

E	100	50	50/100	25% of \$50	12.50
Total	450.00				50.00

<sup>1</sup>Claim already reduced to \$0.

### Claims After Reductions

Customer	Claim in U.S. dollars after allocated non-sovereign shortfall	Allocation of shortfall due to sovereign action Germany	Allocation of total excess shortfall	Claim after all reductions
A	\$50			\$50.00
B	100		12.50	87.50
C	50	50		0
D	200	100	25	75.00
E	100		12.50	87.50
Total	500.00	150.00	50.00	300.00

Issued in Washington, DC, on June 10, 2011 by the Commission.

**David A. Stawick,**

*Secretary of the Commission.*

[FR Doc. 2011-14907 Filed 6-15-11; 8:45 am]

**BILLING CODE-C**

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 17

#### RIN 2900-AN51

#### Service Dogs

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of Veterans Affairs (VA) proposes to amend its regulations concerning veterans in need of service dogs. Under current regulations, VA provides benefits to veterans with guide dogs, and this rulemaking would broaden and clarify those benefits. This rulemaking would also implement new benefits related to service dogs.

**DATES:** Comments must be received by VA on or before August 15, 2011.

**ADDRESSES:** Written comments may be submitted through <http://www.regulations.gov>; by mail or hand-delivery to the Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC

20420; or by fax to (202) 273-9026. Comments should indicate that they are submitted in response to “RIN 2900-AN51—Service Dogs.” Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461-4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at <http://www.Regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Neal Eckrich, Office of Patient Care Services (113), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461-1804. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** Pursuant to 38 U.S.C. 1714(b) and (c), VA may provide to veterans enrolled under 38 U.S.C. 1705 guide dogs trained for the aid of people who are blind and service dogs trained for the aid of the hearing impaired or persons with a spinal cord injury or dysfunction or other chronic impairment that substantially limits mobility. Under section 1714(d), VA is also authorized to provide certain travel expenses related to the provision of such dogs.

In 1961, VA promulgated 38 CFR 17.118(a) (recodified as current 38 CFR 17.154(a) in 1996) restating the statutory language, which at that time limited VA’s authority to the provision of guide dogs for blind veterans. Under both the statutory and regulatory language VA may provide or furnish a guide dog to a veteran but is not required to do so. VA interpreted “provide” in section 1714 and “furnished” in § 17.154(a) to mean that VA need not actually purchase or acquire dogs for eligible veterans if there is an appropriate alternative. (We also note that nothing in 38 U.S.C. 1714 requires VA to provide a dog to a disabled veteran—the statutory authority is that we “may” do so). Accordingly, it has long been VA’s policy to apply current § 17.154(a) by recognizing guide dogs that are obtained by the veteran from private (usually non-profit) organizations dedicated to training guide dogs. In this manner, we can rely on the professional expertise of these organizations without having to house the animals and hire trainers. Currently, VA regulations recognize only guide dogs and not service dogs. To assist the veteran, VA provides financial assistance for veterinary care, and provides hardware required by the dog at no cost to the veteran. The provision of travel benefits is authorized by current § 17.154(a), and the provision of hardware is authorized by current § 17.154(b). This proposed rule would authorize VA to provide benefits for

eligible veterans in need of service dogs, and clearly define the benefit.

In 2001, Congress amended section 1714 to provide that VA may also provide service dogs for veterans with other disabilities. See Department of Veterans Affairs Health Care Programs Enhancement Act of 2001, Public Law 107-135 (2001). This rulemaking would implement that statutory amendment and would establish a single regulation relating to the provision of assistive dogs by VA. In so doing, we would remove current § 17.154(a) and establish the criteria proposed in § 17.148 so that the proposed rule would be the only regulatory authority for benefits related to service dogs. As explained below, the proposed rule would offer the same travel benefit offered under current § 17.154(a). The proposed rule would also clarify that VA interprets section 1714 as authorizing the provision of veterinary-care benefits and would establish a clear procedure for awarding such benefits.

Proposed paragraph (a) would define service dogs as “guide or service dogs prescribed for a disabled veteran under this section.” This rule would provide the same benefit to all eligible veterans, so it is unnecessary to distinguish dogs by the services that they provide. For example, we do not use the term “guide dogs”, which appears under current 38 CFR 17.154, because for the purposes of this rulemaking, veterans who are eligible due to blindness would receive the same benefit.

Proposed paragraph (b) would establish the clinical requirements to obtain service-dog benefits. First, we would authorize benefits only if the veteran is diagnosed as having a visual, hearing, or substantial mobility impairment. These requirements incorporate the eligibility criteria in section 1714. Second, we would require a clinical determination by a VA clinician, which would be based upon the clinician’s medical judgment that “it is optimal for the veteran to manage such impairment and live independently through the assistance of a trained service dog.” By this, we intend to exclude situations in which a VA clinician’s medical judgment indicates that there are means other than a dog, such as technological devices or rehabilitative techniques, which would enable and encourage the veteran to live independently. To emphasize this point, we would note that “[i]f other means (such as technological devices or rehabilitative therapy) will provide the same level of independence, then VA will not authorize benefits under this section.” VA does not intend to allow cost or any

other factors to discourage the use of new technologies and equipment to maximize the independence of veterans. We believe that providing VA with discretion to choose between a service dog or assistive technology based on medical judgment rather than cost-effectiveness would ensure that VA’s patients receive the highest quality of care that the VA-system can provide.

Third, for the purposes of this section, we would define substantial mobility impairment as a spinal cord injury or dysfunction or other chronic impairment that substantially limits mobility. In providing guide-dog benefits, Congress intended to assist a group of veterans whose visual impairment prevents them from physically moving about in society. In providing service-dog benefits for veterans with hearing or spinal cord injuries or other chronic impairment that substantially limits mobility, Congress intended to help veterans with physical limitations. Both of these benefits increase a veteran’s overall ability to move independently and safely in his or her home, community, or both. However, the statute is silent as to a veteran who can see and who does not have an injury that prevents full range of motion but who nevertheless cannot move independently and safely in his or her home, community, or both. Therefore, we would interpret chronic impairment that substantially limits mobility to include, but not be limited to, disabilities such as a traumatic brain injury that compromises the ability to make appropriate decisions based on environmental cues such as traffic lights or a seizure disorder that renders a veteran immobile during and after a seizure event.

In 2009, Congress authorized VA to provide service dogs for the aid of persons with mental illnesses by amending section 1714. Although VA welcomes the possibility that trained dogs may provide valuable services to veterans diagnosed with certain mental illness, at this time we do not have any scientific data to determine, from a purely clinical standpoint, whether or when service dogs are most appropriately provided to veterans with mental illness, including post-traumatic stress disorder. In the National Defense Authorization Act for Fiscal Year 2010, Pub. L. 111-84 (2009), Congress mandated a 3-year study on the effectiveness of dogs for mental health purposes. The results of this study will help us learn more about the services that trained dogs can provide for veterans diagnosed with mental health conditions. Upon the completion of the study and analysis of its results, VA

may revise its regulations in order to provide this service to our veterans.

Proposed paragraph (c) would establish criteria for obtaining a service dog recognized under this section for purposes of obtaining benefits. Under paragraphs (c)(1) and (2), we would recognize service dogs obtained through an organization that is accredited by Assistance Dogs International (ADI) or the International Guide Dog Federation (IGDF). Proof of completion would be established by a certificate from the organization. ADI is an international coalition of nonprofit organizations that train and place service dogs. ADI has established an accreditation procedure for service dog organizations, setting minimum standards for safety and cleanliness of the training facility, fair and ethical treatment of clients, proper health care for the dogs, humane training methods, screening the suitability of dogs and clients, matching dogs and clients, and compliance with all relevant laws. ADI does not accredit organizations that provide guide dogs—ADI only does so for service-dog organizations that train dogs to perform services for individuals with conditions other than blindness. Accreditation of guide-dog programs is done by IGDF, with whom ADI has a joint protocol. ADI will only accredit guide-dog programs if they are also involved in training service dogs, and even then ADI accredits only that portion of the training related to service dogs—IGDF accredits the guide-dog portion. IGDF does not accredit any non-guide dog programs. IGDF is an international coalition of member organizations. IGDF is committed to improving the guide dog industry throughout the world and has published standards that cover a wide range of activities conducted by guide dog organizations, such as organizational structure, fundraising, recordkeeping, technical matters relating to dog health and welfare, dog and client training, and school facilities.

VA has reviewed ADI’s and IGDF’s standards thoroughly, and we believe that they represent appropriate criteria for training and placing guide and service dogs. We are also unaware of any other organizations that similarly scrutinize the process of training and placing guide or service dogs. We note that there are no Federal regulations governing the training of guide or service dogs, and VA does not have the expertise, experience, or resources to develop independent criteria. Therefore, we would rely on ADI and IGDF accreditation to conclude that a dog is qualified and capable of performing the tasks that are clinically required by the medical determination prescribed under

proposed paragraph (b)(2), i.e., that the dog will benefit the veteran in a way that other assistive means cannot.

For dogs acquired before the effective date of this rule, we would require the veteran to provide a certificate showing that the veteran and dog have completed a training course offered by a guide or service dog organization in existence before such date. We would limit this authority to organizations that existed before the effective date of the regulation. The purpose of this paragraph is to ensure that veterans who obtained dogs prior to the publication of this regulation, but not through ADI or IGDF accredited organizations, would be eligible for the benefits prescribed by this regulation. We would allow veterans who obtained dogs through such non-accredited organizations up to 1 year after the effective date of this rule to obtain the required certification. Alternatively, the veteran and dog could obtain the certification from ADI or IGDF described under proposed paragraph (c)(1).

Proposed paragraph (d) would outline the benefits provided by VA under this section. As required by section 1714(a) and (b), benefits would be based on the veteran being enrolled under 38 U.S.C. 1705.

Although Congress has authorized VA to provide service dogs and has expressly authorized the payment of certain travel and incidental expenses related to a veteran's adjustment to the dog, Congress did not address certain important aspects of the program. Veterans who have been furnished a dog must also maintain the health of the dog, and most will also need to purchase and maintain hardware related to the use of the dog. Without financial assistance, some veterans may not be able to afford such veterinary care and hardware. We believe that providing service dogs under the statute necessarily includes providing veterinary treatment and hardware, and repairs to such hardware, required by the dog to perform in service to the veteran. Consistent with this interpretation of our statutory authority, we propose to authorize payments for the care of service dogs that will help maintain the dogs' ability to perform as service dogs. However, we would not provide assistance for additional expenses such as license tags, non-prescription food, grooming, insurance for personal injury, non-sedated dental cleanings, nail trimming, boarding, pet sitting or dog walking services, over-the-counter medications, or other goods and services not expressly prescribed by regulation. This limitation would help ensure that VA's service dog program is

able to continue to provide critical assistance to a larger number of veterans and would ensure that the financial assistance provided by VA would not be used to provide services that are not directly related to the dogs' ability to provide assistive service. We believe that limiting benefits for service dogs to necessary veterinary care, hardware, repairs to hardware, and travel expenses associated with obtaining a dog is similarly within the scope of the benefit authorized by Congress.

Under proposed paragraph (d)(1), we would provide, as the mechanism for providing payment for veterinary care, an insurance policy to every eligible veteran. Because VA does not employ veterinarians, we lack the expertise to directly provide veterinary care, or to determine whether care is medically appropriate. We also lack the resources to review whether a veterinarian is appropriately licensed or charges appropriate fees for veterinary care. Thus, we have determined that an insurance policy is the most efficient way to provide appropriate veterinary care under this section, and we would pay any premiums, copayments, or deductibles associated with the insurance policy.

Under proposed paragraph (d)(1)(i), we would require that VA, and not the veteran will be billed for any premiums, copayments, or deductibles associated with the policy. This is to ensure that the veteran is not overburdened when obtaining care under this section. However, we would note that the policies could be subject to an annual cap, depending upon what policies are actually negotiated when this rule become effective. If an annual cap were in place, care that exceeds the maximum authorized by the policy would be the responsibility of the veteran. Annual caps are a common limitation on insurance policies for service dogs, and we intend to rely on the reasonable cost-control methodologies calculated by experts in the field of veterinary insurance. When determining which companies to form relationships with, of course, VA will carefully review the maximum amounts authorized for particular procedures, as well as any annual caps on expenditures, to ensure that our veterans are getting the best insurance plan possible. To further protect veterans, we would require that the policy ensure advance notice whenever reasonably possible that a particular treatment may exceed the policy's limits. Obviously, it may not be possible to provide advance notice when an animal requires emergency care; however, where a veterinarian

prescribes a future treatment event or an ongoing course of treatment, the insurer should be expected to notify the veteran that he or she may have some financial responsibility. Proposed paragraph (d)(1)(ii) would require that the policy guarantee coverage for all treatment, subject to any annual caps that may be in place under the policy, including euthanasia, so long as it is determined to be medically necessary by a veterinarian recognized by the insurance carrier. This is to ensure that the policy does not exclude medically necessary treatment. Proposed paragraph (d)(1)(iii) would bar policies from excluding dogs with preexisting conditions that do not prevent the dog from being a service dog.

Under proposed paragraph (d)(2), VA would provide any and all hardware clinically determined to be needed by the dog to perform its task. Such hardware would include standard equipment such as harnesses for service dogs. Often, service dogs will require certain hardware in order to perform specific tasks for the unique needs of each veteran, and VA would ensure that every veteran receives the equipment that fulfills his or her clinical needs. VA would also provide necessary repairs or replacements for such hardware. This is consistent with current practice. In order to obtain hardware and/or repairs, veterans would call the Prosthetics Office at their local VA Medical Center and specify the hardware needed or repairs to be made. The Office will then provide the necessary hardware or repairs.

Under paragraph (d)(3), we propose to implement 38 U.S.C. 1714(d), which allows VA to pay travel expenses "under the terms and conditions set forth in [38 U.S.C. 111]" for a veteran who is provided a service dog. We propose to implement this provision by considering such veterans as eligible beneficiaries under 38 CFR Part 70. This will facilitate administration of the benefit and will allow VA to avoid any additional expenses associated with establishing a "new" travel benefit. We believe that the language of 38 U.S.C. 1714(d) can be read to interpret obtaining a dog as "examination, treatment, or care" under 38 U.S.C. 111. In addition, 38 U.S.C. 111 limits eligibility to certain veterans. Most (if not all) veterans who would be eligible for a service dog will meet the eligibility requirements of 38 U.S.C. 111. For example, most will have a service-connected disability rated at 30 percent or more under 38 U.S.C. 111(b)(1)(B). However, we would explicitly state in the regulation that the limitations on eligibility found in section 111 (as well

as in VA's implementing regulations in 38 CFR Part 70) will not limit eligibility for veterans seeking to obtain a dog. Again, we interpret section 1714(d) as authorizing payment of travel expenses associated with obtaining a service dog. Proposed paragraph (d)(4) would clarify the limitation of the benefits provided. We would exclude payment for any expenses that are not clinically prescribed by a veterinarian or otherwise authorized by the proposed rule. Our policy would be, in essence, to treat the dog as a surrogate for an assistive device, requiring that the veteran use the device responsibly and provide general care and maintenance. We would also clarify that VA will not take possession of, or responsibility for, the dog under any circumstances.

Finally, under proposed paragraph (e), we would require that the dog maintain its ability to function as a service dog in order for benefits to be provided under this section. We would provide that, when VA learns from any source that the dog is unable to maintain its assistive role, or VA determines that the veteran no longer requires the dog from a clinical perspective, VA will provide the veteran at least 30 days notice before benefits are terminated. The determination of such continued ability will generally be made by either a veterinarian (if the issue involves the animal's health) or by a VA clinician (if the issue is whether the veteran still meets the clinical prerequisite for eligibility under paragraph (b)(2)). The veteran may, but is not required to, notify VA or the insurer that the dog is medically unable to maintain its role as a service dog. However, we note that VA will not provide the benefit for two dogs simultaneously, which is discussed in the introductory text of proposed paragraph (d), so VA must first terminate the coverage for the dog that is no longer performing its duties before it would cover the training of a new dog to perform such services for the veteran. Since the veteran may often be the first person to know whether the dog can no longer perform its duties, we would encourage the veteran to notify VA so that we may expedite the transfer of benefits to a new dog, and make any other clinically appropriate arrangements for the veteran as the new dog is trained.

Current § 17.154(a) provides that VA may furnish a guide dog for blind veterans as well as travel expenses incurred by the veteran as a result of adjustment to the guide dog. Current § 17.154(b) provides that VA may supply mechanical and/or electronic equipment to beneficiaries to help

overcome the handicap of blindness. In accordance with the proposed changes discussed above, we propose to revise § 17.154 by removing paragraph (a) and removing the designation of paragraph (b), and by making technical revisions to the title and language to accord with the removal of paragraph (a). It will continue to authorize VA to provide equipment to blind veterans.

#### Effect of Rulemaking

We would rescind certain sections of the following VHA Handbooks, which contain conflicting provisions. We would rescind "Aids for the Blind and Visually Impaired," 1173.05, paragraph 12, concerning issuance of guide dogs; "Eligibility," 1173.1, paragraph 7(b)(1), referencing "veterinary treatment for guide dogs;" and "Furnishing Prosthetic Appliances and Services," 1173.2, paragraph 4(a)(4), referencing "veterinary treatment for guide dogs." Additionally, we would rescind the reference to "dog guide" in "Furnishing Prosthetic Appliances and Services," 1173.2, paragraph 4(c)(a)(2)(b), which limits the Prosthetics Service Card amount to \$100. Finally, we propose to amend the citations to current 38 CFR 17.154 to proposed § 17.148 and § 17.154 in "Benefits Overview," 1601A.04, A-1(6) and A-7(22).

#### 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 an 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 given year. This proposed rule would have no such effect on state, local, and tribal governments, or on the private sector.

#### Paperwork Reduction Act

This proposed rule includes provisions constituting collections of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521) that require approval by the Office of Management and Budget (OMB). Accordingly, under section 3507(d) of the Act, VA has submitted a copy of this rulemaking to OMB for review. OMB assigns a control number for each collection of information it approves. Except for emergency approvals under 44 U.S.C. 3507(j), VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Proposed § 17.148(c)(1) and (d)(2)

contain collections of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521). If OMB does not approve the collections of information as requested, VA will immediately remove the provisions containing a collection of information or take such other action as is directed by OMB.

Comments on the collections of information contained in this proposed rule should be submitted to the Office of Management and Budget, *Attention:* Desk Officer for the Department of Veterans Affairs, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies sent by mail or hand delivery to: Director, Office of Regulation Policy and Management (02REG), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; fax to (202) 273-9026; or through <http://www.Regulations.gov>. Comments should indicate that they are submitted in response to "RIN 2900-AN51, Service Dogs."

OMB is required to make a decision concerning the collections of information contained in this proposed rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the proposed rule.

VA considers comments by the public on proposed collections of information in—

- Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of VA, including whether the information will have practical utility;
- Evaluating the accuracy of VA's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collections of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The proposed amendments to title 38, CFR Chapter 17 contain collections of information under the Paperwork Reduction Act for which we are requesting approval by OMB. These collections of information are described

immediately following this paragraph, under their respective titles.

*Title: Service Dogs.*

*Summary of collection of information:*

The proposed rule at § 17.148(c) requires the veteran to either (1) provide a certificate of completion from an ADI or IGDF-certified organization if the service dog is acquired by the veteran after the publication of the final rule; or (2) provide a certificate of completion from any then-existing guide or service dog organization if the dog is acquired prior to publication of the final rule.

*Description of the need for information and proposed use of information:* This information is needed for VA to determine that the dog is suitable for the clinical needs of the veteran that it would be required to fulfill and is able to behave appropriately in public.

*Description of likely respondents:* Veterans.

*Estimated number of respondents per year:* Approximately 600 veterans will need to provide certification for existing service dogs, and approximately 100 veterans will obtain service dogs each year; therefore 700 submissions in year one and 100 submissions annually.

*Estimated frequency of responses per year:* Veterans will submit certification for approximately 600 existing service dogs and 100 new service dogs each year; 700 submissions in year one and 100 submissions each year thereafter.

*Estimated total annual reporting and recordkeeping burden:* It is expected that this burden will take less than 5 minutes per veteran, per dog. The estimated total annual reporting and recordkeeping burden is 3500 minutes in year one and 500 minutes each year thereafter.

#### **Executive Order 12866**

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 Executive Order classifies 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 the 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 the Executive Order.

#### **Regulatory Flexibility Act**

The Secretary hereby certifies that this proposed rule would 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. We believe that most service-dog providers that provide dogs to veterans are already accredited in accordance with the proposed rule. We do not believe that gaining accreditation should result in a significant financial burden, as the standards for approval by ADI and IGDF are reasonable thresholds that are generally expected and accepted within the industry. The approximate cost to be an accredited organization by IGDF is a one-time fee of \$795, with an annual fee of \$318 and a per unit fee of \$39.45. The approximate cost to be an accredited organization by ADI is \$1,000 every 5 years with annual fees of approximately \$50. The vast majority of accredited programs do not provide dogs to veterans. Therefore, pursuant to 5 U.S.C. 605(b), this proposed rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

#### **Catalog of Federal Domestic Assistance Numbers**

The Catalog of Federal Domestic Assistance numbers and titles are 64.009 Veterans Medical Care Benefits, 64.010 Veterans Nursing Home Care and 64.011 Veterans Dental Care.

#### **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. John R. Gingrich, Chief of Staff, Department of Veterans Affairs, approved this

document on May 11, 2011, for publication.

#### **List of Subjects in 38 CFR Part 17**

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs—health, Government programs—veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing home care, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Dated: June 13, 2011.

#### **Robert C. McFetridge,**

*Director, Regulation Policy and Management, Office of General Counsel, Department of Veterans Affairs.*

For the reasons stated in the preamble, VA proposes to amend 38 CFR part 17 as follows:

#### **PART 17—MEDICAL**

1. The authority citation for part 17 continues to read as follows:

**Authority:** 38 U.S.C. 501, and as noted in specific sections.

2. Add § 17.148 after the undesignated center heading “PROSTHETIC, SENSORY, AND REHABILITATIVE AIDS”, to read as follows:

#### **§ 17.148 Service dogs.**

(a) *Definitions.* For the purposes of this section:

*Service dogs* are guide or service dogs prescribed for a disabled veteran under this section.

(b) *Clinical requirements.* VA will provide benefits under this section to a veteran with a service dog only if:

(1) The veteran is diagnosed as having a visual, hearing, or substantial mobility impairment; and

(2) A VA clinician determines based upon medical judgment that it is optimal for the veteran to manage such impairment and live independently through the assistance of a trained service dog. Note: If other means (such as technological devices or rehabilitative therapy) will provide the same level of independence, then VA will not authorize benefits under this section.

(3) For the purposes of this section, substantial mobility impairment means a spinal cord injury or dysfunction or other chronic impairment that substantially limits mobility. A chronic impairment that substantially limits

mobility includes but is not limited to a traumatic brain injury that compromises a veteran's ability to make appropriate decisions based on environmental cues (*i.e.*, traffic lights or dangerous obstacles) or a seizure disorder that causes a veteran to become immobile during and after a seizure event.

(c) *Recognized service dogs.* VA will recognize, for the purpose of paying benefits under this section, the following service dogs:

(1) The dog and veteran must have successfully completed a training program offered by an organization accredited by Assistance Dogs International or the International Guide Dog Federation, or both (for dogs that perform both service- and guide-dog assistance). The veteran must provide to VA a certificate showing successful completion issued by the accredited organization that provided such program.

(2) Dogs obtained before [date of publication of final rule in the **Federal Register**] will be recognized if a guide or service dog training organization in existence before [date of publication of final rule in the **Federal Register**] certifies that the veteran and dog, as a team, successfully completed, no later than [date 1 year after date of publication of final rule in the **Federal Register**], a training program offered by that training organization. The veteran must provide to VA a certificate showing successful completion issued by the organization that provided such program. Alternatively, the veteran and dog will be recognized if they comply with paragraph (c)(1) of this section.

(d) *Authorized benefits.* VA will provide to a veteran enrolled under 38 U.S.C. 1705 only the following benefits for one service dog at any given time in accordance with this section:

(1) A commercially available insurance policy that meets the following minimum requirements:

(i) VA, and not the veteran, will be billed for any premiums, copayments, or deductibles associated with the policy; however, the veteran will be responsible for any cost of care that exceeds the maximum amount authorized by the policy for a particular procedure, course of treatment, or policy year. If a dog requires care that may exceed the policy's limit, the insurer will, whenever reasonably possible under the circumstances, provide advance notice to the veteran.

(ii) The policy will guarantee coverage for all treatment (and associated prescription medications), subject to premiums, copayments, deductibles or annual caps, determined to be medically

necessary, including euthanasia, by any veterinarian who meets the requirements of the insurer.

(iii) The policy will not exclude dogs with preexisting conditions that do not prevent the dog from being a service dog.

(2) Hardware, or repairs or replacements for hardware, that are clinically determined to be required by the dog to perform the tasks necessary to assist the veteran with his or her impairment. To obtain such devices, the veteran must contact the Prosthetic and Sensory Aids Service at his or her local VA medical facility and request the items needed.

(3) Payments for travel expenses associated with obtaining a dog under paragraph (c)(1) of this section. Travel costs will be provided only to a veteran who has been prescribed a service dog by a VA clinician under paragraph (b) of this section. Payments will be made as if the veteran is an eligible beneficiary under 38 U.S.C. 111 and 38 CFR part 70, without regard to whether the veteran meets the eligibility criteria as set for in 38 CFR part 70.

(4) The veteran is responsible for procuring and paying for any items or expenses not authorized by this section. This means that VA will not pay for items such as license tags, non-prescription food, grooming, insurance for personal injury, non-sedated dental cleanings, nail trimming, boarding, pet-sitting or dog-walking services, over-the-counter medications, or other goods and services not covered by the policy. The dog is not the property of VA; VA will never assume responsibility for, or take possession of, any service dog.

(e) *Dog must maintain ability to function as a service dog.* To continue to receive benefits under this section, the service dog must maintain its ability to function as a service dog. If at any time VA learns from any source that the dog is medically unable to maintain that role, or VA makes a clinical determination that the veteran no longer requires the dog, VA will provide at least 30 days notice to the veteran before benefits will no longer be authorized.

(Authority 38 U.S.C. 501, 1714)

3. Revise § 17.154 to read as follows:

**§ 17.154 Equipment for blind veterans.**

VA may furnish mechanical and/or electronic equipment considered necessary as aids to overcoming the handicap of blindness to blind ex-members of the Armed Forces entitled to disability compensation for a service-connected disability.

(Authority: 38 U.S.C. 1714)

[FR Doc. 2011-14933 Filed 6-15-11; 8:45 am]

BILLING CODE 8320-01-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R09-OAR-2011-0312; FRL-9319-8]

**Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD)**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the SJVUAPCD portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compounds (VOCs) from architectural coatings. We are approving a local rule that regulates these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

**DATES:** Any comments must arrive by July 18, 2011.

**ADDRESSES:** Submit comments, identified by docket number EPA-R09-OAR-2011-0312, by one of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions.
2. *E-mail:* [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).
3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

*Instructions:* All comments will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through <http://www.regulations.gov> or e-mail. <http://www.regulations.gov> is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your