

(c) In reaching a decision on whether to produce responsive ODNI information or material, or to object to the demand, the OGC shall consider whether:

(1) Any relevant privileges are applicable;

(2) The applicable rules of discovery or procedure require production;

(3) Production would violate a statute, regulation, executive order or other provision of law;

(4) Production would violate a non-disclosure agreement;

(5) Production would be inconsistent with the DNI's responsibility to protect intelligence sources and methods, or reveal classified information or state secrets;

(6) Production would violate a specific ODNI policy issuance or instruction; and

(7) Production would unduly interfere with the orderly conduct of ODNI functions.

(d) If oral or written testimony is sought by a demand in a case or matter in which the ODNI is not a party, a reasonably detailed description of the testimony sought in the form of an affidavit, or a written statement if that is not feasible, by the party seeking the testimony or its attorney must be furnished to the OGC.

(e) The OGC shall notify the appropriate employees of all decisions regarding responses to demands and provide advice and counsel for the implementation of the decisions.

(f) If response to a demand is required before a decision is made whether to provide responsive ODNI information or material, an OGC attorney will request that a Department of Justice attorney appear with the ODNI employee upon whom that demand has been made before the court or other competent authority and provide it with a copy of this regulation and inform the court or other authority as to the status of the demand. The court will be requested to stay the demand pending resolution by the ODNI. If the request for a stay is denied or there is a ruling that the demand must be complied with irrespective of instructions rendered in accordance with this Part, the employee upon whom the demand was made shall, if directed to do so by the General Counsel or its designee, respectfully decline to comply with the demand under the authority of *United States ex rel. Touhy v. Ragen*, 340 U.S. 462 (1951), and this regulation.

(g) ODNI officials may delegate in writing any authority given to them in this Part to subordinate officials.

(h) Any individual or entity not an ODNI employee as defined in this Part

who receives a demand for the production or disclosure of ODNI information or material acquired because of that person's or entity's association with the ODNI should notify the OGC ((703) 275-2527) for guidance and assistance. In such cases the provisions of this regulation shall be applicable.

§ 1703.5 Interpretation.

Any questions concerning interpretation of this Regulation shall be referred to the OGC for resolution.

Corin R. Stone,

Acting General Counsel, Office of the Director of National Intelligence.

[FR Doc. E9-5756 Filed 3-17-09; 8:45 am]

BILLING CODE 3910-A7-P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

United States Navy Restricted Area, Naval Support Activity, Panama City, FL

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Correcting amendments.

SUMMARY: The U.S. Army Corps of Engineers (Corps) published a document in the **Federal Register** on September 12, 2008 (73 FR 52926), revising the restricted areas at Naval Support Activity (NSA), Panama City (PC), Florida. The latitude of the shared point for the southeast point of restricted area BA-1 (Sec. 334.761(a)(2)) and the southwest point of restricted area BA-2 (Sec. 334.761(a)(3)) should have been provided as 30°10'32" N. This document corrects the final regulation by revising these actions.

DATES: *Effective date:* March 18, 2009.

FOR FURTHER INFORMATION CONTACT: Mr. David Olson, Headquarters, Operations and Regulatory Community of Practice, Washington, DC at 202-761-4922 or Mr. Jon Griffin, U.S. Army Corps of Engineers, Jacksonville District, Regulatory Division at 904-232-1680.

SUPPLEMENTARY INFORMATION: On September 12, 2008, (73 FR 52926) the Corps published a final rule establishing ten restricted areas at Naval Support Activity (NSA), Panama City (PC), Florida. In that final rule, the shared point at the southeast point of Area BA-1 (§ 334.761(a)(2)) and the southwest point of Area BA-2 (§ 334.761(a)(3)) overlap a portion of Area BA-3

(§ 334.761(a)(4)) by one second. To correct this error, the southeast point of Area BA-1 and the southwest point of Area BA-2 are changed to 30°10'32" N, with no change in the longitudinal value.

List of Subjects in 33 CFR Part 334

Danger zones, Navigation (water), Restricted areas, Waterways.

■ Accordingly, 33 CFR part 334 is amended by making the following correcting amendments:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

■ 1. The authority citation for part 334 continues to read as follows:

Authority: 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

■ 2. In § 334.761, revise paragraphs (a)(2) and (a)(3) to read as follows:

§ 334.761 Naval Support Activity Panama City; St. Andrews Bay; restricted areas.

* * * * *

(a) * * *

(2) *Area BA-1.* The area is bounded by a line directly connecting the following coordinates (listed by latitude, then longitude): Northwest point—30°11'14" N, 085°44'59" W; Northeast point—30°11'13" N, 085°44'32" W; Southeast point—30°10'32" N, 085°44'32" W; Southwest point—30°10'32" N, 085°44'59" W, then northerly to point of origin.

(3) *Area BA-2.* The area is bounded by a line directly connecting the following coordinates (listed by latitude, then longitude): Northwest point—30°11'13" N, 085°44'32" W; Northeast point—30°11'07" N, 085°44'01" W; Southeast point—30°10'32" N, 085°44'00" W; Southwest point—30°10'32" N, 085°44'32" W, then northerly to point of origin.

* * * * *

Dated: *March 9, 2009.*

Michael Ensich,

Chief, Operations, Directorate of Civil Works.

[FR Doc. E9-5748 Filed 3-17-09; 8:45 am]

BILLING CODE 3710-92-P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900-AN03

The Dr. James Allen Veteran Vision Equity Act of 2007

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Department of Veterans Affairs (VA) adjudication regulations regarding special monthly compensation and compensation for paired organs. These amendments are necessary because the statutes on which the regulations are based have been amended. The intended effect of these amendments is to incorporate relevant statutory provisions from the Dr. James Allen Veteran Vision Equity Act of 2007.

DATES: *Effective Date:* These amendments are effective March 18, 2009.

Applicability Date: This final rule will apply to applications for benefits filed with VA on or after December 26, 2007. This final rule will also apply to applications for benefits filed before December 26, 2007, but pending before VA as of December 26, 2007.

FOR FURTHER INFORMATION CONTACT: Gerald Johnson, Regulations Staff (211D), Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 1800 G Street, NW., Washington, DC 20420, (202) 461-9727.

SUPPLEMENTARY INFORMATION: Section 1114 of title 38, United States Code, prescribes the rates of compensation payable for service-connected disability, depending on the percentage disability rating assigned by VA or on the presence of various combinations of service-connected disabilities. One of the criteria for the rate of special monthly compensation prescribed by section 1114(o) was “service-connected total blindness with 5/200 visual acuity or less.” Section 101 of the Dr. James Allen Veteran Vision Equity Act of 2007, Public Law 110-157 (the Act), changed that threshold visual acuity of “5/200” to “20/200.”

Section 1160(a) of title 38, United States Code, requires VA to pay compensation for certain combinations of service-connected and non-service-connected disabilities of paired organs or extremities as if both disabilities were service connected, provided the non-service-connected disability is not the result of the veteran’s own willful misconduct. One of those combinations of disability was service-connected “blindness” in one eye and non-service-connected “blindness” in the other eye. Section 102 of the Act changed the word “blindness” to “impairment of vision” and added the criteria that the visual impairment in each eye be rated at visual acuity of 20/200 or less or that the peripheral field of vision for each eye be 20 degrees or less.

Pursuant to the Act, this document amends 38 CFR 3.350, Special monthly

compensation ratings, and 38 CFR 3.383, Special consideration for paired organs and extremities, to reflect the statutory changes. We are amending § 3.350(e)(1)(iii) by replacing “5/200” with “20/200.” We are amending § 3.383(a)(1) by replacing the word “blindness” in both places it appears with the term “impairment of vision” and adding the two additional statutory criteria.

Administrative Procedure Act

Because these substantive amendments merely reflect statutory changes, this rulemaking is exempt from the notice-and-comment and delayed-effective-date requirements of 5 U.S.C. 553. Use of those procedures would be unnecessary and contrary to the public interest.

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

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

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.

VA has examined the economic, interagency, budgetary, legal, and policy implications of this final rule and has concluded that it is not a significant regulatory action under Executive Order 12866.

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 one year. This final rule would have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance Numbers and Titles

The Catalog of Federal Domestic Assistance program number and title for this rule is 64.109, Veterans Compensation for Service-Connected Disability.

List of Subjects in 38 CFR Part 3

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

Approved: February 24, 2009.

John R. Gingrich,

Chief of Staff, Department of Veterans Affairs.

■ For the reasons stated in the preamble, the Department of Veterans Affairs amends 38 CFR Part 3 as set forth below:

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.

§ 3.350 [Amended]

- 2. Amend § 3.350(e)(1)(iii) by removing “5/200” and adding, in its place, “20/200”.
- 3. Revise § 3.383(a)(1) and the sectional authority citation to read as follows:

§ 3.383 Special consideration for paired organs and extremities.

(a) * * *

(1) Impairment of vision in one eye as a result of service-connected disability and impairment of vision in the other eye as a result of non-service-connected disability and

(i) The impairment of vision in each eye is rated at a visual acuity of 20/200 or less; or

(ii) The peripheral field of vision for each eye is 20 degrees or less.

* * * * *

Authority: 38 U.S.C. 501(a), 1160.

[FR Doc. E9-5862 Filed 3-17-09; 8:45 am]

BILLING CODE 8320-01-P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[AL-200822; FRL-8759-9]

Approval and Promulgation of Air Quality Implementation Plans; Alabama; Update to Materials Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; notice of administrative change.

SUMMARY: EPA is publishing this action to provide the public with notice of the update to the Alabama State Implementation Plan (SIP) compilation. In particular, materials submitted by Alabama that are incorporated by reference (IBR) into the Alabama SIP are being updated to reflect EPA-approved revisions to Alabama's SIP that have occurred since the last update. In this action EPA is also notifying the public of the correction of certain typographical errors.

DATES: This action is effective March 18, 2009.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, GA 30303; the Air and Radiation Docket and Information Center, EPA Headquarters Library, Infoterra Room (Room Number 3334), EPA West Building, 1301 Constitution

Ave., NW., Washington, DC 20460, and the National Archives and Records Administration. If you wish to obtain materials from a docket in the EPA Headquarters Library, please call the Office of Air and Radiation (OAR) Docket/Telephone number: (202) 566-1742. For information on the availability of this material at NARA, call 202-741-6030, or go to: <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

FOR FURTHER INFORMATION CONTACT: Ms. Stacy Harder at the above Region 4 address or at (404) 562-9042.

SUPPLEMENTARY INFORMATION: Each state has a SIP containing the control measures and strategies used to attain and maintain the national ambient air quality standards (NAAQS). The SIP is extensive, containing such elements as air pollution control regulations, emission inventories, monitoring networks, attainment demonstrations, and enforcement mechanisms.

Each state must formally adopt the control measures and strategies in the SIP after the public has had an opportunity to comment on them and then submit the SIP to EPA. Once these control measures and strategies are approved by EPA, after notice and comment, they are incorporated into the federally approved SIP and are identified in part 52 “Approval and Promulgation of Implementation Plans,” Title 40 of the Code of Federal Regulations (40 CFR part 52). The full text of the state regulation approved by EPA is not reproduced in its entirety in 40 CFR part 52, but is “incorporated by reference.” This means that EPA has approved a given state regulation with a specific effective date. The public is referred to the location of the full text version should they want to know which measures are contained in a given SIP. The information provided allows EPA and the public to monitor the extent to which a state implements a SIP to attain and maintain the NAAQS and to take enforcement action if necessary.

The SIP is a living document which the state can revise as necessary to address the unique air pollution problems in the state. Therefore, EPA from time to time must take action on SIP revisions containing new and/or revised regulations as being part of the SIP. On May 22, 1997 (62 FR 27968), EPA revised the procedures for incorporating by reference, into the CFR, materials submitted by states in their EPA-approved SIP revisions. These changes revised the format for the identification of the SIP in 40 CFR part 52, stream-lined the mechanisms for announcing EPA approval of revisions

to a SIP, and stream-lined the mechanisms for EPA's updating of the IBR information contained for each SIP in 40 CFR part 52. The revised procedures also called for EPA to maintain “SIP Compilations” that contain the federally approved regulations and source specific permits submitted by each state agency. These SIP Compilations are contained in 3-ring binders and are updated primarily on an annual basis. Under the revised procedures, EPA is to periodically publish an informational document in the rules section of the **Federal Register** when updates are made to a SIP Compilation for a particular state. EPA's 1997 revised procedures were formally applied to Alabama on December 22, 1998 (63 FR 70669).

This action represents EPA's publication of the Alabama SIP Compilation update, appearing in 40 CFR part 52. In addition, notice is provided of the following typographical corrections to Table (c) of paragraph 52.50, as described below:

1. Correcting typographical errors listed in Table 1 of paragraph 52.50(c), as described below:

A. Section 335-3-14-.03 State Effective Date is revised to read “08/10/00.”

B. Section 335-3-14-.03 EPA Approval Date is revised to read “12/8/00.”

C. Section 335-3-14-.05 EPA Approval Date is revised to read “12/8/00.”

D. Section 335-3-15-.02 EPA Approval Date is revised to read “12/8/00.”

2. Revising the date format listed in paragraphs 52.50(c), and (e) in the “state effective date,” and “EPA approval date,” columns for consistency. Dates are numerical month/day/year without additional zeros.

EPA has determined that today's action falls under the “good cause” exemption in the section 553(b)(3)(B) of the Administrative Procedure Act (APA) which, upon finding “good cause,” authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make an action effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Today's administrative action simply codifies provisions which are already in effect as a matter of law in Federal and approved state programs and corrects typographical errors appearing the **Federal Register**. Under section 553 of the APA, an agency may find good cause where procedures are “impractical, unnecessary, or contrary to the public interest.” Public comment for this administrative action is “unnecessary” and “contrary to the public interest” since the codification (and typographical corrections) only reflects existing law. Immediate notice