

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.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that Order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

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

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; Department of Homeland Security Delegation No. 0170.

■ 2. A new temporary § 165.T09–216 is added to read as follows:

§ 165.T09–216 Safety Zone; Detroit River, Detroit, MI.

(a) *Location.* The waters of the Detroit River bounded on the South by the International Boundary, on the West by 83°03'30" W, on the North by the City of Detroit Shoreline and on the East by 083° 01' W (NAD 83).

(b) *Effective time and date.* This section is effective from 5 p.m. until 12 a.m. on June 25, 2003.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into this safety zone is prohibited unless authorized by the Coast Guard Captain of the Port Detroit,

or his designated on-scene representative.

Dated: May 27, 2003.

P. G. Gerrity,

Commander, U.S. Coast Guard, Captain of the Port Detroit.

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Parts 3 and 13

RIN 2900–AL29

Compensation and Pension Provisions of the Veterans Education and Benefits Expansion Act of 2001

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Department of Veterans Affairs (VA) adjudication regulations and its Veterans Benefit Administration fiduciary activities regulations to reflect statutory provisions of the Veterans Education and Benefits Expansion Act of 2001. These changes address the presumption of service connection for respiratory cancers based on herbicide exposure in Vietnam; benefits for Gulf War veterans' chronic disabilities; repeal of the limitation of benefits for incompetent institutionalized veterans; non-service-connected pension eligibility; the limitation on pension for certain recipients of Medicaid-covered nursing home care; the prohibition on certain benefits to fugitive felons; and the limitation on the payment of compensation for veterans remaining incarcerated since October 7, 1980. This document also makes nonsubstantive changes for purposes of clarity and miscellaneous technical amendments in those regulations.

DATES: *Effective Date:* June 10, 2003.

Applicability Dates: In accordance with statutory provisions, the following amendments in this final rule will be applied retroactively:

The amendments to 38 CFR 3.3 are applicable September 17, 2001. The amendment to 38 CFR 3.307(a)(6)(ii) is applicable January 1, 2002. The amendment to 38 CFR 3.307(a)(6)(iii) is applicable December 27, 2001. The amendments to 38 CFR 3.317 are applicable March 1, 2002. The amendments to 38 CFR 3.353, 3.400(e), 3.452, 3.454, 3.501, 3.551, 3.552, 3.557 through 3.559, 3.666, 3.801, 3.852, 3.853, 3.1007, 13.70, 13.71, 13.74 through 13.77, 13.107, 13.108, and 13.109 are applicable December 27,

2001. The amendment to 38 CFR 3.665(a) is applicable December 27, 2001. The amendment to 38 CFR 3.665(c) is applicable April 1, 2002. The removal of the authority citation following 38 CFR 3.665(m) and the addition of 38 CFR 3.665(n) are applicable December 27, 2001.

FOR FURTHER INFORMATION CONTACT: Bill Russo, Compensation and Pension Service, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC, 20420, telephone (202) 273–7211.

SUPPLEMENTARY INFORMATION: On December 27, 2001, the Veterans Education and Benefits Expansion Act of 2001, Public Law 107–103 (the Act), was enacted. Several provisions of the Act directly affect the payment of VA compensation or pension benefits. These provisions concern presumptions based on herbicide exposure in Vietnam, Gulf War veterans' chronic disabilities, the repeal of the limitation of benefits for incompetent institutionalized veterans, non-service-connected pension eligibility, the extension of the limitation on pension for certain recipients of Medicaid-covered nursing home care, the prohibition on certain benefits to fugitive felons and their dependents, and a limitation on the payment of compensation for certain veterans remaining incarcerated since October 7, 1980.

Section 201 of the Act amended 38 U.S.C. 1116(a)(2)(F) to eliminate the requirement that respiratory cancer (cancers of the lung, bronchus, larynx, trachea) become manifest within 30 years of the veteran's departure from Vietnam to qualify for the presumption of service connection based on exposure to herbicides such as Agent Orange. Section 201 also expanded the presumption of exposure to herbicides to include all Vietnam veterans, not just those who have a disease on the presumptive list in 38 U.S.C. 1116(a)(2) and 38 CFR 3.309(e). In this document we are amending 38 CFR 3.307 to reflect these changes. In addition, section 201 added Type 2 diabetes to the presumptive list in 38 U.S.C. 1116(a)(2). This disease had previously been added to VA's list in 38 CFR 3.309(e).

Section 202(a) of the Act amended 38 U.S.C. 1117 to expand the definition of "qualifying chronic disability" (for service connection) to include not only a disability resulting from an undiagnosed illness as stated in prior law, but also any diagnosed illness that the Secretary determines in regulations warrants a presumption of service-connection under 38 U.S.C. 1117(d). We