

**§ 20.1106 Rule 1106. Claim for death benefits by survivor—prior unfavorable decisions during veteran’s lifetime.**

Except with respect to benefits under the provisions of 38 U.S.C. 1311(a)(2) and 1318, and certain cases involving individuals whose Department of Veterans Affairs benefits have been forfeited for treason or for subversive activities under the provisions of 38 U.S.C. 6104 and 6105, issues involved in a survivor’s claim for death benefits will be decided without regard to any prior disposition of those issues during the veteran’s lifetime. Cases in which a person substitutes for a deceased veteran under 38 U.S.C. 5121A are not claims for death benefits and are not subject to this section. Cases in which a person substitutes for a deceased death benefits claimant under 38 U.S.C. 5121A are claims for death benefits subject to this section.

(Authority: 38 U.S.C. 5121A, 7104(b))

**Subpart N—Miscellaneous**

9. Revise § 20.1302 to read as follows:

**§ 20.1302 Rule 1302. Death of appellant during pendency of appeal before the Board.**

(a) *General.* An appeal pending before the Board of Veterans’ Appeals when the appellant dies will be dismissed without prejudice. A person eligible for substitution under § 3.1010 of this chapter may file with the agency of original jurisdiction a request to substitute for the deceased appellant. If the agency of original jurisdiction grants the request to substitute, the case will assume its original place on the docket pursuant to Rule 900 (§ 20.900(a)(2) of this part). If the agency of original jurisdiction denies the request to substitute and the person requesting to substitute appeals that decision to the Board, the appeal regarding eligibility to substitute will assume the same place on the docket as the original claim pursuant to Rule 900 (§ 20.900(a)(2) of this part).

(b) *Exception.* (1) If a hearing request is pending pursuant to Rule 704 (§ 20.704 of this part) when the appellant dies, the agency of original jurisdiction may take action on a request to substitute without regard to whether the pending appeal has been dismissed by the Board, if the request is submitted in accordance with § 3.1010 of this chapter.

(2) If the agency of original jurisdiction grants the request to substitute, the Board of Veterans’ Appeals can then take the testimony of the substitute at a hearing held pursuant to Rule 700 *et seq.* (§ 20.700 *et seq.* of

this part). If the substitute desires representation at the hearing, he or she must appoint a representative prior to the hearing pursuant to § 14.631(g) of this chapter.

(Authority: 38 U.S.C. 5121A, 7104(a))

10. Revise § 20.1304, paragraph (b)(1) introductory text and the authority citation at the end of the section to read as follows:

**§ 20.1304 Rule 1304. Request for change in representation, request for personal hearing, or submission of additional evidence following certification of an appeal to the Board of Veterans’ Appeals.**

\* \* \* \* \*

(b) \* \* \*

(1) *General rule.* Subject to the exception in paragraph (b)(2) of this section, following the expiration of the period described in paragraph (a) of this section, the Board of Veterans’ Appeals will not accept a request for a change in representation, a request for a personal hearing, or additional evidence except when the appellant demonstrates on motion that there was good cause for the delay. Examples of good cause include, but are not limited to, illness of the appellant or the representative which precluded action during the period; death of an individual representative; illness or incapacity of an individual representative which renders it impractical for an appellant to continue with him or her as representative; withdrawal of an individual representative; the discovery of evidence that was not available prior to the expiration of the period; and delay in transfer of the appellate record to the Board which precluded timely action with respect to these matters. Such motions must be in writing and must include the name of the veteran; the name of the claimant or appellant if other than the veteran (e.g., a veteran’s survivor, a guardian, or a fiduciary appointed to receive VA benefits on an individual’s behalf) or the name of any substitute claimant or appellant; the applicable Department of Veterans Affairs file number; and an explanation of why the request for a change in representation, the request for a personal hearing, or the submission of additional evidence could not be accomplished in a timely manner. Such motions must be filed at the following address: Director, Management and Administration (01E), Board of Veterans’ Appeals, 810 Vermont Avenue, NW., Washington, DC 20420. Depending upon the ruling on the motion, action will be taken as follows:

\* \* \* \* \*

(Authority: 38 U.S.C. 5121A, 5902, 5903, 5904, 7104, 7105, 7105A)

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 1**

[FRL–9267–2]

**Notice of a Public Meeting: Environmental Justice Considerations for Drinking Water Regulatory Efforts**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of meeting.

**SUMMARY:** The U.S. Environmental Protection Agency (EPA) is hosting a public meeting to discuss and solicit input on environmental justice considerations related to several upcoming regulatory efforts. These regulatory efforts include the long-term revisions to the Lead and Copper Rule (LCR) and the third Regulatory Determinations from the drinking water Contaminant Candidate List 3. EPA recently announced its intentions to develop drinking water regulatory actions for perchlorate and carcinogenic volatile organic compounds (VOCs). While the Agency is in the very preliminary stages of developing the regulatory efforts for perchlorate and carcinogenic VOCs, EPA plans to discuss these actions at this meeting. Environmental justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations and policies. EPA is holding this meeting to provide information to communities and an opportunity for communities to provide input on the LCR, Regulatory Determinations 3, perchlorate, and carcinogenic VOCs rulemaking efforts.

*Date and Location:* The public meeting will be held in Washington, DC on Thursday, March 3, 2011, from 10 a.m. to 5 p.m., Eastern Daylight Time (EDT). Participants will be notified of the specific meeting room upon confirmation of registration. Teleconferencing will be available for individuals unable to attend the meeting in person.

**FOR FURTHER INFORMATION CONTACT:** For general information about this meeting, contact Lameka Smith, Standards and Risk Management Division, Office of Ground Water and Drinking Water; by

phone (202) 564-1629 or by sending an e-mail to [smith.lameka@epa.gov](mailto:smith.lameka@epa.gov). For additional information about the Lead and Copper Rule, please visit: <http://water.epa.gov/lawsregs/rulesregs/sdwa/lcr/index.cfm>. For additional information about the drinking water contaminant candidate list and the regulatory determinations process, please visit: <http://water.epa.gov/scitech/drinkingwater/dws/ccl/index.cfm>. For additional information about perchlorate, please visit: <http://water.epa.gov/drink/contaminants/unregulated/perchlorate.cfm>.

For additional information about carcinogenic VOCs, please visit the Drinking Water Strategy homepage: <http://water.epa.gov/lawsregs/rulesregs/sdwa/dwstrategy/index.cfm>.

#### SUPPLEMENTARY INFORMATION:

**Registration:** Individuals planning to attend in person or by teleconference must register for the meeting by contacting Junie Percy, of IntelliTech at (937) 427-4148 ext. 210 or by sending an e-mail to [junie.percy@itsysteminc.com](mailto:junie.percy@itsysteminc.com) no later than Friday, February 28, 2011. Additional information pertaining to the meeting will be provided upon confirmation of registration. There is no charge for attending this public meeting, but seats and phone lines are limited, so register as soon as possible.

**Special Accommodations:** For information on access or request for special accommodations for individuals with disabilities, please contact Lameka Smith, Office of Ground Water and Drinking Water, U.S. Environmental Protection Agency; by telephone (202) 564-1629 or by sending an e-mail to [smith.lameka@epa.gov](mailto:smith.lameka@epa.gov). Please allow at least five business days prior to the meeting to allow time to process your request.

Dated: February 10, 2011.

**Cynthia C. Dougherty,**

Director, Office of Ground Water and Drinking Water.

[FR Doc. 2011-3383 Filed 2-14-11; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### 49 CFR Part 33

[Docket No. OST 2010-0298]

RIN 2105-AD83

#### Prioritization and Allocation Authority Exercised by the Secretary of Transportation Under the Defense Production Act

**AGENCY:** Office of the Secretary of Transportation (OST), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The Department of Transportation's Office of the Secretary (OST) is initiating this proposed rulemaking to clarify the priorities and allocation authorities exercised by the Secretary of Transportation (Secretary) under title 1 of the Defense Production Act of 1950 (Defense Production Act), and to set forth the administrative procedures by which the Secretary will exercise this authority. This proposed rule complies with the requirement in the Defense Production Act Reauthorization of 2009 (Pub. L. 111-67) to issue final rules establishing standards and procedures by which the priorities and allocations authority is used to promote the national defense, under both emergency and nonemergency conditions, and is part of a multi-agency effort that forms the Federal Priorities and Allocations System.

**DATES: Comment Closing Date:** Comments must be received by March 17, 2011.

**ADDRESSES:** You may submit comments (identified by the agency name and DOT Docket ID Number OST-2010-0298) by any of the following methods:

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov> and follow the online instructions for submitting comments.
- **Mail:** Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.
- **Hand Delivery or Courier:** West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- **Fax:** 202-493-2251.

**Instructions:** You must include the agency name (Office of the Secretary, DOT) and Docket number (OST-2010-0298) for this notice at the beginning of your comments. You should submit two

copies of your comments if you submit them by mail or courier. Note that all comments received will be posted without change to <http://www.regulations.gov> including any personal information provided and will be available to internet users. You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or you may visit <http://DocketsInfo.dot.gov>.

**Docket:** For Internet access to the docket to read background documents and comments received, go to <http://www.regulations.gov>. Background documents and comments received may also be viewed at the U.S. Department of Transportation, 1200 New Jersey Ave., SE., Docket Operations, M-30, West Building Ground Floor, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Donna L. O'Berry, Office of the General Counsel, Department of Transportation, 1200 New Jersey Avenue, SE., Room W96-317, Washington, DC 20590; telephone: (202) 366-6136; e-mail: [donna.o'berry@dot.gov](mailto:donna.o'berry@dot.gov); or Lloyd E. Milburn, Office of Intelligence, Security and Emergency Response, Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590; telephone: (202) 366-4397; e-mail: [lloyd.milburn@dot.gov](mailto:lloyd.milburn@dot.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Defense Production Act of 1950 (Defense Production Act) (50 U.S.C. App. 2061 *et seq.*) was enacted during the Korean War to ensure the availability of resources to meet national security needs. The Defense Production Act provides a number of important authorities to expedite and expand the supply of critical resources from the U.S. industrial base to support the national defense. While Defense Production Act provisions initially focused on Department of Defense (DoD) acquisition needs, several significant changes to the Defense Production Act definition of national defense have been added over time to expand the definition from military, energy, and space activities, to include emergency preparedness activities conducted pursuant to title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) (42 U.S.C. 5121 *et seq.*) and the protection and restoration of critical infrastructure.

Section 101(a) of title I of the Defense Production Act (50 U.S.C. App. 2071) authorizes the President: