

we do discuss the effects of this rule elsewhere in this preamble.

#### 8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### 9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### 10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### 11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### 12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

#### 13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### 14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a special local regulation issued in

conjunction with a regatta or marine parade. This rule is categorically excluded from further review under paragraph 35(b) and 34(h) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

#### List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

#### PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

**Authority:** 33 U.S.C. 1233.

■ 2. Add a temporary § 100.35T07-0728 to read as follows:

#### § 100.35T07-0728 Special Local Regulation; Red Bull Flugtag, Biscayne Bay; Miami, FL.

(a) *Regulated Area.* The following regulated areas are established as special local regulation. All coordinates are North American Datum 1983.

(1) *Event Area.* All waters of Biscayne Bay, Miami, FL between Bayfront Park and the Intercontinental-Miami Hotel encompassed within an imaginary line connecting the following points: Starting at point 1 in position 25°46'32" N, 80°11'06" W; thence southeast to point 2 in position 25°46'30" N, 80°11'04" W; thence south to point 3 in position 25°46'26" N, 80°11'04" W; thence southwest to point 4 in position 25°46'25" N, 80°11'06" W; thence north back to origin. All non-participant persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the event area without authorization from the Captain of the Port Miami or a designated representative.

(2) *Spectator Area.* All waters of Biscayne Bay, Miami, FL between Bayfront Park and the Intercontinental-Miami Hotel encompassed within an imaginary line connecting the following points: Starting at point 1 in position 25°46'32" N, 80°11'05" W; thence northeast to point 2 in position 25°46'36" N, 80°11'01" W; thence south to point 3 in position 25°46'22" N, 80°11'01" W; thence southwest to point

4 in position 25°46'18" N, 80°11'04" W; thence west to point 5 in position 25°46'18" N, 80°11'05" W; thence north to point 6 in position 25°46'25" N, 80°11'06" W; thence northeast to point 7 in position 25°46'26" N, 80°11'04" W; thence northwest to point 8 in position 25°46'30" N, 80°11'04" W; thence northwest back to origin. Vessels are permitted to anchor in this area.

(b) *Definition.* The term "designated representative" means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Miami in the enforcement of the regulated areas.

(c) *Regulations.* (1) Persons and vessels may request authorization to enter, transit through, anchor in, or remain within the event area by contacting the Captain of the Port Miami by telephone at 305-535-4472, or a designated representative via VHF radio on channel 16. If authorization is granted by the Captain of the Port Miami or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Miami or a designated representative.

(2) The Coast Guard will provide notice of the regulated areas by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) *Enforcement Date.* This rule will be enforced from 11:00 a.m. until 4:00 p.m. on November 3, 2012.

Dated: September 19, 2012.

**C.P. Scraba,**

*Captain, U.S. Coast Guard, Captain of the Port Miami.*

[FR Doc. 2012-24343 Filed 10-2-12; 8:45 am]

**BILLING CODE 9110-04-P**

#### DEPARTMENT OF VETERANS AFFAIRS

#### 38 CFR Part 9

#### RIN 2900-AN40

#### Servicemembers' Group Life Insurance and Veterans' Group Life Insurance—Slayer's Rule Exclusion

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** The Department of Veterans Affairs (VA) is amending its regulations governing Servicemembers' Group Life Insurance (SGLI) and Veterans' Group Life Insurance (VGLI) to prohibit payment of insurance proceeds payable

because of the death of a person whose life was insured under SGLI or VGLI (decedent) or payment of a SGLI Traumatic Injury Protection (TSGLI) benefit to a person who is convicted of intentionally and wrongfully killing the decedent or determined in a civil proceeding to have intentionally and wrongfully killed the decedent (slayer) and to any family member of the slayer. These provisions apply also to any person who assisted the slayer in causing the death of the decedent. Additionally, this document contains an interim final amendment that defines the term “member of the family” not to include a “domestic partner.”

**DATES:** *Effective Date:* This final rule is effective November 2, 2012.

*Applicability Date:* This rule is applicable to any claim for SGLI or VGLI proceeds, including a claim for a payment under 38 CFR 9.20, Traumatic injury protection, filed on or after November 2, 2012, and to any such claim filed before that date that has not been paid or denied as of that date.

*Comment Date:* Comments on the omission of the term “domestic partner” from the definition of a “member of the family” must be submitted by December 3, 2012.

**ADDRESSES:** Written comments may be submitted through [www.Regulations.gov](http://www.Regulations.gov); by mail or hand-delivery to Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue 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-AN40—Servicemembers’ Group Life Insurance and Veterans’ Group Life Insurance—Slayer’s Rule Exclusion.” Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8:00 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 [www.Regulations.gov](http://www.Regulations.gov).

**FOR FURTHER INFORMATION CONTACT:** Monica Keitt, Attorney/Advisor, Department of Veterans Affairs Regional Office and Insurance Center (310/290B), 5000 Wissahickon Avenue, P.O. Box 8079, Philadelphia, PA 19101, (215) 842-2000, ext. 2905. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** On December 13, 2011, VA published in the

**Federal Register** (76 FR 77455) a proposed rule to amend VA regulations governing the payment of SGLI or VGLI proceeds and benefit payments under the TSGLI program. Specifically, VA proposed to amend 38 CFR 9.1 and 9.5 to prohibit payment of SGLI or VGLI proceeds or a TSGLI benefit to: (1) A person who is convicted of intentionally killing the decedent or determined in a civil proceeding to have intentionally killed the decedent (known hereafter as the “slayer”); (2) a member of the slayer’s family who is not related to the decedent by blood, legal adoption, or marriage; and (3) a member of the slayer’s family who is related to the decedent by blood, legal adoption, or marriage and is convicted of a crime involving the intentional killing of the decedent or determined in a civil proceeding to have been involved in the intentional killing of the decedent.

Interested persons were invited to submit written comments on or before February 13, 2012. We received one comment, from Vietnam Veterans of America (VVA) concerning the terms used in, and the complexity of some of the language of, the proposed regulation. Based on internal agency reconsideration of the proposed regulation and the comment received from VVA, VA is making the following changes to the proposed rule.

First, VVA recommended adding the words “and wrongfully” and “and wrongful” as part of the descriptions provided in proposed § 9.5(e)(2)(i) and (iii), respectively. VA agrees with VVA’s recommendation to include the words “and wrongfully” in § 9.5(e)(2)(i) because those words speak to the heinous aspect of the slayer’s act that violates public policy. In order to be consistent, we will also add “and wrongfully” to § 9.1(l). In addition, this language is consistent with the language used in 38 CFR 3.11, which prohibits the payment of certain VA benefits to “[a]ny person who has intentionally and wrongfully caused the death of another person” if the benefits would be payable by reason of that death. The language of 38 CFR 3.11 serves as an appropriate model for the SGLI and VGLI Slayer’s Rule Exclusion. However, VA did not incorporate the words “and wrongful” into proposed § 9.5(e)(2)(iii) because that provision has been completely revised in accordance with VVA’s second recommendation to prohibit payment of insurance benefits to the family members of either the slayer or anyone who aided or assisted the slayer in causing the death of the decedent.

Second, VVA recommended simplifying the language of proposed § 9.5(e)(2) to make the regulation easier

to understand as it relates to the persons who are prohibited from receiving insurance proceeds and benefits. VA agrees with VVA’s suggestion and has modified the language of § 9.5(e)(2) to clarify the intent of the proposed rule that the slayer, anyone who assists the slayer in causing the death of the decedent, and the family members of the slayer or anyone who assists the slayer be prohibited from receiving insurance proceeds or benefits payable because of the decedent’s death.

Although proposed § 9.5(e)(2) included anyone who is convicted or found civilly liable for the death of the decedent, which would imply inclusion of an accomplice, the modified rule language removes any ambiguity regarding the inclusion of an accomplice under § 9.5(e)(2).

Third, VVA suggested changing the term “surviving spouse” in proposed § 9.5(e)(4)(i)(B) with the term “widow or widower” to make the reference consistent with the terms used in Chapter 19 of title 38, United States Code (U.S.C.). VA agrees with this suggestion and has altered the regulatory text accordingly. Use of the term “widow or widower” is consistent with the language of 38 U.S.C. 1970(a), which provides the order of preference for payments of SGLI and VGLI proceeds.

Finally, based on internal agency review, VA is removing proposed § 9.1(l)(6), which included “[d]omestic partner” as a “member of the family” for purposes of the provisions in § 9.5(e)(2), due to the unsettled legal landscape surrounding the recognition of such partnerships. Because recognition of the legality of such relationships varies from state to state, VA has determined that including such partnerships in this part would cause an undue administrative burden. The public is invited to comment on the omission of the term “domestic partner” from the definition of a “member of the family.”

For the reasons discussed above, VA is adopting the proposed rule as a final rule with the above-noted changes.

#### **Administrative Procedure Act**

Regarding the interim final amendment that defines the term “member of the family” within this final rule at 38 CFR 9.1(l) not to include a “domestic partner,” we find, pursuant to 5 U.S.C. 553(b)(B), that there is good cause to dispense with advance public notice. As noted above, the legal landscape surrounding the recognition of such partnerships is unsettled. Therefore, at this time, the term’s inclusion in the definition of a “member of the family” would be impracticable

and contrary to the public interest. Accordingly, VA is issuing this final rule with an interim final amendment to omit the term “domestic partner” from § 9.1(l).

**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 an 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 final rule will have no such effect on State, local, and tribal governments or on the private sector.

**Paperwork Reduction Act**

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

**Executive Orders 12866 and 13563**

Executive Orders 12866 and 13563 direct agencies to assess the 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 effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a “significant regulatory action,” which requires review by the Office of Management and Budget (OMB), 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 this Executive Order.”

The economic, interagency, budgetary, legal, and policy

implications of this regulatory action have been examined, and it has been determined not to be a significant regulatory action under Executive Order 12866.

**Regulatory Flexibility Act**

The Secretary of Veterans Affairs 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, 5 U.S.C. 601–612. This final rule will directly affect only individuals and will not directly affect any small entities. 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.

**Catalog of Federal Domestic Assistance Number and Title**

The Catalog of Federal Domestic Assistance number and title for the program affected by this document is 64.103, Life Insurance for Veterans.

**Signing Authority**

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. John R. Gingrich, Chief of Staff, Department of Veterans Affairs, approved this document on September 28, 2012, for publication.

**List of Subjects in 38 CFR Part 9**

Life insurance, Military personnel, Veterans.

Dated: September 28, 2012.

**Robert C. McFetridge,**  
*Director of Regulation Policy and Management, Office of the General Counsel, Department of Veterans Affairs.*

For the reasons stated in the preamble, VA amends 38 CFR part 9 as set forth below:

**PART 9—SERVICEMEMBERS’ GROUP LIFE INSURANCE AND VETERANS’ GROUP LIFE INSURANCE**

■ 1. The authority citation for part 9 continues to read as follows:

**Authority:** 38 U.S.C. 501, 1965–1980A, unless otherwise noted.

■ 2. Amend § 9.1 by adding a new paragraph (l) to read as follows:

**§ 9.1 Definitions.**

\* \* \* \* \*

(l) The term *member of the family* as used in § 9.5(e)(2) means an individual with any of the following relationships

to a person who is convicted of intentionally and wrongfully killing the decedent or determined in a civil proceeding to have intentionally and wrongfully killed the decedent:

- (1) Spouse;
- (2) Biological, adopted, or step child;
- (3) Biological, adoptive, or step parent;
- (4) Biological, adopted, or step sibling; or
- (5) Biological, adoptive, or step grandparent or grandchild.

\* \* \* \* \*

■ 3. Amend § 9.5 by adding paragraph (e) to read as follows:

**§ 9.5 Payment of proceeds.**

\* \* \* \* \*

(e)(1) The proceeds payable because of the death of an individual insured under Servicemembers’ Group Life Insurance or Veterans’ Group Life Insurance (“decedent”) shall not be payable to any person described in paragraph (e)(2) of this section. A Servicemembers’ Group Life Insurance Traumatic Injury Protection benefit payable under § 9.20(j)(3) shall not be payable to any person described in paragraph (e)(2) of this section.

(2) The persons described in this paragraph are:

- (i) A person who is convicted of intentionally and wrongfully killing the decedent or determined in a civil proceeding to have intentionally and wrongfully killed the decedent;
- (ii) A person who is convicted of assisting or aiding, or determined in a civil proceeding to have assisted or aided, a person described in paragraph (e)(2)(i) of this section; and
- (iii) A member of the family of a person described in paragraph (e)(2)(i) or (e)(2)(ii) of this section who is not related to the decedent by blood, legal adoption, or marriage.

(3) The Servicemembers’ Group Life Insurance or Veterans’ Group Life Insurance proceeds or Servicemembers’ Group Life Insurance Traumatic Injury Protection benefit not payable under paragraph (e)(1) of this section to any person described in paragraph (e)(2) of this section is not payable to such persons even though the criminal conviction or civil determination is pending appeal.

(4)(i) Servicemembers’ Group Life Insurance or Veterans’ Group Life Insurance proceeds or a Servicemembers’ Group Life Insurance Traumatic Injury Protection benefit not payable under paragraphs (e)(1) and (e)(2) of this section shall be payable to the first person or persons listed in paragraphs (e)(4)(i)(A) through (F) of

this section who are surviving on the date of the decedent's death in the following order of precedence:

(A) To the next eligible beneficiary designated by the decedent in a writing received by the appropriate office of the applicable uniformed service before the decedent's death in the uniformed services in the case of Servicemembers' Group Life Insurance proceeds or a Servicemembers' Group Life Insurance Traumatic Injury Protection benefit, or in a writing received by the administrative office defined in § 9.1(b) of this part before the decedent's death in the case of Veterans' Group Life Insurance proceeds;

(B) To the decedent's widow or widower;

(C) To the decedent's child or children, in equal shares, and descendants of deceased children by representation;

(D) To the decedent's parents, in equal shares, or to the survivor of them;

(E) To the duly appointed executor or administrator of the decedent's estate;

(F) To other next of kin of the decedent as determined by the insurer (defined in § 9.1(c) of this part) under the laws of the domicile of the decedent at the time of the decedent's death.

(ii) Payment of Servicemembers' Group Life Insurance or Veterans' Group Life Insurance proceeds or a Servicemembers' Group Life Insurance Traumatic Injury Protection benefit to any person under paragraph (e)(4)(i) of this section shall bar recovery of those proceeds or that benefit by any other person.

\* \* \* \* \*

[FR Doc. 2012-24391 Filed 10-2-12; 8:45 am]

BILLING CODE 8320-01-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2010-1014; FRL-9734-4]

#### Approval and Promulgation of Implementation Plans; Kentucky 110(a)(1) and (2) Infrastructure Requirements for the 1997 and 2006 Fine Particulate Matter National Ambient Air Quality Standards

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

**ACTION:** Final rule.

**SUMMARY:** EPA is taking final action to approve in part, and conditionally approve in part, the State Implementation Plan (SIP) revisions, submitted by the Commonwealth of Kentucky through the Kentucky Energy

and Environment Cabinet, Division for Air Quality (DAQ), as demonstrating that the Commonwealth meets certain requirements of sections 110(a)(1) and (2) of the Clean Air Act (CAA or the Act) for the 1997 annual and 2006 24-hour fine particulate matter (PM<sub>2.5</sub>) national ambient air quality standards (NAAQS). Section 110(a) of the CAA requires that each state adopt and submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by EPA, which is commonly referred to as an "infrastructure" SIP. The Commonwealth certified that the Kentucky SIP contains provisions that ensure the 1997 annual and 2006 24-hour PM<sub>2.5</sub> NAAQS are implemented, enforced, and maintained in the Commonwealth (hereafter referred to as "infrastructure submission"). With the exception of elements 110(a)(2)(C), 110(a)(2)(D)(i), 110(a)(2)(E)(ii) and 110(a)(2)(J), EPA is today finalizing its determination that Kentucky's infrastructure submissions, provided to EPA on August 26, 2008, and July 17, 2012, addressed all the required infrastructure elements for the 1997 annual and 2006 24-hour PM<sub>2.5</sub> NAAQS. In addition, EPA is today taking final action to approve Kentucky's July 17, 2012, submittal addressing the requirements of section 128 of the CAA. Final approval of these substantive revisions to the Kentucky SIP also enables EPA to take final action today approving the Commonwealth's infrastructure SIP as meeting the state board requirements of section 110(a)(2)(E)(ii). Lastly, EPA is taking final action to conditionally approve elements 110(a)(2)(C) and (J) of Kentucky's 1997 annual and 2006 24-hour PM<sub>2.5</sub> NAAQS infrastructure SIP. **DATES:** This rule is effective November 2, 2012.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2010-1014. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information 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 through [www.regulations.gov](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 Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Sean Lakeman, 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. The telephone number is (404) 562-9043. Mr. Lakeman can be reached via electronic mail at [lakeman.sean@epa.gov](mailto:lakeman.sean@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Table of Contents

- I. Background
- II. This Action
- III. Final Action
- IV. Statutory and Executive Order Reviews

##### I. Background

Upon promulgation of a new or revised NAAQS, sections 110(a)(1) and (2) of the CAA require states to address basic SIP requirements, including emissions inventories, monitoring, and modeling to assure attainment and maintenance for that new NAAQS. On July 18, 1997 (62 FR 38652), EPA promulgated a new annual PM<sub>2.5</sub> NAAQS and on October 17, 2006 (71 FR 61144), EPA promulgated a new 24-hour NAAQS. On August 3, 2012, EPA proposed to approve in part, and conditionally approve in part, Kentucky's August 26, 2008, and July 17, 2012, infrastructure submissions for the 1997 annual and 2006 24-hour PM<sub>2.5</sub> NAAQS. *See* 77 FR 46352. A summary of the background for today's final action is provided below. *See* EPA's August 3, 2012, proposed rulemaking at 77 FR 46352 for more detail.

Section 110(a) of the CAA requires states to submit SIPs to provide for the implementation, maintenance, and enforcement of a new or revised NAAQS within three years following the promulgation of such NAAQS, or within such shorter period as EPA may prescribe. Section 110(a) imposes the obligation upon states to make a SIP submission to EPA for a new or revised NAAQS, but the contents of that submission may vary depending upon the facts and circumstances. The data and analytical tools available at the time the state develops and submits the SIP for a new or revised NAAQS affects the content of the submission. The contents