

T.D. 82–9” and adding “CBP Dec. 06–23.”

Dated: August 25, 2006.

Michael Chertoff,

Secretary.

[FR Doc. 06–7393 Filed 9–1–06; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AM48

Forfeiture; Correction

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is amending its regulations concerning forfeiture of benefit payments and improved pension payments. A review of VA’s adjudication regulations revealed a need for clarification and minor typographical errors. This document makes changes to provide clarification and eliminate the errors. The effect of these actions is to clarify the respective regulations.

DATES: *Effective Date:* September 5, 2006.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: At the Regional Office level, except in the VA Regional Office, Manila, Philippines, VA regulation 38 CFR 3.905(a) authorizes the Regional Counsel to determine whether the evidence warrants formal consideration as to forfeiture. In the Manila Regional Office, the Veterans Service Center Manager is authorized to make this determination. Currently, 38 CFR 3.669(a), which was published with a typographical error, states that benefit payments will be suspended effective the date of last payment upon “receipt of notice from a Regional Counsel the Veterans Service Center Manager [sic] in the Manila Regional Office * * *.” To clarify § 3.669(a) and to ensure consistency with § 3.905(a), this document amends § 3.669(a) to specify that, although benefit payments are generally suspended upon receipt of notice from a Regional Counsel, in cases under the jurisdiction of the Manila Regional Office, payments are suspended upon

receipt of notice from the Veterans Service Center Manager.

This document also corrects a typographical error by replacing the words “less the” with “less than” in 38 CFR 3.30(b), Improved Pension—Quarterly. VA is amending this regulation for clarity and accuracy.

Administrative Procedure Act

This final rule consists of nonsubstantive changes. Accordingly, there is a basis for dispensing with prior notice and comment and the delayed effective date provisions of 5 U.S.C. 553.

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

Because no notice of proposed rulemaking is required in connection with the adoption of this final rule, no regulatory flexibility analysis is required under the Regulatory Flexibility Act (5 U.S.C. 601–612). Even so, 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.

Executive Order 12866—Regulatory Planning and Review

Executive Order 12866 directs agencies to assess all 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, and other advantages; distributive impacts; and equity). The Order classifies a rule as a significant regulatory action requiring review by the Office of Management and Budget if it meets any one of a number of specified conditions, including: Having an annual effect on the economy of \$100 million or more, creating a serious inconsistency or interfering with an action of another agency, materially altering the budgetary impact of entitlements or the rights of entitlement recipients, or raising novel legal or policy issues. VA has examined the economic, legal, and policy implications of this final rule and has concluded that it is not a significant regulatory action under Executive Order 12866.

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 year. This final rule would have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance Numbers and Titles

The Catalog of Federal Domestic Assistance program numbers and titles for this proposal are 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; and 64.110, Veterans Dependency And Indemnity Compensation For Service-Connected Death.

List of Subjects in 38 CFR Part 3

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

Approved: August 25, 2006.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

■ For the reasons set forth in the preamble, 38 CFR part 3 is amended 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.

§ 3.30 [Amended]

■ 2. Section 3.30(b) is amended by removing “less the” and adding, in its place, “less than”.

■ 3. Section 3.669(a) is revised to read as follows:

§ 3.669 Forfeiture.

(a) *General.* Upon receipt of notice from a Regional Counsel (or in cases under the jurisdiction of the Manila Regional Office, the Veterans Service Center Manager) that a case is being formally submitted for consideration of forfeiture of a payee’s rights under § 3.905 of this part or that the payee has been indicted for subversive activities, payments will be suspended effective date of last payment.

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[FR Doc. E6–14660 Filed 9–1–06; 8:45 am]

BILLING CODE 8320–01–P