

equivalent thereof, is not subject to this prohibition and will be allowed to operate as described in this section.

(4) The Superintendent may temporarily limit, restrict or terminate access to the areas designated for PWC use after taking into consideration public health and safety, natural and cultural resource protection, and other management activities and objectives.

Dated: September 9, 2003.

**Craig Manson,**

*Assistant Secretary, Fish and Wildlife and Parks.*

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BILLING CODE 4310-70-P

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 3

RIN 2900-AL62

### Compensation and Pension Provisions of the Veterans Benefits Act of 2002

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** This document amends the Department of Veterans Affairs (VA) adjudication regulations to reflect the statutory provisions of the Veterans Benefits Act of 2002. These changes address entitlement to special monthly compensation for loss of breast tissue in a woman and increased pension payable to Medal of Honor recipients.

**DATES:** *Effective Dates:* In accordance with statutory provisions, the effective dates for the amendments in this final rule are as follows:

The amendments to 38 CFR 3.350 and 38 CFR 3.802 are effective December 6, 2002.

The amendments to 38 CFR 3.27 are effective September 1, 2003.

**FOR FURTHER INFORMATION CONTACT:**

Cheryl Konieczny, Compensation and Pension Service, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC, 20420, telephone (202) 273-6779.

**SUPPLEMENTARY INFORMATION:** On December 6, 2002, the Veterans Benefits Act of 2002, Pub. L. 107-330 (the Act), was enacted. Certain provisions of the Act directly affect the payment of VA compensation or pension benefits. These provisions concern special monthly compensation for loss of breast tissue in a woman and the amount of pension payable to Medal of Honor recipients.

Section 102 of the Act amended 38 U.S.C. 1114(k) to authorize special monthly compensation to women

veterans for loss of 25% or more of tissue from a single breast or both breasts in combination, including loss by mastectomy or partial mastectomy, or following receipt of radiation treatment of breast tissue. In this document we are amending 38 CFR 3.350(a) to reflect that change. We are deleting 38 CFR 3.350(a)(7) because the change to 38 CFR 3.350(a) makes it no longer necessary to define the term "anatomical loss of one or both breasts."

Section 304 of the Act amended 38 U.S.C. 1562 to provide for an annual increase in the Medal of Honor pension effective December 1 of each year, beginning December 1, 2004, by a percentage equal to the cost of living adjustment of benefits paid under Title II of the Social Security Act. This document amends 38 CFR 3.27 to reflect that change. Section 304 also provides for a retroactive lump sum payment of the Medal of Honor pension from the first day of the month after the date of the event for which the veteran earned the Medal of Honor for current as well as future recipients of the special pension. This document amends 38 CFR 3.802 to reflect that change. In accordance with the Act, no retroactive lump sum payment can be made prior to October 1, 2003.

When Congress does not specify an effective date for a statutory provision, the effective date is the date of enactment. In section 102 of the Act, because Congress did not specify an effective date for the amendment to 38 U.S.C. 1114(k), that amendment was effective December 6, 2002, the date of enactment of the Act. Similarly, in section 304 of the Act, Congress did not specify an effective date for the amendment to 38 U.S.C. 1562 authorizing a retroactive lump sum payment for the Medal of Honor pension, and the amendment was effective December 6, 2002. For certain provisions of the Act, however, Congress specifically provided effective dates that are different from the date of enactment of the Act. In paragraph (d)(1) of section 304 of the Act, Congress specified that the amendment to 38 U.S.C. 1562 authorizing an annual increase in the Medal of Honor pension would be effective September 1, 2003.

For certain provisions in the Act, the effective date of the provision governs the date on which benefit eligibility can arise. For instance, section 102 of the Act authorizes, as of December 6, 2002, special monthly compensation for women veterans who suffered the "loss of 25 percent or more of tissue from a single breast or both breasts in combination (including loss by mastectomy or partial mastectomy) or

has received radiation treatment of breast tissue." For certain other provisions, Congress provided that, although the amendment was effective immediately, benefit eligibility would not arise until a later date. In paragraph (d)(2) of section 304 of the Act, Congress specified that VA would not make any annual adjustment to the monthly Medal of Honor pension in 2003. Therefore, the first annual adjustment would be made on December 1, 2004. Also, in paragraph (d)(1) of section 304, Congress specifically noted that no retroactive lump sum payment of the Medal of Honor pension would be made prior to October 1, 2003. These effective dates and rules governing eligibility are reflected in the effective-date and substantive provisions of this notice.

### Administrative Procedure Act

Changes made by this final rule merely reflect new statutory provisions. Accordingly, there is a basis for dispensing with prior notice and comment and delayed effective date provisions of 5 U.S.C. 552 and 553.

### 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 will have no such effect on State, local, or tribal governments, or the private sector.

### Executive Order 12866

The Office of Management and Budget has reviewed this document under Executive Order 12866.

### Paperwork Reduction Act

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

### Regulatory Flexibility Act

The Secretary hereby certifies that the adoption of 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. The final rule does not affect any small entities. Only individuals could be directly affected. 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.