

To be eligible, a person whose death occurred on or after November 1, 2002, must have served before July 1, 1946, in the organized military forces of the Government of the Commonwealth of the Philippines, while such forces were in the service of the Armed Forces of the United States pursuant to the military order of the President dated July 26, 1941, including organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander in Chief, Southwest Pacific Area, or other competent authority in the Army of the United States. At time of death, the veteran must have been a citizen of the United States or an alien lawfully admitted for permanent residence in the United States and have resided in the United States.

#### Comment on Proposed Rule

We provided a 60-day comment period that ended July 15, 2002. We received one written response by electronic mail during this period. The comment sought to clarify whether a minor child of an eligible person must be "unmarried" in order to be eligible for national cemetery burial. Although 38 U.S.C. 2402(5) does not specify that a "minor child" must be unmarried, 38 U.S.C. 101(4)(A) defines "child" for purposes of title 38, United States Code, as "a person who is unmarried." For purposes of clarity and consistency with the governing statute, the final rule specifically requires that a minor child must be "unmarried" and under 21 years of age, or under 23 years of age if pursuing a full-time course of instruction at an approved educational institution.

Based on the rationale set forth in this document and in the proposed rule, we are adopting its provisions as a final rule.

#### Paperwork Reduction Act

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

#### Executive Order 12866

This document has been reviewed by the Office of Management and Budget under Executive Order 12866.

#### Regulatory Flexibility Act

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, 5 U.S.C. 601–612. 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 analyses requirements of sections 603 and 604.

#### Unfunded Mandates

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of \$100 million or more in any given year. This rule would have no consequential effect on State, local, or tribal governments, nor will it require expenditures by the private sector.

#### Catalog of Federal Domestic Assistance Program Number

The Catalog of Federal Domestic Assistance program number for this document is 64.201.

#### List of Subjects in 38 CFR Part 1

Administrative practice and procedure, Cemeteries, Collection of claims, Privacy, Security, Veterans.

Approved: January 28, 2003.

**Anthony J. Principi,**

*Secretary of Veterans Affairs.*

■ For the reasons set out in the preamble, 38 CFR part 1 is amended as set forth below:

#### PART—GENERAL PROVISIONS

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

**Authority:** 38 U.S.C. 501(a), unless otherwise noted.

■ 2. Section 1.620 is revised to read as follows:

##### § 1.620 Eligibility for burial.

The following is a list of those individuals who are eligible for burial in a national cemetery:

(a) Any veteran (which for purposes of this section includes a person who died in the active military, naval, or air service).

(b) Any member of a Reserve component of the Armed Forces, and any member of the Army National Guard or the Air National Guard, whose death occurs under honorable conditions while such member is hospitalized or undergoing treatment, at the expense of the United States, for injury or disease contracted or incurred under honorable conditions while such member is performing active duty for training, inactive duty training, or undergoing that hospitalization or treatment at the expense of the United States.

(c) Any Member of the Reserve Officers' Training Corps of the Army, Navy, or Air Force whose death occurs under honorable conditions while such member is—

(1) Attending an authorized training camp or on an authorized practice cruise;

(2) Performing authorized travel to or from that camp or cruise; or

(3) Hospitalized or undergoing treatment, at the expense of the United States, for injury or disease contracted or incurred under honorable conditions while such member is—

(i) Attending that camp or on that cruise;

(ii) Performing that travel; or

(iii) Undergoing that hospitalization or treatment at the expense of the United States.

(d) Any person who, during any war in which the United States is or has been engaged, served in the armed forces of any government allied with the United States during that war, whose last such service terminated honorably, and who was a citizen of the United States at the time of entry on such service and at the time of his or her death.

(e) The spouse, surviving spouse (which for purposes of this section includes an unremarried surviving spouse who had a subsequent remarriage which was terminated by death or divorce), unmarried minor child (which for purposes of this section is limited to a child under 21 years of age, or under 23 years of age if pursuing a full-time course of instruction at an approved educational institution), and unmarried adult child (which for purposes of this section is limited to a child who became permanently physically or mentally disabled and incapable of self-support before reaching 21 years of age, or before reaching 23 years of age if pursuing a full-time course of instruction at an approved educational institution) of a person eligible under paragraph (a), (b), (c), (d), or (g) of this section.

(f) Such other persons or classes of persons as may be designated by the Secretary.

(g) Any person who at the time of death was entitled to retired pay under chapter 1223 of title 10, United States Code, or would have been entitled to retired pay under that chapter but for the fact that the person was under 60 years of age.

(h) Any person, whose death occurred on or after November 1, 2000, with service before July 1, 1946, in the organized military forces of the Government of the Commonwealth of the Philippines, while such forces were