

Affairs proposes to amend 38 CFR part 1 as follows:

PART 1—GENERAL PROVISIONS

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

Authority: 38 U.S.C. 501(a), and as noted in specific sections.

2. The authority citation preceding § 1.900 is revised to read as follows:

Authority: Sections 1.900 through 1.953 are issued under the authority of 31 U.S.C. 3711 through 3720E; 38 U.S.C. 501, 5302, 5302A, 5314 and as noted in specific sections.

3. Amend § 1.940 by adding introductory text, to read as follows:

§ 1.940 Scope and application.

Except as otherwise provided in § 1.945:

* * * * *

4. Add § 1.945 to read as follows:

§ 1.945 Authority to suspend or terminate collection action on certain benefit indebtedness; authority for refunds.

(a) The Secretary of Veterans Affairs (Secretary) may suspend or terminate collection action on all or any part of an indebtedness owed to VA by a member of the Armed Forces who dies while on active duty, if the Secretary determines that such suspension or termination of collection is appropriate and in the best interest of the United States.

(b) The Secretary may terminate collection action on all or any part of an amount owed to the United States for an indebtedness resulting from an individual's participation in a benefits program administered by the Secretary, other than a program as described in paragraph (h) of this section, if the Secretary determines that such termination of collection is in the best interest of the United States. For purposes of this paragraph, an *individual* is any member of the Armed Forces or veteran who dies as a result of an injury incurred or aggravated in the line of duty while serving in a theater of combat operations in a war or in combat against a hostile force during a period of hostilities after September 11, 2001.

(c) For purposes of this section:

(1) *Theater of combat operations* means the geographic area of operations where the Secretary in consultation with the Secretary of Defense determines that combat occurred.

(2) *Period of hostilities* means an armed conflict in which members of the United States Armed Forces are subjected to danger comparable to danger to which members of the Armed Forces have been subjected in combat

with enemy armed forces during a period of war, as determined by the Secretary in consultation with the Secretary of Defense.

(d) The Secretary may refund amounts collected after the death of a member of the Armed Forces or veteran in accordance with this paragraph and paragraph (e) of this section.

(1) In any case where all or any part of a debt of a member of the Armed Forces, as described under paragraph (a) of this section, was collected, the Secretary may refund the amount collected if, in the Secretary's determination, the indebtedness would have been suspended or terminated under authority of 31 U.S.C. 3711(f). The member of the Armed Services must have been serving on active duty after September 11, 2001. In any case where all or any part of a debt of a covered member of the Armed Forces was collected, the Secretary may refund the amount collected, but only if the Secretary determines that, under the circumstances applicable with respect to the deceased member of the Armed Forces, it is appropriate to do so.

(2) In any case where all or any part of a debt of a covered member of the Armed Forces or veteran, as described under paragraph (b) of this section, was collected after September 11, 2001, the Secretary may refund the amount collected if, in the Secretary's determination, the indebtedness would have been terminated under authority of 38 U.S.C. 5302A. In addition, the Secretary may refund the amount only if he or she determines that the deceased individual is equitably entitled to the refund.

(e) Refunds under paragraph (d) of this section will be made to the estate of the decedent or, in its absence, to the decedent's next-of-kin first listed below.

(1) The decedent's spouse.

(2) The decedent's children (in equal shares).

(3) The decedent's parents (in equal shares).

(f) The authority exercised by the Secretary to suspend or terminate collection action and/or refund amounts collected on certain indebtedness is reserved to the Secretary and will not be delegated.

(g) Requests for a determination to suspend or terminate collection action and/or refund amounts previously collected as described in this section will be submitted to the Office of the Secretary through the Office of the General Counsel. Such requests for suspension or termination and/or refund may be initiated by the head of the VA administration having responsibility for the program that gave

rise to the indebtedness, or any concerned staff office, or by the Chairman of the Board of Veterans Appeals. When a recommendation for refund under this section is initiated by the head of a staff office, or by the Chairman, Board of Veterans Appeals, the views of the head of the administration that administers the program that gave rise to the indebtedness will be obtained and transmitted with the recommendation of the initiating office.

(h) The provisions of this section concerning suspension or termination of collection actions and the refunding of moneys previously collected do not apply to any amounts owed the United States under any program carried out under 38 U.S.C. chapter 37.

(Authority: 38 U.S.C. 501, 5302A; 31 U.S.C. 3711(f))

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 4

RIN 2900-AM70

Grants to States for Construction or Acquisition of State Home Facilities—Update of Authorized Beds; Correction

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule; Correction.

SUMMARY: The Department of Veterans Affairs (VA) published a proposed rule in the **Federal Register** July 10, 2009, to amend its regulations regarding grants to States for construction or acquisition of State homes to update the maximum number of nursing home and domiciliary beds designated for each State and to amend the definition of "State" for purposes of these grants to include Guam, the Northern Mariana Islands, and American Samoa. In the preamble, the table showing the changes in the maximum number of beds for each State contained an error for the number of beds for Vermont. This document corrects that error.

DATES: Comments must be received on or before September 8, 2009.

ADDRESSES: Written comments may be submitted by: Mail or hand-delivery to Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue, NW., Room 1068, Washington, DC 20420; fax to (202) 273-9026; or e-mail at <http://www.regulations.gov>. For further information concerning submission

addresses, please see the proposed rule published at 74 FR 33193, July 10, 2009.

FOR FURTHER INFORMATION CONTACT: James F. Burris, MD, Chief Consultant, Geriatrics and Extended Care State Home Construction Grant Program (114), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461-6774 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: VA published a document in the **Federal Register** on July 10, 2009, at 74 FR 33192, amending its regulations regarding grants to States for construction or acquisition of State homes to update the maximum number of nursing home and domiciliary beds designated for each State, and to amend the definition of "State." This document corrects an error in the preamble of the proposed rule in the maximum number of beds for the State of Vermont. However, in the regulatory text section of the proposed rule contains the correct number of 142 beds as shown in the table.

In FR Doc. E9-16341, published July 10, 2009, (74 FR 33192), make the following correction: On page 33194, in the third column of the table "New max # of beds (based on 2020 projection)" in the entry for Vermont, remove the number "1312" and add, in its place, "142".

William F. Russo,

Director, Regulations Management.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 96

[EPA-R04-OAR-2009-0454; FRL-8942-3]

Approval and Promulgation of Air Quality Implementation Plans; North Carolina; Clean Air Interstate Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the North Carolina State Implementation Plan (SIP) submitted by the State of North Carolina through the North Carolina Department of Environment and Natural Resources on June 20, 2008. This revision addresses the requirements of EPA's Clean Air Interstate Rule (CAIR). Although the DC Circuit Court found CAIR to be flawed, the rule was remanded without vacatur and thus remains in place. Thus, EPA is

continuing to approve CAIR provisions into SIPs as appropriate. CAIR, as promulgated, requires States to reduce emissions of sulfur dioxide (SO₂) and nitrogen oxides (NO_x) that significantly contribute to, or interfere with maintenance of, the national ambient air quality standards (NAAQS) for fine particulates and/or ozone in any downwind state. CAIR establishes budgets for SO₂ and NO_x for States that contribute significantly to nonattainment in downwind States and requires the significantly contributing States to submit SIP revisions that implement these budgets. States have the flexibility to choose which control measures to adopt to achieve the budgets, including participation in EPA-administered cap-and-trade programs addressing SO₂, NO_x annual, and NO_x ozone season emissions. In the full SIP revision that EPA is proposing to approve, North Carolina will meet CAIR requirements by participating in these cap-and-trade programs. EPA is proposing to approve the full SIP revision, as interpreted and clarified herein, as fully implementing the CAIR requirements for North Carolina. Consequently, this action will also cause the CAIR Federal Implementation Plans (CAIR FIPs) concerning SO₂, NO_x annual, and NO_x ozone season emissions by North Carolina sources to be automatically withdrawn.

DATES: Comments must be received on or before September 8, 2009.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2009-0454, by one of the following methods:

1. <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.
2. *E-mail:* benjamin.lynorae@epa.gov.
3. *Fax:* 404-562-9019.
4. *Mail:* EPA-R04-OAR-2009-0454, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960.
5. *Hand Delivery or Courier:* Lynorae Benjamin, Chief, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA-R04-OAR-2009-0454. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through <http://www.regulations.gov> or e-mail, information that you consider to be CBI or otherwise protected. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional