EEOC employees or applicants.

(b) The Commission shall process complaints alleging violations of section 504 with respect to employment according to the procedures established by EEOC in 29 CFR part 1614 pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791). With regard to employee claims concerning agency procurements made in violation of section 508, the procedures set out in paragraphs (d) through (m) of this section shall be used.

(c) Responsibility for implementation and operation of this section shall be vested in the Director, Office of Equal Opportunity (Director of OEO).

(d) * * * (1) * * * Any person who believes that he or she has been subjected to discrimination prohibited by this part or that the agency's procurement of electronic and information technology has violated section 508, or authorized representative of such person, may file a complaint with the Director of OEO. * * *

(2) * * * Complaints shall be filed with the Director of OEO within one hundred and eighty calendar days of the alleged acts of discrimination. * * *

* * * * *

(i) * * * An appeal shall be deemed filed on the date it is postmarked, or, in the absence of a postmark, on the date it is received by the Chair at EEOC headquarters. It should be clearly marked ''Appeal of Section 504 decision'' or ''Appeal of Section 508 decision'' and should contain specific objections explaining why the person believes the initial decision was factually or legally wrong. * * *

(j) Timely appeals shall be decided by the Chair of the Commission unless the Commission determines that an appeal raises a policy issue which should be addressed by the full Commission.

(1) The Chair will draft a decision within 30 days of receipt of an appeal and circulate it to the Commission.

(2) If a Commissioner believes an appeal raises a policy issue that should be addressed by the full Commission, he or she shall so inform the Chair by notice in writing within ten calendar days of the circulation of the draft decision on appeal.

(3) If the Chair does not receive such written notice, the decision on appeal shall be issued.

(4) If the Chair receives written notice as described in subparagraph (2), the Commission shall resolve the appeal through a vote.

(k) The Commission shall notify the complainant of the results of the appeal within ninety calendar days of the receipt of the appeal from the complainant. * * *

* * * * *

(n) *Civil actions.* The remedies, procedures, and rights set forth in sections 505(a)(2) and 505(b) of the Rehabilitation Act, 29 U.S.C. 794a(a)(2) and 794a(b) shall be the remedies, procedures, and rights available to any individual with a disability filing a complaint under this section.

Dated: February 7, 2008.

Naomi C. Earp,

Chair.

[FR Doc. E8–2863 Filed 2–15–08; 8:45 am]

BILLING CODE 6570–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AM22

Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA): Expansion of Benefit Coverage for Prostheses and Enuretic (Bed-wetting) Devices; Miscellaneous Provisions

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Department of Veterans Affairs (VA) regulations for the Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA) to expand the benefits available by covering, in addition to currently-covered prostheses, any non-dental prostheses determined medically necessary for treatment of certain medical conditions. It also proposes to no longer exclude coverage of enuretic (bed-wetting) devices. In addition, this document proposes to make changes in delegations of authority, technical changes, and nonsubstantive changes for purposes of clarity in VA's regulations governing CHAMPVA.

DATES: Comments must be received on or before April 21, 2008.

ADDRESSES: Written comments may be submitted through *http://www.Regulations.gov;* by mail or hand delivery to the Director, Regulations Management (00REG), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026.

Comments should indicate that they are submitted in response to ''RIN 2900-AM22—Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA)—Expansion of Benefit Coverage for Prostheses and Enuretic (Bed-wetting) Devices; Miscellaneous Provisions.'' Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Richard M. Trabert, Policy & Compliance Division, VA Health Administration Center, P.O. Box 65020, Denver, CO 80206–9020; (303) 331–7549. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: This document proposes to amend VA's medical regulations in 38 CFR part 17 concerning CHAMPVA. CHAMPVA is a VA medical benefits program for certain (1) spouses and children of veterans who have a permanent and total service-connected disability and (2) surviving spouses and children of veterans who died as a result of a service-connected disability or while rated permanently or totally disabled from a service-connected disability, or who died in the active military, naval, or air service in the line of duty. CHAMPVA is authorized at 38 U.S.C. 1781 (formerly 38 U.S.C. 1713). To be eligible for CHAMPVA benefits, among other requirements, the spouses, surviving spouses, and children may not be otherwise eligible for medical care under 10 U.S.C. chapter 55 (authorizing TRICARE, formerly CHAMPUS; referred to in this preamble as TRICARE/CHAMPUS). By the terms of section 1781(b), VA is required to provide benefits under CHAMPVA in the same or similar manner and subject to the same or similar limitations as medical care that is furnished to certain dependents and survivors of active duty and retired members of the Armed Forces under TRICARE/CHAMPUS. Needed medical care is largely provided to CHAMPVA beneficiaries through non-VA providers.

This proposed rule would amend 38 CFR 17.272, ''Benefits limitations/exclusions,'' in accordance with the requirements under 38 U.S.C. 1781(b) to furnish CHAMPVA benefits ''in the same or similar manner and with the same or similar limitations'' as medical care under TRICARE/CHAMPUS.

First, we propose to add certain prostheses to the benefits available under the CHAMPVA program to be consistent with benefits authorized for TRICARE/CHAMPUS in section 702 of Public Law 105–85 (1999), the National Defense Authorization Act for Fiscal Year 1998. That statutory provision amended TRICARE/CHAMPUS coverage to include prosthetic devices ''as determined by the Secretary of Defense to be necessary because of significant conditions resulting from trauma, congenital anomalies, or disease.'' The Department of Defense (DoD) amended the TRICARE/CHAMPUS regulations in 32 CFR 199.4 accordingly. See 65 FR 58224–25, Sept. 28, 2000 (final rule); 64 FR 45453–45454, August 20, 1999 (interim final rule). As discussed in the preambles in those rulemaking documents, DoD determined that noses, ears, and fingers are examples of additional prostheses that are authorized under that statutory amendment for TRICARE/CHAMPUS coverage. See 65 FR 58224; 64 FR 45453–45454. The regulations promulgated by DoD exclude from coverage all dental prostheses, ''except for those specifically required in connection with otherwise covered orthodontia directly related to the surgical correction of a cleft palate anomaly.'' 32 CFR 199.4(g)(48).

Under VA's current regulations for CHAMPVA at 38 CFR 17.272(a)(44), coverage for the purchase of prosthetic devices is limited to artificial limbs, voice prostheses, eyes, items surgically inserted in the body as an integral part of a surgical procedure, and dental prostheses that are specifically required in connection with otherwise covered orthodontia directly related to the surgical correction of a cleft palate anomaly. (These are also subject to the requirements generally applicable to CHAMPVA benefits, including being medically necessary and appropriate for the treatment of a condition.) We propose to amend § 17.272(a)(44) to extend prosthetic coverage to any other prostheses (other than dental prostheses) considered medically necessary because of significant conditions resulting from trauma, congenital anomalies, or disease. The proposed changes to § 17.272(a)(44) are also intended to clarify that ears, noses, and fingers and the prostheses currently referred to in § 17.272(a)(44)(i) through (iv) are examples of what the newly-listed category would include. Consistent with 32 CFR 199.4(g)(48), dental prostheses would continue to be excluded except as specifically provided in current § 17.272(a)(44)(v).

As another change authorized under the statutory requirement to furnish CHAMPVA benefits in the same or similar manner and with the same or similar limitations as medical care under TRICARE/CHAMPUS, we propose to amend § 17.272(a)(52) to permit enuretic (bed-wetting) devices (alarms) to be furnished to CHAMPVA beneficiaries. This proposed change would be consistent with DoD's regulations at 32 CFR 199.4(g)(58). That paragraph was amended to no longer exclude such devices. See 67 FR 18825, Apr. 17, 2002. Currently, enuretic (bed-wetting) devices and enuretic conditioning programs are excluded from CHAMPVA coverage. The proposed rule would remove the exclusion for enuretic (bed-wetting) devices now found at § 17.272(a)(52), but would, like TRICARE/CHAMPUS, continue to exclude enuretic conditioning programs. We believe it is in the public interest to implement in the CHAMPVA program this TRICARE/CHAMPUS change. The basis for excluding enuretic conditioning programs is to restrict the payment for professional guidance on the use of these devices to an authorized health care provider, such as the attending physician, a physician assistant, or a nurse practitioner.

This proposed rule would also amend the delegations of authority in 38 CFR 17.275, ''Claim filing deadline,'' and 38 CFR 17.276, ''Appeal/review process.'' Currently, § 17.275(b) provides that only the ''Center Director'' has the authority to grant exceptions to the claim filing deadline. This proposed rule would amend § 17.275(b) by referring to the Center Director by his or her title, the ''Director, Health Administration Center'', and would permit the Director to extend that authority to his or her designee. Similarly, § 17.276 currently provides that, in response to a beneficiary's request for review of a decision by a CHAMPVA benefits advisor, only the Center Director has the authority to issue a decision that is the final decision with respect to benefit coverage and computation of benefits, and that affirms, reverses, or modifies the prior decision. This proposed rule would amend § 17.276 to permit the Director, Health Administration Center, or his or her designee, to issue that final decision.

Finally, the proposed rule would make technical changes and other nonsubstantive changes for purposes of clarity in §§ 17.270 through 17.278. These include technical changes to conform with Public Law 107–135,

which redesignated the statutory section authorizing the CHAMPVA program as 38 U.S.C. 1781 (formerly 38 U.S.C. 1713).

Regulatory Flexibility Act

The Secretary of Veterans Affairs hereby certifies that this 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. Individuals eligible for CHAMPVA benefits are widely dispersed geographically and thus services provided to them would not have a significant impact on any small entity. Therefore, pursuant to 5 U.S.C. 605(b), this proposed rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Paperwork Reduction Act of 1995

This document contains no provisions constituting a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

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 issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any year. This proposed rule would have no such effect on State, local, and tribal governments, or on the private sector.

Executive Order 12866

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Executive Order classifies a ''significant regulatory action,'' requiring review by the Office of Management and Budget (OMB) unless OMB waives such review, as any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The economic, interagency, budgetary, legal, and policy implications of this proposed rule have been examined and it has been determined not to be a significant regulatory action under Executive Order 12866.

Catalog of Federal Domestic Assistance

This proposed rule affects the Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA), for which there is no Catalog of Federal Domestic Assistance program number.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs—health, Grant programs—veterans, Health care, Health facilities, Health professionals, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, and Veterans.

Approved: February 11, 2008.

Gordon H. Mansfield,

Deputy Secretary of Veterans.

For the reasons stated above, the Department of Veterans Affairs proposes to amend 38 CFR part 17 as follows:

PART 17—MEDICAL

1. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501, 1721, and as noted in specific sections.

2. Amend § 17.270 by:

a. In paragraph (a), removing ''1713'' and adding, in its place, ''1781''.

b. In paragraph (b), removing ''this section'' and adding, in its place, ''§§ 17.270 through 17.278'', removing '' ''fiscal'' year refers to October 1'', and adding, in its place, '' ''fiscal year'' refers to October 1''.

c. Revising the authority citation.

The revision reads as follows:

§ 17.270 General provisions.

* * * * *

(Authority: 38 U.S.C. 501, 1781)

3. Amend § 17.271 by revising the authority citations after paragraph (a) and at the end of the section to read as follows:

§ 17.271 Eligibility.

(a) * * *

(Authority: 38 U.S.C. 501, 1781)

* * * * *

(Authority: 38 U.S.C. 501, 1781)

4. Amend § 17.272 by:

a. Redesignating paragraphs (a)(44)(i) through (a)(44)(iv) as paragraphs (a)(44)(ii)(A) through (D), respectively.

b. Redesignating paragraph (a)(44)(v) as new paragraph (a)(44)(i).

c. Adding paragraphs (a)(44)(ii) introductory text and (a)(44)(ii)(E).

d. Revising paragraph (a)(52) and the authority citation.

The additions and revisions read as follows:

§ 17.272 Benefits limitations/exclusions.

(a) * * *

(44) * * *

(ii) Any prostheses, other than dental prostheses, determined to be medically necessary because of significant conditions resulting from trauma, congenital anomalies, or disease, including, but not limited to:

* * * * *

(E) Ears, noses, and fingers.

* * * * *

(52) Enuretic (bed-wetting) conditioning programs.

* * * * *

(Authority: 38 U.S.C. 501, 1781)

5. Amend § 17.273 by revising the authority citation to read as follows:

§ 17.273 Preauthorization.

* * * * *

(Authority: 38 U.S.C. 501, 1781)

6. Amend § 17.274 by revising the authority citation to read as follows:

§ 17.274 Cost sharing.

* * * * *

(Authority: 38 U.S.C. 501, 1781)

7. Amend § 17.275 by:

a. In paragraph (b), removing ''Center Director'' and adding, in its place, ''Director, Health Administration Center, or his or her designee''; and removing ''paragraph (a) if'' and adding, in its place, ''paragraph (a) of this section if''.

b. Adding an authority citation at the end of the section.

The addition reads as follows:

§ 17.275 Claim filing deadline.

* * * * *

(Authority: 38 U.S.C. 501, 1781)

8. Amend § 17.276 by:

a. Removing ''Center Director'' and ''Director'' each time they appear and adding, in their place, ''Director, Health Administration Center, or his or her designee''.

b. Revising the authority citation.

c. In the Note, removing ''20 CFR'' and adding, in its place ''38 CFR''.

The revision reads as follows:

§ 17.276 Appeal/review process.

* * * * *

(Authority: 38 U.S.C. 501, 1781)

* * * * *

9. Amend § 17.277 by adding an authority citation to read as follows:

§ 17.277 Third-party liability/medical care cost recovery.

* * * * *

(Authority: 28 U.S.C. 2651; 38 U.S.C. 501, 1781)

10. Amend § 17.278 by adding an authority citation to read as follows:

§ 17.278 Confidentiality of records.

* * * * *

(Authority: 5 U.S.C. 552, 552a; 38 U.S.C. 501, 1781, 5701, 7332)

[FR Doc. E8–3003 Filed 2–15–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF ENERGY

48 CFR Parts 904, 952 and 970

RIN 1991–AB71

Acquisition Regulation: Security Clause

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Energy (DOE) is proposing to amend the Department of Energy Acquisition Regulation (DEAR) to revise the security clause used in all contracts and subcontracts involving access authorizations to specifically require background checks and tests for the absence of any illegal drug, as defined in DOE regulations of uncleared personnel (employment applicants and current employees) who will require access authorizations. Background checks would not be required for applicants for DOE access authorization who possess a current access authorization from another Federal agency.

DATES: Written comments on the proposed rulemaking must be received on or before close of business March 20, 2008.

ADDRESSES: This proposed rule is available and comments may be submitted to the *Federal Electronic Rulemaking Portal* at *http://www.regulations.gov*. Comments may also be submitted electronically to *Richard.Langston@hq.doe.gov*. Comments may be mailed to: Richard Langston, Procurement Policy Analyst; MA–61/Forrestal Building; U.S. Department of Energy; 1000 Independence Avenue, SW.; Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Richard Langston at 202–287–1339 or *Richard.Langston@hq.doe.gov*.

SUPPLEMENTARY INFORMATION:

I. Background
II. Section-by-Section Analysis
III. Procedural Requirements
A. Review Under Executive Order 12866
B. Review Under Executive Order 12988
C. Review Under the Regulatory Flexibility Act
D. Review Under the Paperwork Reduction Act
E. Review Under the National Environmental Policy Act
F. Review Under Executive Order 13132
G. Review Under the Unfunded Mandates Reform Act of 1995
H. Review Under the Treasury and General Government Appropriations Act, 1999
I. Review Under Executive Order 13211
J. Review Under the Treasury and General Government Appropriations Act, 2001
K. Approval by the Office of the Secretary of Energy

I. Background

Many DOE contractor and subcontractor employees require access authorizations for access to classified information (Restricted Data, Formerly Restricted Data, or National Security Information) or certain quantities of special nuclear material in order to perform official duties. Section 904.404 is being revised to add a requirement in paragraph (d)(1) that the security clause is required in any contract that will involve contractor employees' access to special nuclear material. That requirement reflects past DOE practice and is being added to make the instruction clear and complete. Section 952.204–2, Security requirements, is revised by changing the title of the section to ''Security'' and by revising its introductory text to conform to the more recent Federal Acquisition Regulation format. Some of the requirements at 970.2201–1–2 are appropriate to other types of contracts if access authorizations are required, so language at 970.2201–1–2 is being restated in the security clause.

II. Section-by-Section Analysis

The Department proposes to amend the DEAR as follows:

Section 904.401 is amended to revise the definitions of classified information and Restricted Data.

Section 904.404, Solicitation provision and contract clause, is amended by adding ''or access to special nuclear materials'' after ''classified information'' at the end of the first sentence of paragraph (d)(1).

Section 952.204–2, Security requirements, is amended by revising its title to ''Security''; by revising the definitions in paragraphs (c) through (g); by revising the title of paragraph (h) from ''*Security clearances of personnel*'' to ''*Access authorizations for personnel*'' and redesignating its text as paragraph (h)(1); by adding new paragraphs (h)(2) and (i); by redesignating existing paragraphs (i) and (j) as (j) and (k); and by adding new paragraphs (l) and (m). Paragraphs (h)(2), (i), and (i)(1) contain language similar to that found in management and operating contract policy guidance at 970.2201–1–2(a)(1) and (2). The language in (h)(2) has been augmented by referencing the criteria at 10 CFR 710.8 that are used to grant or deny access authorizations, by adding a requirement that a candidate for a DOE access authorization must be tested to demonstrate the absence of any illegal drug, as defined in 10 CFR 707.4, and by directing contractors to select for employment only those whom they believe can pass the rigorous background investigation required for such positions. A new paragraph (h)(3) has been added making it clear that drug testing is applicable to all employees on an applicant, random or ''for cause'' basis. Paragraph (i), *Criminal liability* is amended to add ''special nuclear material, and other Government property'' to ''classified information'' as items the contractor must protect. Paragraph (j), *Foreign Ownership, Control or Influence*, is amended by moving the flow down to subcontracts requirement of (j)(4) to (l) and redesignating paragraph (j)(5) as (j)(4). New paragraph (k), *Employment announcements*, requires that contractors include a notice in vacancy announcements for positions requiring access authorizations that background checks and testing for the absence of any illegal drug, as defined in 10 CFR 707.4, will be performed, and that the Federal government may conduct a background investigation, subsequent reinvestigations, and, in the case of counterintelligence positions (as defined in 10 CFR 709.3), a