

**DATES:** Submit applications by April 27, 2012.

**ADDRESSES:** Submit applications by any of the following methods:

- *Mail or Hand Delivery/Courier:*

Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., suite 1000, Washington, DC 20004-1111.

- *Fax:* 202-272-0081.

- *Email:* [pace@access-board.gov](mailto:pace@access-board.gov).

**FOR FURTHER INFORMATION CONTACT:** Rex Pace, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., suite 1000, Washington, DC 20004-1111. Telephone: (202) 272-0023 (Voice) or (202) 272-0052 (TTY). Email address: [pace@access-board.gov](mailto:pace@access-board.gov).

**SUPPLEMENTARY INFORMATION:** Section 510 of the Rehabilitation Act (29 U.S.C. 794f) requires the Access Board to issue accessibility standards for medical diagnostic equipment, in consultation with the Commissioner of the Food and Drug Administration. The Access Board published an NPRM in the February 9, 2012 edition of the **Federal Register**, 77 FR 6916, proposing the accessibility standards. The proposed standards contain minimum technical criteria to ensure that medical diagnostic equipment, including examination tables, examination chairs, weight scales, mammography equipment, and other imaging equipment used by health care providers for diagnostic purposes are accessible to and usable by individuals with disabilities. The proposed standards are intended to ensure, to the maximum extent possible, independent entry to, use of, and exit from such equipment by individuals with disabilities. The proposed standards do not impose any mandatory requirements on health care providers or medical device manufacturers. However, other agencies may issue regulations or adopt policies that require health care providers subject to the agency's jurisdiction to acquire accessible medical diagnostic equipment that conforms to the standards. The NPRM and information related to the proposed standards are available on the Access Board's Web site at: <http://www.access-board.gov/medical-equipment.htm>.

At its January 11, 2012 meeting, the Access Board voted to form an advisory committee (Committee) to advise the Board on matters addressed in the NPRM. The Committee will make recommendations to the Access Board on the technical criteria proposed in the NPRM and issues raised in public

comments on the NPRM, including responses to the questions in the NPRM. The comment period on the NPRM ends on June 8, 2012. The Access Board will conduct a preliminary analysis of the public comments and plans to schedule the first meeting of the Committee in September 2012. The Committee is expected to hold four meetings and present a report with its recommendations to the Access Board within two months of the Committee's first meeting.

The Access Board requests applications for representatives of the following interests for membership on the Committee:

- Medical device manufacturers;
- Health care providers;
- Standards setting organizations;
- Organizations representing individuals with disabilities;
- Federal agencies; and
- Other organizations affected by the proposed standards.

The number of Committee members will be limited so that the Committee's work can be accomplished effectively. The Committee will be balanced in terms of interests represented. The Access Board encourages organizations with similar interests to submit a single application to represent their interests. Although the Committee will be limited in size, there will be opportunities for the public to present information to the Committee and to comment at each Committee meeting. Federally registered lobbyists may not be appointed to the Committee, pursuant to Presidential Memorandum dated June 18, 2010, entitled "Lobbyists on Agency Boards and Commissions" (<http://www.whitehouse.gov/the-press-office/presidential-memorandum-lobbyists-agency-boards-and-commissions>).

Applications should be sent to the Access Board at the address listed at the beginning of this notice. There is no specific application form. The application should include the following information:

- Name of the organization;
- Interests represented by the organization;
- Person who will represent the organization and an alternate, and the title, address, telephone number, and email address for the representative and alternate;
- Description of the representative's qualifications, including engineering, technical, and design expertise; knowledge of making medical diagnostic equipment accessible to individuals with disabilities; or other expertise related to the rulemaking; and

- Certification that the representative and alternate are not federally registered lobbyists.

Committee members will not be compensated for their service. The Access Board may, at its discretion, pay travel expenses for a limited number of persons who would otherwise be unable to participate on the Committee. Committee members will serve as representatives of their organizations, not as individuals. Committee members will not be considered special government employees and will not be required to file confidential financial disclosure reports.

After the applications have been reviewed, the Access Board will publish a notice in the **Federal Register** announcing the appointment of Committee members and the first meeting of the Committee. The Committee will operate in accordance with the Federal Advisory Committee Act, 5 U.S.C. app 2. All Committee meetings will be held at the Access Board's office in Washington, DC. Each meeting will be open to the public. A notice of each meeting will be published in the **Federal Register** at least 15 days in advance of the meeting. Records will be kept of each meeting and made available for public inspection.

**David Capozzi,**

*Executive Director.*

[FR Doc. 2012-5964 Filed 3-12-12; 8:45 am]

**BILLING CODE 8150-01-P**

## DEPARTMENT OF DEFENSE

### DEPARTMENT OF VETERANS AFFAIRS

#### 38 CFR Part 17

#### RIN 2900-AN92

#### Vet Center Services

**AGENCY:** Department of Defense and Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of Veterans Affairs (VA) proposes to establish in regulation the readjustment counseling currently provided in VA's Vet Centers to certain veterans of the Armed Forces and members of their immediate families, and to implement provisions of the Caregivers and Veterans Omnibus Health Services Act of 2010 (the 2010 Act) regarding readjustment counseling. Although for several decades VA has provided readjustment counseling to veterans and members of their immediate families, a regulation is now explicitly required by the 2010 Act. The

2010 Act makes certain current members of the Armed Forces who served on active duty in Operation Enduring Freedom or Operation Iraqi Freedom eligible for the readjustment counseling that VA currently provides to veterans and members of their immediate families. In addition, the proposed regulation would authorize Vet Centers to provide referral and advice to individuals who are not otherwise eligible for such counseling, and served in a theater of combat operations or in an area during a period of hostilities in that area, in accordance with the 2010 Act.

**DATES:** Comments must be received by VA on or before May 14, 2012.

**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-AN92, Vet Center Services.” 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 (this is not a toll-free number) for an appointment. In addition, during the comment period, comments may be viewed online through the Federal Docket Management System at <http://www.Regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Gregory Harms, Readjustment Counseling Service (15), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420; (202) 461-6525. (This is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** Under 38 U.S.C. 1712A, VA is authorized to establish Vet Centers that must furnish counseling to certain veterans upon request, who are clearly identified by the statute, to assist such veterans in readjusting to civilian life. We have consistently interpreted this authority to provide readjustment counseling broadly to mean those types of counseling that would assist in readjusting to life as part of a family, reentering civilian employment, and referrals for medical care or substance abuse. For decades, VA has implemented this authority without regulation based on statutory authority. On May 5, 2010, Congress provided in section 401 of the 2010 Act that “[a]ny member of the Armed Forces, including

a member of the National Guard or Reserve, who serves on active duty in the Armed Forces in Operation Enduring Freedom or Operation Iraqi Freedom is eligible” for the services provided to veterans under 38 U.S.C. 1712A, “regardless of whether or not the member is currently on active duty in the Armed Forces at the time of receipt of counseling and services under” section 1712A. Public Law 111-163, sec. 401(a) and (b). The law also provides that eligibility for these members of the Armed Forces “shall be subject to such regulations as the Secretary of Defense and the Secretary of Veterans Affairs shall jointly prescribe for purposes of [section 401].” This proposed rule would initiate the rulemaking requirement prescribed by Congress. Although VA has provided section 1712A benefits without a regulation in the past, in the interests of clarity and completeness the proposed regulation would cover the provision of benefits to veterans under section 1712A as well as benefits provided under section 401 of the 2010 Act.

In addition, section 402 of the 2010 Act added a new 38 U.S.C. 1712A(c), which requires VA to provide certain referral services and advice to an “individual who has been discharged or released from active military, naval, or air service but who is not otherwise eligible” for readjustment counseling. The proposed rule would implement this statutory authority.

Lastly, section 304 of the 2010 Act authorizes readjustment counseling for the immediate family of Operation Enduring Freedom and Operation Iraqi Freedom veterans for a period of 3 years after such veterans return from deployment. This counseling is available to help the readjustment of such veterans to civilian life or to assist the readjustment of the family following the return of such veterans.

Proposed paragraph (a) would concern eligibility for readjustment counseling. Pursuant to the requirements of 38 U.S.C. 1712A(a)(1)(A) and in accordance with current practice, VA provides benefits “[u]pon the request” of an eligible veteran. There are no forms or claims required to obtain this benefit—individuals need only make an oral request for readjustment counseling upon presenting at the Vet Center.

Subsections (a)(1) and (2) of 38 U.S.C. 1712A set forth the categories of veterans who are eligible for benefits under the statute. We would greatly simplify the language describing them. First, 38 U.S.C. 1712A(a)(1)(B)(i)(I) requires VA to provide readjustment counseling to any “veteran who served

on active duty \* \* \* in a theater of combat operations (as determined by the Secretary [of VA] in consultation with the Secretary of Defense) during the Vietnam era.” Second, 38 U.S.C. 1712A(a)(1)(B)(i)(II) requires VA to provide readjustment counseling to veterans who served “after May 7, 1975,” which is the ending date of the Vietnam era (*see* 38 U.S.C. 101(29)), “in an area at a time during which hostilities occurred in that area.” Third, 38 U.S.C. 1712A(a)(2)(A) provides that VA “may furnish” benefits to veterans other than those discussed above—for whom VA “shall furnish” benefits—who “served in the active military, naval, or air service in a theater of combat operations \* \* \* during a period of war, or in any other area during a period in which hostilities \* \* \* occurred in such area.” We note that VA has consistently provided benefits to such veterans in accordance with the Secretary’s discretion under this provision.

The statute then defines “hostilities” solely for the purpose of veterans whose eligibility is established under section 1712A(a)(2)(A), as “an armed conflict in which the members of the Armed Forces [we]re subjected to danger comparable to the danger to which members of the Armed Forces have been subjected in combat with enemy armed forces during a period of war, as determined by the Secretary [of VA] in consultation with the Secretary of Defense.” 38 U.S.C. 1712A(a)(2)(B). This definition is a general, basic, and commonly understood meaning of the term “hostilities.” We do not know, and the legislative history is silent as to, why Congress chose to make this definition explicitly applicable to the use of the term “hostilities” in section 1712A(a)(2)(A), but did not address the meaning of the same term as it is used in section 1712A(a)(1)(B)(i)(II). In repeated consultations with DoD over the decades during which we have been providing benefits under this section, VA has been unable to identify a reason that the definition of “hostilities” in section 1712A(a)(2)(A) should be different from the definition in the earlier section. Again, the definition provided in 38 U.S.C. 1712A(a)(2)(B) is clear and encompasses the only meaning that we believe could have been intended by the use of the word “hostilities.” Hence, we have not in practice distinguished between the “hostilities” requirements in 1712A(a)(1) and (a)(2), and do not intend to do so in the proposed rule.

Because we do not distinguish between the “hostilities” described in sections 1712A(a)(1) and (a)(2), and

because we will continue to provide readjustment counseling in accordance with the broader, discretionary authority in section 1712(a)(2)(A), the above-described eligibility criteria for readjustment counseling under section 1712A can be simplified to read as follows:

(1) A veteran who served on active duty in a theater of combat operations during a period of war.

(2) A veteran who served on active duty in an area in which hostilities occurred, or in combat against a hostile force during a period of hostilities.

In addition to the above-described veterans, we propose to include three additional categories of individuals who would be authorized to receive benefits under the proposed rule. Proposed paragraph (a)(3) would establish eligibility for any “veteran who served on active duty during the Vietnam era who sought or was provided counseling under 38 U.S.C. 1712A before January 1, 2004.” This would be a straightforward application of 38 U.S.C. 1712A(a)(1)(B)(ii), which extends eligibility to veterans who served during the Vietnam era but did not serve in a combat theater or an area in which hostilities occurred, so long as they sought counseling before the year 2004.

In proposed paragraph (a)(4) we would implement section 401 of the 2010 Act, which states that “[a]ny member of the Armed Forces, including a member of the National Guard or reserve, who serves on active duty in the Armed Forces in Operation Enduring Freedom or Operation Iraqi Freedom is eligible for readjustment counseling and related mental health services under [38 U.S.C. 1712A].” We would extend eligibility to such active duty servicemembers and offer the same benefits as those provided to veterans under section 1712A. In our view, section 401 of the 2010 Act does not contemplate providing a lesser benefit to eligible active duty servicemembers. Additionally, after consultation with the Department of Defense, VA considers Operation New Dawn to be part of the same contingency operation that was formerly called Operation Iraqi Freedom. Therefore, VA will consider participants in Operation New Dawn to be eligible for benefits under the legal authorities pertaining to Operation Iraqi Freedom.

Section 304 of the 2010 Act specifically requires VA to provide readjustment counseling to members of the immediate family of a veteran who served in Operation Enduring Freedom or Operation Iraqi Freedom (OEF/OIF) during the 3-year period beginning on the date of the return of such veteran

from deployment in Operation Enduring Freedom or Operation Iraqi Freedom to assist in “the readjustment of such veterans to civilian life,” the recovery of such veterans from an injury or illness incurred during deployment, and “the readjustment of the family following the return of such veterans.”

VA’s long-standing interpretation of 38 U.S.C. 1712A has been that marriage and family counseling is a necessary component of counseling provided to a veteran to assist in readjusting to civilian life. The support of a family member and spouse is essential to the veteran’s ability to successfully transition to civilian life. By receiving readjustment counseling, such family member and spouse is better able to cope with the veteran’s readjustment process, and understand how to better assist the veteran, regardless of whether or not the veteran is currently receiving readjustment counseling of his or her own accord. Moreover, in cases where a veteran is provided mental health services as a result of a referral from a Vet Center, VA is specifically authorized to provide mental health services that “include such consultation, counseling, training, services, and expenses as are described in [38 U.S.C.] 1782 and 1783.” Section 1782, in turn, provides independent authority for VA to provide counseling for the family members of veterans who are receiving VA treatment, and we have recently clarified this authority in 38 CFR 71.50. In addition, members of the veteran’s immediate family qualify for bereavement counseling under section 1783, if the family member was already in receipt of counseling services under section 1782. Unlike section 304 of the 2010 Act, these statutes are not limited to OEF/OIF veterans. Moreover, as further explained below in our definition of the readjustment counseling services that VA currently provides through our Vet Centers, VA is already providing many readjustment counseling services to members of a veteran’s immediate family, without the limitations established in section 304. For these reasons, we do not believe that Congress intended that section 304 should be interpreted to restrict readjustment counseling to members of the immediate family of veterans who served in OEF/OIF. We, therefore, propose to simply state in paragraph (a)(5) that VA will provide readjustment counseling to “[m]embers of the immediate family of a veteran or servicemember who is eligible for readjustment counseling under paragraphs (a)(1), (2), (3) or (4) of this section.” By using a broad statement, we

would implement the authority in section 304, while recognizing VA’s continuing duty to provide the full range of readjustment counseling services to other veterans’ family members under the authorities described above and in accordance with long-standing VA practice.

VA is required to determine if a veteran served on active duty in a theater of combat operations under this authority “in consultation with the Secretary of Defense.” See 38 U.S.C. 1712A(a)(1)(B)(i)(I), (a)(2)(A), (a)(2)(B). Proposed paragraph (b)(2) would list the various types of evidence VA will accept as evidence of service in a theater of combat operations. The list includes every category of medal that can be used to establish eligibility, with parenthetical examples of the most common specific medals within certain categories. However, this list cannot be exhaustive, as additional medals may be added at any time. The list is based on years of practice and cooperation with the Department of Defense (DoD), and all veterans who serve in either a combat theater or an area where hostilities occur, and receive one of the medals listed in proposed paragraph (b) would qualify. We would include a “catch-all” category at the end of the paragraph for “other combat theater awards” established by public law or executive order. VA will continue to actively consult with DoD on this issue and base eligibility on additional medals where appropriate.

Proposed paragraph (b)(1) would state that veterans may submit an annotated DD-214 indicating service in a designated theater of combat operations.

Proposed paragraph (b)(3) would allow VA to accept receipt of Hostile Fire or Imminent Danger Pay, commonly known as “combat pay,” or combat tax exemption after November 11, 1998, as proof that the veteran or servicemember served on active duty in a theater of combat operations.

Proposed paragraph (b)(4) would also allow VA to independently verify appropriate service in coordination with DoD. Although persons seeking counseling generally submit a DD-214 and other appropriate documentation showing receipt of a medal, VA may act independently when the veteran or servicemember lacks documentation, or when a veteran states that it will be difficult for him or her to obtain such documentation.

Proposed paragraph (c) would implement section 402 of the 2010 Act, which added 38 U.S.C. 1712A(c), which reads as follows:

(c) Upon receipt of a request for counseling under [38 U.S.C. 1712A] from any individual

who has been discharged or released from active military, naval, or air service but who is not otherwise eligible for such counseling, the Secretary [of VA] shall—

(1) provide referral services to assist such individual, to the maximum extent practicable, in obtaining mental health care and services from sources outside [VA]; and

(2) if pertinent, advise such individual of such individual's rights to apply to the appropriate military, naval or air service, and to [VA], for review of such individual's discharge or release from such service.

38 U.S.C. 1712A(c).

The benefit authorized by section 1712A, i.e., “counseling to the veteran to assist the veteran in readjusting to civilian life,” and by section 401 of the 2010 Act (“readjustment counseling”) is not defined by statute. In proposed paragraph (d), we would state that “readjustment counseling” includes but is not limited to: psychosocial assessment, individual counseling, group counseling, marital and family counseling for military-related readjustment issues, substance abuse assessments, medical referrals, referral for additional VA benefits, employment assessment and referral, military sexual trauma counseling and referral, and outreach. We would add that a “psychosocial assessment” means the holistic assessing of an individual's psychological, social, and functional capacities as it relates to their readjustment from a combat theater. We note that VA is authorized to provide these services via Vet Center counselors, and to train such counselors, by 38 U.S.C. 1712A(d).

Proposed paragraph (e) would establish the confidentiality of records maintained under this section. Benefits provided under the proposed rule, in accordance with current practice, would be provided exclusively by VA Vet Centers, which operate independently of any VA medical center or DoD. In accordance with applicable authorities, including 5 U.S.C. 552a, 38 U.S.C. 5701 and 7332, 45 CFR parts 160 and 164, and VA's System of Records 64VA15, “Readjustment Counseling Service Vet Center Program,” most recently amended at 74 FR 29019 (June 18, 2009), VA Vet Center records will not be disclosed to any VA medical personnel or to DoD without the express, signed authorization of the veteran or servicemember, or a specific exception permitting their release. We believe that it is important to state this in the proposed rule to allay any fears, particularly fears held by active duty servicemembers, that their records regarding readjustment counseling will be shared with DoD without proper legal authority.

### 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,” which requires review by the Office of Management and Budget (OMB) 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.

### 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 expenditure by State, local, or 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, or tribal governments, or on the private sector.

### Paperwork Reduction Act

This proposed rule includes a collection of information under the Paperwork Reduction Act (44 U.S.C.

3501–3521) that requires 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 § 17.2000(b) contains a collection 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: the 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 [www.Regulations.gov](http://www.Regulations.gov). Comments should indicate that they are submitted in response to “RIN 2900–AN92.”

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 38 CFR part 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:* Readjustment counseling.

*Summary of collection of information:* The proposed rule at § 17.2000(b) would allow a veteran to submit a copy of a DD-214 or other appropriate documentation as evidence that the veteran received a medal that would serve as the basis for establishing his or her eligibility to receive readjustment counseling.

*Description of the need for information and proposed use of information:* Receipt of one of the listed medals will be accepted as evidence to establish eligibility for readjustment counseling.

*Description of likely respondents:* Veterans or active duty service members.

*Estimated number of respondents per year:* 57,000.

*Estimated frequency of responses per year:* 1.

*Estimated total annual reporting and recordkeeping burden:* No more than 1 hour to locate and scan the appropriate documentation into the veteran's Record.

### Regulatory Flexibility Act

The Secretary of Veterans Affairs and the Secretary of Defense hereby certify 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. This proposed rule would not cause a significant economic impact on health care providers, suppliers, or other small entities. 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 program number and title for this rule are as follows: 64.005, Grants to States for Construction of State Home Facilities; 64.007, Blind Rehabilitation Centers; 64.008, Veterans Domiciliary Care; 64.009, Veterans Medical Care

Benefits; 64.010, Veterans Nursing Home Care; 64.014, Veterans State Domiciliary Care; 64.015, Veterans State Nursing Home Care; 64.018, Sharing Specialized Medical Resources; 64.019, Veterans Rehabilitation Alcohol and Drug Dependence; 64.022, Veterans Home Based Primary Care; and 64.024, VA Homeless Providers Grant and Per Diem Program.

### 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, Veterans.

Approved: November 15, 2011.

**John R. Gingrich,**

*Chief of Staff, Department of Veterans Affairs.*

Approved: February 29, 2012.

**Jo Ann Rooney,**

*Acting Under Secretary of Defense, Personnel & Readiness, Department of Defense.*

For the reasons set forth in the preamble, 38 CFR part 17 is proposed to be amended 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 an undesignated center heading and § 17.2000 to read as follows:

#### Vet Centers

#### § 17.2000 Vet Center services.

(a) *Eligibility for readjustment counseling.* Upon request, VA will provide readjustment counseling to the following individuals:

(1) A veteran who served on active duty in a theater of combat operations during a period of war.

(2) A veteran who served on active duty in an area in which hostilities occurred, or in combat against a hostile force during a period of hostilities.

(3) A veteran who served on active duty during the Vietnam era who sought or was provided counseling under 38 U.S.C. 1712A before January 1, 2004.

(4) Any member of the Armed Forces, including a member of the National Guard or reserve, who served on active duty in the Armed Forces in Operation Enduring Freedom or Operation Iraqi Freedom.

(5) Members of the immediate family of a veteran or servicemember who is eligible for readjustment counseling under paragraphs (a)(1), (2), (3) or (4) of this section.

(b) *Proof of eligibility.* For the purposes of this section, proof of service in a theater of combat operations or in an area during a period of hostilities in that area will be established by:

(1) A DD Form 214 (Certificate of Release or Discharge from Active Service) containing notations of service in a designated theater of combat operations; or

(2) Receipt of one of the following medals: The Armed Forces Expeditionary Medal, Service Specific Expeditionary Medal (e.g., Navy Expeditionary Medal), Combat Era Specific Expeditionary Medal (e.g., the Global War on Terrorism Expeditionary Medal), Campaign Specific Medal (e.g., Vietnam Service Medal or Iraq Campaign Medal), or other combat theater awards established by public law or executive order; or

(3) Proof of receipt of Hostile Fire or Imminent Danger Pay (commonly referred to as “combat pay”) or combat tax exemption after November 11, 1998.

(4) Independent verification by VA in coordination with the Department of Defense.

(c) *Referral and advice.* Upon request, VA will provide to an individual who has been discharged or released from active military, naval, or air service, but who is not otherwise eligible for such counseling, and meets the eligibility requirements of paragraph (a) of this section, the following:

(1) Referral services to assist such individual, to the maximum extent practicable, in obtaining mental health care and services from sources outside VA; and

(2) If pertinent, advise such individual of such individual's rights to apply to:

(i) The appropriate military, naval or air service for review of such individual's discharge or release from such service; and

(ii) VA for a VA benefits eligibility determination under 38 CFR 3.12.

(d) *Readjustment counseling defined.* For the purposes of this section, readjustment counseling includes but is not limited to: psychosocial assessment, individual counseling, group counseling, marital and family counseling for military-related readjustment issues, substance abuse assessments, medical referrals, referral for additional VA benefits, employment assessment and referral, military sexual trauma counseling and referral, and outreach. A “psychosocial assessment”

under this paragraph means the holistic assessing of an individual's psychological, social, and functional capacities as it relates to their readjustment from combat theaters.

(e) *Confidentiality*. Benefits under this section are furnished solely by VA Vet Centers, which maintain confidential records independent from any other VA or Department of Defense medical records and which will not disclose such records without either the veteran or servicemember's voluntary, signed authorization, or a specific exception permitting their release. For more information, see 5 U.S.C. 552a, 38 U.S.C. 5701 and 7332, 45 CFR parts 160 and 164, and VA's System of Records 64VA15, "Readjustment Counseling Service Vet Center Program."

(Authority: 38 U.S.C. 501 and 1712A; Pub. L. 111-163, sec. 401)

[FR Doc. 2012-6004 Filed 3-12-12; 8:45 am]

BILLING CODE 8320-01-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R01-OAR-2012-0076; A-1-FRL-9646-2]

#### Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Determination of Attainment of the 1997 Ozone Standard for the Eastern Massachusetts Nonattainment Area

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

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing two separate and independent determinations regarding the Boston-Lawrence-Worcester (Eastern Massachusetts) moderate 1997 8-hour ozone nonattainment area. First, based on complete, quality-assured and certified air monitoring data for 2007-2009, EPA is proposing to determine that the Eastern Massachusetts nonattainment area attained the 1997 8-hour National Ambient Air Quality Standard (NAAQS) for ozone as of the area's applicable attainment date, June 15, 2010. Second, EPA is proposing to determine that Eastern Massachusetts has attained the 1997 8-hour ozone NAAQS, based upon complete, quality-assured and certified ambient air monitoring data that show the area monitored attainment of the 1997 8-hour ozone NAAQS for the 2008-2010 and 2009-2011 monitoring periods. If this latter proposed determination is

made final, under the provisions of EPA's ozone implementation rule, the requirements for this area to submit an attainment demonstration, a reasonable further progress plan, contingency measures, and other planning State Implementation Plans related to attainment of the 1997 8-hour ozone NAAQS shall be suspended for so long as the area continues to attain the 1997 ozone NAAQS. EPA is proposing these determinations under the Clean Air Act.

**DATES:** Written comments must be received on or before April 12, 2012.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R01-OAR-2012-0076 by one of the following methods:

1. *www.regulations.gov*: Follow the on-line instructions for submitting comments.
2. *Email*: [arnold.anne@epa.gov](mailto:arnold.anne@epa.gov).
3. *Fax*: (617) 918-0047.
4. *Mail*: "Docket Identification Number EPA-R01-OAR-2012-0076," Anne Arnold, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100 (mail code: OEP05-2), Boston, MA 02109-3912.
5. *Hand Delivery or Courier*: Deliver your comments to: Anne Arnold, Manager, Air Quality Planning Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100, Boston, MA 02109-3912. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

**Instructions:** Direct your comments to Docket ID No. EPA-R01-OAR-2012-0076. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov*, or email, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and

included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100, Boston, MA. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** Richard P. Burkhart, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100, Boston, MA 02109-3912, telephone number (617) 918-1664, fax number (617) 918-0664, email [Burkhart.Richard@epa.gov](mailto:Burkhart.Richard@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

Organization of this document. The following outline is provided to aid in locating information in this preamble.

- I. What actions is EPA taking?
- II. What is the effect of these actions?
- III. What is the background for these actions?
- IV. What is EPA's analysis of the relevant air quality data?
- V. Proposed Actions
- VI. Statutory and Executive Order Reviews

#### I. What actions is EPA taking?

EPA is proposing two separate and independent determinations. First,