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DEPARTMENT OF VETERANS AFFAIRS

8320-01

38 CFR Part 3

RIN 2900-AP33

Technical Corrections

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) amends its regulations to remove out-of-date legal citations and add the correct authority. This rulemaking contains only nonsubstantive, technical changes.

DATES: This rule is effective [insert date of publication in the FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Michael Rasmussen, Consultant, Regulations Staff (211D), Compensation Service, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461-9700.

(This is not a toll-free telephone number.)

SUPPLEMENTARY INFORMATION: On December 2, 2005, VA published a final rule removing 38 CFR 3.5(e) and adding 38 CFR 3.10. 70 FR 72211.

Section 3.10(e)(3) regards payment information for surviving spouses in receipt of Dependency and Indemnity Compensation (DIC) and clearly contains an erroneous cross reference to § 3.351(f), which regards death pension.

Therefore, VA is correcting this technical error by removing the cross reference to § 3.351(f) and adding, in its place, a cross reference to § 3.351(e), the paragraph regarding DIC.

On September 30, 1997, VA published a final rule redesignating 38 CFR 3.105(h) as § 3.105(i). 62 FR 51274. However, VA failed to update the cross reference to § 3.105(h)(1) in 38 CFR 3.655(c)(4). Therefore, VA is correcting the cross reference in § 3.655(c)(4) to correctly refer to § 3.105(i)(1).

Lastly, on December 29, 2006, VA published a final rule redesignating 38 CFR 3.1000(a)(4) as § 3.1000(a)(5) and adding a new paragraph § 3.1000(a)(4). 71 FR 78368. However, VA failed to update the cross references to § 3.1000(a)(4) in §§ 3.1000(b)(3), (c)(1), and (f) and 3.1003(a). Therefore, VA is correcting the above-noted sections to correctly refer to § 3.1000(a)(5).

#### Administrative Procedure Act

Pursuant to the Administrative Procedure Act, 5 U.S.C. 553(b)(B), VA has determined that prior notice and opportunity for comment on this rulemaking are unnecessary. This final rule consists of nonsubstantive, technical changes that merely amend VA's regulations to reflect the correct legal citations. For this reason, VA has also determined that there is good cause to waive the 30-day delayed effective date requirement under 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. Executive Order 12866 (Regulatory Planning and Review) defines a “significant regulatory action” requiring review by the Office of Management and Budget (OMB), unless OMB waives such review, as “any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.”

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined, and it has been determined not to be

a significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at <http://www.regulations.gov>, usually within 48 hours after the rulemaking document is published. Additionally, a copy of this rulemaking and its impact analysis are available on VA's Web site at <http://www.va.gov/orpm/>, by following the link for VA Regulations Published from FY 2004 through Fiscal Year to Date.

#### 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). This final rule will directly affect only individuals and will not directly affect small entities. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the final regulatory flexibility analysis requirements of section 604.

#### 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).

### Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.101, Burial Expenses Allowance for Veterans; 64.104, Pension for Non-Service-Connected Disability for Veterans; 64.105, Pension to Veterans Surviving Spouses, and Children; 64.109, Veterans Compensation for Service-Connected Disability; 64.110, Veterans Dependency and Indemnity Compensation for Service-Connected Death.

### Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document 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. Jose D. Riojas, Chief of Staff, Department of Veterans Affairs, approved this document on March 26, 2015, for publication.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits,  
Veterans.

Dated: March 30, 2015

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Michael P. Shores  
Chief Impact Analyst,  
Office of Regulation Policy & Management,  
Office of the General Counsel,  
U.S. Department of Veterans Affairs.

For the reasons set out in the preamble, the Department of Veterans Affairs amends 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, subpart A continues to read as follows:

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

#### **§ 3.10 [Amended]**

2. Amend § 3.10(e)(3) by removing “§ 3.351(f)” and adding in its place “§ 3.351(e)”.

#### **§ 3.655 [Amended]**

3. Amend § 3.655(c)(4) by removing “§ 3.105(h)(1)” and adding in its place “§ 3.105(i)(1)”.

#### **§ 3.1000 [Amended]**

4. Amend § 3.1000 as follows:
  - a. In paragraph (b)(3), by removing “(a)(4)” and adding in its place “(a)(5)”.
  - b. In paragraph (c)(1), by removing “(a)(4)” and adding in its place “(a)(5)”.
  - c. In paragraph (f), by removing both references to “(a)(4)” and adding in each place “(a)(5)”.

**§ 3.1003 [Amended]**

5. Amend § 3.1003 as follows:

a. In paragraph (a) introductory text, by removing “3.1000(a)(1) through (4)” and adding in its place “3.1000(a)(1) through (5)” and by removing “3.1000(a)(4)” and adding in its place “3.1000(a)(5)”.

b. In paragraph (a)(2), by removing “3.1000(a)(1) through (4)” and adding in its place “3.1000(a)(1) through (5)”.

Dated: March 30, 2015

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