

that is likely to occur during fueling. The maximum surge pressure must be established with any combination of tank valves being either intentionally or inadvertently closed.

Section 29.979(d) requires the rotorcraft defueling system (not including fuel tanks and fuel tank vents) to withstand an ultimate load that is 2.0 times the load arising from the maximum permissible defueling pressure (positive or negative) at the rotorcraft fueling connection. The design by RHC does not include defueling capability.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

#### Discussion of Comments

The FAA issued Notice of Proposed Special Conditions No. 27–21–01–SC for the RHS Model R66 helicopter, which published in the **Federal Register** on February 4, 2022 (87 FR 6437). The FAA received two comments from individuals in support of these special conditions.

#### Applicability

As discussed above, these special conditions are applicable to the RHC Model R66 helicopter. Should RHC apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well.

#### Conclusion

This action affects only a certain novel or unusual design feature on one model of helicopter. It is not a rule of general applicability.

#### List of Subjects in 14 CFR Part 27

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

#### Authority Citation

The authority citation for these special conditions is as follows:

**Authority:** 49 U.S.C. 106(f), 106(g), 40113, 44701, 44702, 44704.

#### The Special Conditions

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Robinson Helicopter Company Model R66 helicopters.

The pressure refueling system must be designed and installed as follows:

(a) Each fueling connection below the fuel level in each tank must have the means to prevent the escape of hazardous quantities of fuel from that tank in case of malfunction of the fuel entry valve.

(b) For systems intended for pressure refueling, a means in addition to the normal means for limiting the tank content must be installed to prevent damage to the fuel tank in case of failure of the normal means.

(c) The rotorcraft pressure fueling system (not fuel tanks and fuel tank vents) must withstand an ultimate load that is 2.0 times the load arising from maximum pressure, including a surge, that is likely to occur during fueling. The maximum surge pressure must be established with any combination of tank valves being either intentionally or inadvertently closed.

Issued in Kansas City, Missouri, on April 27, 2022.

**Patrick R. Mullen,**

*Manager, Technical Innovation Policy Branch, Policy and Innovation Division, Aircraft Certification Service.*

[FR Doc. 2022–09425 Filed 5–2–22; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 3

#### RIN 2900–AR46

### Inclusion of the Space Force as Part of the Armed Forces

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** The Department of Veterans Affairs (VA) is issuing this final rule to amend its adjudication regulations to implement the mandates of section 926 of the William M. (Mac) Thornberry National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2021, which authorized VA to furnish benefits based on Space Force service.

**DATES:** *Effective Date:* This rule is effective May 3, 2022.

**FOR FURTHER INFORMATION CONTACT:** Jane Allen, Policy Analyst, Part 3 Regulations Staff (211), Compensation Service (21C), 810 Vermont Avenue NW, Washington, DC 20420, (202) 461–9602. (This is not a toll-free telephone number.) Robert Parks, Chief, Part 3 Regulations Staff (211), Compensation Service (21C), 810 Vermont Avenue NW, Washington, DC 20420, (202) 461–9700. (This is not a toll-free telephone number.)

**SUPPLEMENTARY INFORMATION:** On December 20, 2019, Congress enacted the “United States Space Force Act” (USSFA), which established the “United States Space Force as an armed force within the Department of the Air Force.” USSFA, Public Law 116–92, sections 951–952, 133 Stat 1198, 1561–62 (2019). Subsequently, Congress expanded the definition of “veteran” and made other amendments to title 38 to require VA to furnish benefits and services on the basis of service in the Space Force. William M. (Mac) Thornberry NDAA for FY 2021, Public Law 116–283, section 926, 134 Stat. 3388, 3829 (2021). To implement these changes, VA is amending 38 CFR part 3 to add the words “Space Force” in various sections that list the branches of the U.S. Armed Forces and to add reference to “space service” in references to “active military, naval, or air service.” VA is also amending 38 CFR 3.1(g)(3) to add the USSF as operating under the direction of the Secretary of the Air Force.

#### Administrative Procedure Act

The Secretary of Veterans Affairs finds that there is good cause under the Administrative Procedure Act (APA) to publish this rule without prior opportunity for public comment and with an immediate effective date. Pursuant to 5 U.S.C. 553(b)(B), general notice and opportunity for public comment are not required with respect to a rulemaking when an “agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.” The Secretary finds that it is unnecessary to delay issuance of this rule for the purpose of soliciting prior public comment. Where Congress has left a gap in a statute for an agency to fill, requiring notice and comment rulemaking secures public input and “‘promote[s] accountability among decisionmakers.’” *Himes v. Sullivan*, 779 F. Supp. 258, 270 (W.D.N.Y. 1991) (quoting *Cal. Ass’n. of Bioanalysts v. Rank*, 577 F. Supp. 1342, 1348 (C.D. Cal. 1983)), *aff’d* by 956 F.2d 1159 (2d Cir. 1992). However, “[c]hanges mandated by a legislature have already gone through a public process, and, as a result, the objectives of the notice requirements . . . already have been satisfied in the legislative process.” *Id.* (quotation and citation omitted). This rulemaking presents the latter situation. By statute, Congress has required VA to furnish benefits on the basis of space service. VA does not have any discretion to deny benefits on the

basis that the claim is predicated on “space service” rather than “military, naval, or air service.” See *Cushman v. Shinseki*, 576 F.3d 1290, 1298 (Fed. Cir. 2009) (“Veteran’s disability benefits are nondiscretionary, statutorily mandated benefits.”). VA’s authority is limited to implementing the statutes as enacted by Congress. Therefore, additional public comment would be superfluous. See *Rank*, 577 F. Supp. at 1348. In addition, as this amendment solely identifies the USSF as a branch of the U.S. Armed Forces and expands regulatory references of “active military, naval, or air service” to include “space service,” there is little or no room for substantive changes to the rule based on public comment.

The APA also requires a 30-day delayed effective date, except for “(1) a substantive rule which grants or recognizes an exemption or relieves a restriction; (2) interpretative rules and statements of policy; or (3) as otherwise provided by the agency for good cause found and published with the rule.” 5 U.S.C. 553(d). For the reasons stated above, the Secretary finds that there is also good cause for this rule to be effective immediately upon publication. Any delay in implementation would be unnecessary for purposes of 5 U.S.C. 553(d)(3).

#### 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. The Office of Information and Regulatory Affairs has determined that this rule is not a significant regulatory action under Executive Order 12866. The Regulatory Impact Analysis associated with this rulemaking can be found as a supporting document at [www.regulations.gov](http://www.regulations.gov).

#### Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601–612, is not applicable to this rulemaking because notice of proposed rulemaking is not required. 5 U.S.C. 601(2), 603(a), 604(a).

#### 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 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 of 1995 (44 U.S.C. 3501–3521).

#### Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs has designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

#### List of Subjects in 38 CFR Part 3

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

#### Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved this document on April 27, 2022, 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.

#### Luvenia Potts,

*Regulations Development Coordinator, Office of Regulation Policy & Management, Office of General Counsel, 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, unless otherwise noted.

##### § 3.1 [Amended]

■ 2. Amend § 3.1 as follows:

- a. Add “Space Force,” after “Air Force,” in paragraphs (a) and (b);
- b. Remove “or air service” and add in its place “air, or space service” in paragraph (d) introductory text;

- c. Remove “or air service” and add in its place “, air, or space service” in paragraph (d)(2);
- d. Remove “or air service” and add in its place “, air, or space service” in paragraph (e);
- e. Add “or the Space Force” after “concerning the Air Force” in paragraph (g)(3);
- f. Remove “or air service” and add in its place “air, or space service” in paragraph (h);
- g. Remove “or air service” and add in its place “air, or space service” in paragraphs (k), (l), and (m) introductory text;
- h. Remove “or air service” and add in its place “, air, or space service” in paragraph (y) introductory text.

##### § 3.3 [Amended]

■ 3. Amend § 3.3 by removing “or air service” each place it appears and adding in each place “, air, or space service” in paragraphs (a)(3)(i) through (iv).

##### § 3.6 [Amended]

■ 4. Amend § 3.6 by removing “and air service” and adding in its place “air, or space service” in the paragraph (a) heading.

##### § 3.7 [Amended]

■ 5. Amend § 3.7 by removing “or air service” and adding in its place “air, or space service” in the section heading, the introductory text, and paragraph (o)(1)(i).

##### § 3.12 [Amended]

■ 6. Amend § 3.12 by removing “or air service” and adding in its place “, air, or space service” in paragraph (g)(2).

##### § 3.13 [Amended]

■ 7. Amend § 3.13 by removing “or air service” and adding in its place “, air, or space service” in paragraphs (c) introductory text and (c)(1).

##### § 3.159 [Amended]

■ 8. Amend § 3.159 by removing “or air service” and adding in its place “, air, or space service” in paragraph (c)(3).

##### § 3.301 [Amended]

■ 9. Amend § 3.301 by removing “or air service” and adding in its place “air, or space service” in paragraph (d).

##### § 3.306 [Amended]

■ 10. Amend § 3.306 by removing “or air service” and adding in its place “air, or space service” in paragraph (a).

##### § 3.309 [Amended]

■ 11. Amend § 3.309 by removing “or air service” and adding in its place “air,

or space service” in paragraphs (c)(1) introductory text and (c)(2)(ii) introductory text.

### § 3.318 [Amended]

■ 12. Amend § 3.318 by removing “or air service” and adding in its place “air, or space service” in paragraph (a).

### § 3.807 [Amended]

■ 13. Amend § 3.807 by removing “or air service” and adding in its place “air, or space service” in paragraphs (a)(5)(ii) and (b).

### § 3.808 [Amended]

■ 14. Amend § 3.808 by removing “or air service” and adding in its place “air, or space service” in paragraph (a)(2).

### § 3.809 [Amended]

■ 15. Amend § 3.809 by removing “or air service” and adding in its place “air, or space service” in paragraph (a).

### § 3.809a [Amended]

■ 16. Amend § 3.809a by removing “or air service” and adding in its place “air, or space service” in paragraph (b).

### § 3.903 [Amended]

■ 17. Amend § 3.903 by removing “or air service” and adding in its place “air, or space service” in paragraph (b)(1).

### § 3.1701 [Amended]

■ 18. Amend § 3.1701 by removing “or air service” and adding in its place “air, or space service.”

[FR Doc. 2022-09481 Filed 5-2-22; 8:45 am]

BILLING CODE 8320-01-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 194

[EPA-HQ-OAR-2019-0534; FRL-9737-01-OAR]

### Criteria for the Certification and Recertification of the Waste Isolation Pilot Plant's Compliance With the Disposal Regulations: Recertification Decision

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

**ACTION:** Notification of recertification decision.

**SUMMARY:** The Environmental Protection Agency (EPA or the Agency) recertifies that the U.S. Department of Energy's (DOE or the Department) Waste Isolation Pilot Plant (WIPP) continues to comply with the final disposal regulations, known as the “Environmental Standards for the

Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Waste.” This is the fourth periodic evaluation of the WIPP's continued compliance with the disposal regulations and WIPP Compliance Criteria. The WIPP Compliance Criteria implement and interpret the disposal regulations specifically for the WIPP. This recertification process is required every five years. This recertification decision is based on a thorough review of information submitted by DOE, independent technical analyses and public comments. The Agency has determined that DOE continues to meet all applicable requirements of the final disposal regulations and the WIPP Compliance Criteria and recertifies the WIPP facility. EPA has also identified areas in which the DOE's technical analyses and justifications could be improved for the next recertification application.

**DATES:** May 3, 2022.

**FOR FURTHER INFORMATION CONTACT:** Ray Lee, Radiation Protection Division, Mail Code 6608T, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, Washington, DC, 20460; telephone number: 202-343-9463; email address: [lee.raymond@epa.gov](mailto:lee.raymond@epa.gov). Copies of the Compliance Application Review Documents (CARDs) supporting this action and all other recertification-related documentation can be found in the Agency's electronic docket found at <https://www.regulations.gov> (Docket ID No. EPA-HQ-OAR-2019-0534).

### SUPPLEMENTARY INFORMATION:

#### Table of Contents

- I. General Information
- II. What is the WIPP?
- III. Compliance Certification History
  - A. 1998 Certification Decision
  - B. Previous Recertification Decisions
- IV. WIPP Compliance With Radioactive Waste Disposal Regulations and the WIPP Compliance Criteria
  - A. How does EPA ensure ongoing compliance with the WIPP compliance criteria?
    - B. Compliance Certification Conditions
      1. Panel Closure System
      2. Quality Assurance
      3. Waste Characterization
      4. Passive Institutional Controls
- V. The 2019 CRA
  - A. DOE's 2019 CRA
  - B. EPA Evaluation of the 2019 CRA
  - C. EPA's 2019 Recertification Decision
- VI. EPA's Technical Review
  - A. Performance Assessment and EPA Standards
  - B. Status of EPA Identified Areas for Improvement From the 2017 Recertification Decision
    1. Plutonium Oxidation States
    2. Geochemistry Database

3. Microbial Colloids
4. Creep Closure of Open Areas
- C. Changes to the Disposal System Identified by DOE for CRA-2019
  1. Abandonment of Panel Closures and Waste Panel 9
  2. Updated Plugging Patterns and Borehole Drilling Rates
  3. Radionuclide Solubilities
  4. Revised Colloid Parameters
  5. Inclusion of Brine Radiolysis in the Gas Generation Model
- D. Other Issues Identified by EPA During Review
  1. Geochemistry Database
  2. Initial Assumptions for Solubility Calculations
  3. Actinide Solubility Uncertainty
- E. EPA Sensitivity Studies
  1. Sensitivity to Creep Closure of Empty Rooms (CRA19\_COMP Analysis)
  2. Sensitivity to Borehole Plugging Frequency (PLG\_PROB Analysis)
  3. Sensitivity to Actinide Solubility (GCHM\_S0 Analysis)
  4. Sensitivity to Actinide Solubility and Colloid Parameters (GCHM\_S2 Analysis)
  5. Sensitivity to Actinide Solubility, Colloid Parameters, and Actinide Oxidation State (GCHM\_S3 Analysis)
  6. Sensitivity to Combined Geotechnical and Geochemical Parameter Changes (CRA19\_COMB Analysis)
- F. Waste Characterization
- G. Peer Review
- H. Individual and Groundwater Protection Requirements
- VII. What is EPA's role in future WIPP activities?

### Abbreviations

Am Americium  
 APCS Abandonment of Panel Closures in the South  
 CARD Compliance Application Review Document  
 CCA Compliance Certification Application  
 CFR Code of Federal Regulations  
 CRA Compliance Recertification Application  
 DOE U.S. Department of Energy  
 EPA U.S. Environmental Protection Agency  
 FR Federal Register  
 KPLA Known Potash Leasing Area  
 LWA Land Withdrawal Act  
 OAR Office of Air and Radiation  
 Pa Pascal  
 PA Performance Assessment  
 Pu Plutonium  
 TRU Transuranic  
 TSD Technical Support Document  
 WIPP Waste Isolation Pilot Plant

### I. General Information

*How can I get copies of this document and other related information?*

EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2019-0534. Publicly available docket materials are available either electronically at <https://www.regulations.gov> or in hard copy at the Air and Radiation Docket in the EPA Docket Center, (EPA/DC) EPA West,