

diseases, even though there is no record of the disease during service, if it becomes manifest to a degree of 10 percent or more any time after discharge from active military, naval, or air service.

Presumptions of service connection under § 3.309 (c) are rebuttable under the provisions of § 3.307(d), which states that the presumption of service connection for a disease under § 3.309 may be rebutted by competent evidence. The presumption of service connection may be rebutted with affirmative evidence that the disease was not incurred in service based on sound medical reasoning and consideration of all evidence of record.

In October 2000, the Institute of Medicine (IOM) published results of a study that found a significantly higher risk of cirrhosis among former World War II POWs compared with control groups. POWs held in the Pacific and European theaters had roughly 1.5 times the risk of death due to cirrhosis compared to non-POW controls. (Page WF, Miller R: Cirrhosis Mortality among Former American Prisoners of War of World War II and the Korean Conflict: Results of a 50-year Follow-up. *Military Medicine* 2000; 165: 781–785.) Cirrhosis mortality was not found to be associated with any differences in levels of alcohol consumption among World War II and Korean POWs and Korean controls, which were similar to those among U.S. males. Therefore, it appears that alcohol consumption does not provide an explanation for the higher mortality rates identified in POWs.

IOM initially conducted a 30-year follow-up of American POWs of World War II and the Korean Conflict. (Nefzger MD: Follow-up of World War II and Korean prisoners. I. Study plan and mortality findings. *Am J Epidemiology* 1970; 91: 123–38.) Sampling began in the early 1950s of three groups of POWs (WWII Pacific theater prisoners, WWII European theater prisoners, and Korean conflict prisoners) along with sampling of non-POW military veteran controls. In the 30-year study, IOM found evidence of increased mortality from cirrhosis in American former POWs compared to the U.S. general population.

In the 2000 IOM study, the authors used federal records, primarily from VA and the Social Security Administration, to extend the follow-up to 50 years with similar results. Cirrhosis Mortality, 165 *Military Medicine* at 781. By crosschecking federal records, they estimate that their mortality statistics are 99.6 percent complete. *Id.* Furthermore, the design of their study not only allowed them to compare

World War II and Korean POW mortality with that of the U.S. general population, but also permitted a direct comparison of POW mortality with that of non-POW military veteran controls. *Id.* at 782. The purpose was to avoid biases inherent in a general population comparison attributable to the general fitness of military veterans. *Id.*

The results of the 2000 IOM study are consistent with earlier studies. In 1999, a mortality follow-up of POWs held in the Far East found that British POWs had a higher mortality rate from diseases of the liver, including chronic liver disease and cirrhosis, than the general population. (Gale CR, Braidwood EA, Winter PD, Martyn CN: Mortality from Parkinson's disease and other causes in men who were prisoners of war in the Far East. *Lancet* 1999; 354: 2116–8.) Also, a 1968 mortality study of Australian World War II POWs taken prisoner after the fall of Singapore revealed twice as many deaths from cirrhosis as those expected during the period from 1951 to 1963. (Freed G, Stringer PB: Comparative Mortality Experience 1946–1963 among Australian prisoners of war of the Japanese. *Aust Repat Med Dept Bull* 1968; 150: 378–382.)

The Secretary believes that the research cited above constitutes sound scientific evidence supporting the conclusion that an association exists between cirrhosis and POW status. The 2000 IOM study indicates a “significantly higher risk of cirrhosis” for World War II POWs only; however, World War II POWs comprise 93 percent of the estimated 46,417 living POWs from the last five conflicts in which the United States was involved. The Secretary has therefore determined that it is appropriate to add cirrhosis of the liver to the list of diseases in § 3.309(c) for which VA presumes service connection in all former POWs interned or detained for at least 30 days.

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.

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 regulatory amendment has been reviewed by the Office of Management and Budget under the provisions of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993.

Regulatory Flexibility Act

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. The reason for this certification is that this amendment would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

The Catalog of Federal Domestic Assistance number is 64.109.

List of Subjects in 38 CFR Part 3

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

Approved: November 12, 2002.

Anthony J. Principi,
Secretary of Veterans Affairs.

For the reasons set forth in the preamble, VA proposes to amend 38 CFR part 3 as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for Part 3 continues to read as follows:

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

§3.309 [Amended]

2. Section 3.309(c) is amended by adding “Cirrhosis of the liver.” following “Peripheral neuropathy except where directly related to infectious causes.” and before the explanatory note.

[FR Doc. 03–3175 Filed 2–7–03; 8:45 am]

BILLING CODE 8320–01–U