

The number of weeks of instructional time in the payment period
The number of weeks of instructional time in the program's academic year

(b) For purposes of paragraph (a) of this section—

(1) The institution must make the first payment to a student for an academic year, as calculated under paragraph (a) of this section, after the student submits 25 percent of the lessons or otherwise completes 25 percent of the work scheduled for the program or the academic year, whichever occurs last; and

(2) The institution must make the second payment to a student for an academic year, as calculated under paragraph (a) of this section, after the student submits 75 percent of the lessons or otherwise completes 75 percent of the work scheduled for the program or the academic year, whichever occurs last.

(c) In a program of correspondence study offered by correspondence courses using terms but not including any residential component—

(1) The institution must prepare a written schedule for submission of lessons that reflects a workload of at least 30 hours of preparation per semester hour or 20 hours of preparation per quarter hour during the term;

(2)(i) If the student is enrolled in at least 6 credit hours that commence and are completed in that term, the student's half-time annual award determined under § 691.62 is used to calculate the payment for the payment period; or

(ii) If the student is enrolled in less than 6 credit hours that commence and are completed in that term, the student is not eligible for an ACG and National SMART Grant;

(3) A payment for a payment period is calculated using the formula in § 691.63(d) except that paragraphs (c)(1) and (c)(2) of this section are used in lieu of § 691.63(d)(1) and (2), respectively; and

(4) The institution must make the payment to a student for a payment period after that student completes 50 percent of the lessons or otherwise completes 50 percent of the work scheduled for the term, whichever occurs last.

(d) Payments for periods of residential training must be calculated under § 691.63(d) if the residential training is offered using terms and credit hours or § 691.63(e) if the residential training is offered using credit hours without terms.

(Authority: 20 U.S.C. 1070a-1)

§ 691.75 [Amended]

■ 23. Section 691.75 is amended by:

■ A. In paragraph (a)(3), removing the words “a full-time” and adding, in their place, the words “at least a half-time”.

■ B. In paragraph (b)(2), removing the word “academic”, and removing the citation “691.15(b)(1)(iii)(D)”, and adding, in its place, the citation “691.15(b)(1)(iii)(C)”.

■ C. In paragraph (c), removing the citation “691.15(b)(1)(iii)(D)”, and adding, in its place, the citation “691.15(b)(1)(iii)(C)”.

■ D. In paragraph (d)(1)(i), removing the word “academic”, and removing the citation “691.15(b)(1)(iii)(D)”, and adding, in its place, the citation “691.15(b)(1)(iii)(C)”.

■ 24. Section 691.76 is amended by revising paragraph (b) to read as follows:

§ 691.76 Frequency of payment.

* * * * *

(b) The institution may pay funds in one lump sum for all the prior payment periods for which the student was eligible under § 691.15 within the award year. The student's enrollment status must be determined according to work already completed.

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■ 25. Section 691.80 is amended by revising paragraph (b) to read as follows:

§ 691.80 Redetermination of eligibility for a grant award.

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(b) *Change in enrollment status.* (1) If the student's enrollment status changes from one payment period to another within the same award year, the institution must recalculate the student's award for the new payment period taking into account any changes in the cost of attendance.

(2)(i) If the student's projected enrollment status changes during a payment period after the student has begun attendance in all of his or her classes for that payment period, the institution may (but is not required to) establish a policy under which the student's award for the payment period is recalculated. If such a policy is established, it must apply to all students and be the same as the policy established for the Federal Pell Grant Program.

(ii)(A) If a student's projected enrollment status changes during a payment period before the student begins attendance in all of his or her classes for that payment period, the

institution must recalculate the student's enrollment status to reflect only those classes for which the student actually began attendance.

(B) If a student's projected enrollment status changes to less-than-half-time during a payment period before the student begins attendance in all of his or her classes for that payment period, the institution must determine that the student is ineligible for a grant for that payment period.

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 38

RIN 2900-AN29

Headstones and Markers

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is amending existing regulations regarding the authority to provide Government-furnished memorial headstones and markers. Memorial headstones or markers are provided in certain circumstances to memorialize eligible veterans and certain family members whose remains are not available for interment. Pursuant to Sec. 810 of Public Law 110-389, the Veterans' Benefits Improvement Act of 2008, eligibility for a memorial headstone or marker for placement in a national or State veterans cemetery has been extended to a veteran's surviving spouse who had a subsequent remarriage and whose remains are unavailable for interment. Previously, a memorial headstone or marker could be provided for a veteran's surviving spouse who had a subsequent remarriage only if that remarriage was terminated by death or divorce. This final rule is necessary to incorporate a statutory amendment into VA regulations.

DATES: *Effective Date:* May 1, 2009.

Applicability Date: The amendment to 38 CFR 38.630 applies to eligible surviving spouse deaths occurring on or after October 10, 2008.

FOR FURTHER INFORMATION CONTACT: Joe Sturm, Legislative and Regulatory Division, National Cemetery

Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Telephone: (202) 461-6216 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: VA's National Cemetery Administration (NCA) is responsible for administering VA's headstone and marker program. The original purpose of the program, which began during the Civil War, was that no veteran should lie in an unmarked grave. Over time the program has expanded to include provision of headstones or markers for certain eligible family members.

Memorial headstones and markers are inscribed with "In Memory of" on the first line, and are furnished for eligible veterans whose remains are not recovered or identified, are buried at sea, are donated to science, or are cremated and scattered. VA may also provide a memorial headstone or marker for certain eligible family members whose remains are unavailable for burial in a national or State veterans cemetery. Memorial headstones and markers for eligible family members are not available for placement in private cemeteries.

Section 810 of Public Law 110-389, the Veterans' Benefits Improvement Act of 2008, enacted on October 10, 2008, amended the definition of a surviving spouse in 38 U.S.C. 2306(b)(4)(B). The change allows VA to provide a memorial headstone or marker for an eligible surviving spouse who remarried a non-veteran after the veteran's death, who died on or after October 10, 2008, and whose remains are unavailable, without regard to whether the remarriage was terminated. Prior to passage of Public Law 110-389, remarried surviving spouses were eligible for a memorial marker only if their subsequent remarriage to a non-veteran was terminated by death or divorce. Spouses who divorce a veteran remain ineligible for VA burial or memorialization benefits based on the marriage to that veteran.

This final rule amends 38 CFR 38.630 to make it consistent with the amended statute. We are also moving some information from paragraph (c)(3)(ii) to paragraphs (c)(1)(ii) and (iii), non-substantive changes to improve the organization and clarity of the rule.

Administrative Procedure Act

Because this amendment merely reflects a statutory change and makes other non-substantive changes, this rule-making is exempt from the prior notice-and-comment and delayed-effective-date requirements of 5 U.S.C. 553.

Paperwork Reduction Act

This document contains no provisions constituting a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3521).

The Office of Management and Budget (OMB) assigns a control number for each collection of information it approves. VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a current valid OMB control number.

In § 38.630(c), this final rule amends provisions concerning information collection requirements that are currently approved by OMB under the following OMB control number: 2900-0222 (Application for Standard Government Headstone or Marker for Installation in Private or State Veterans Cemetery). The amended provisions remain within the scope of the approved collection of information because VA estimates that fewer than 10 requests for a memorial headstone or marker will be received under this expanded eligibility within any 12-month period.

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 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. VA has examined the economic, interagency, budgetary, legal, and policy implications of this final rule and has concluded that it does not constitute a significant regulatory action under the Executive Order.

Regulatory Flexibility Act

The initial and final regulatory flexibility analysis requirements of sections 603 and 604 of the Regulatory Flexibility Act, 5 U.S.C. 601-612, are not applicable to this rule because a notice of proposed rulemaking is not required for this rule. Even so, the Secretary of Veterans Affairs 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 rule will affect only individual VA beneficiaries and will not directly affect small entities. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 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 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 one 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

The Catalog of Federal Domestic Assistance program numbers and titles for this final rule are 64.201, National Cemeteries; and 64.202, Procurement of Headstones and Markers and/or Presidential Memorial Certificates.

List of Subjects in 38 CFR Part 38

Administrative practice and procedure, Cemeteries, Veterans.

Approved: April 24, 2009.

John R. Gingrich,

Chief of Staff, Department of Veterans Affairs.

■ For the reasons stated in the preamble, the Department of Veterans Affairs amends 38 CFR part 38 as set forth below:

PART 38—NATIONAL CEMETERIES OF THE DEPARTMENT OF VETERANS AFFAIRS

■ 1. The authority citation for part 38 continues to read as follows:

Authority: 38 U.S.C. 501(a), 2306, unless otherwise noted.

■ 2. Amend § 38.630 by:

■ a. Revising paragraphs (c)(1)(ii), (c)(1)(iii) introductory text, and (c)(3)(ii).

- b. Removing the authority citation that appears immediately at the end of paragraph (c).
- c. Revising the authority citation at the end of the section.

The revision reads as follows:

§ 38.630 Headstones and markers.

* * * * *

(c) * * *

(1) * * *

(ii) A veteran's spouse or surviving spouse, including a surviving spouse who had a subsequent remarriage terminated by death or divorce, who died after November 11, 1998, or a surviving spouse who had a subsequent remarriage and died on or after October 10, 2008; or

(iii) A veteran's eligible dependent child who died after December 22, 2006.

* * * * *

(3) * * *

(ii) *Other eligible individuals.* A Government memorial headstone or marker to commemorate a veteran's eligible spouse, surviving spouse, or dependent child may be placed only in a national cemetery or in a State veterans cemetery.

(Authority: 38 U.S.C. 501, 2306)

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 239 and 258

[EPA-R07-RCRA-2008-0849; FRL-8899-7]

Adequacy of Iowa Municipal Solid Waste Landfill Permit Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action approves modifications to Iowa's approved municipal solid waste landfill (MSWLF) program. The approved modification allows the State to issue research, development and demonstration (RD&D) permits to owners and operators of MSWLF units in accordance with its State law. On March 22, 2004, the EPA issued final regulations allowing RD&D permits to be issued to certain municipal solid waste landfills by approved states. This action also approves modifications to Iowa's approved MSWLF program for adding financial assurance mechanisms for local governments, adding the financial test and corporate guarantee to financial assurance mechanisms, adding a technical amendment to solid waste

location restrictions for airport safety, and adopting language from the Federal MSWLF criteria. On March 17, 2008, Iowa applied for approval of its RD&D permit provisions and its updated rules for its MSWLF program. On December 15, 2008, EPA issued a proposed rule for approving the above modifications, and public comment on the proposed rule closed on January 14, 2009.

DATES: This rule is effective on May 1, 2009.

ADDRESSES: EPA has established a docket for this action under Docket ID Number: EPA-R07-RCRA-2008-0849. All documents in the docket are listed on the www.regulations.gov Web site. 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 the Environmental Protection Agency, Air and Waste Management Division, 901 North 5th Street, Kansas City, Kansas 66101. EPA requests that you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Nicole Cruise, EPA Region 7, Air and Waste Management Division, 901 North 5th Street, Kansas City, Kansas 66101, at (913) 551-7641, or by e-mail at cruise.nicole@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On March 22, 2004, the EPA issued a final rule amending the municipal solid waste landfill criteria in 40 CFR part 258 to allow for research, development and demonstration (RD&D) permits (69 FR 13242). This rule allows for variances from specified criteria for a limited period of time, to be implemented through State-issued RD&D permits. RD&D permits are only available in States with approved MSWLF permit programs which have been modified to incorporate RD&D permit authority. While States are not required to seek approval for this provision, those States that are interested in providing RD&D permits to owners and operators of MSWLFs must seek approval from EPA before issuing such permits. Also, EPA issued a final

rule on November 27, 1996, for financial assurance mechanisms for local governments (61 FR 60328 at 60337); a final rule on April 10, 1998, adding the financial test and corporate guarantee to financial assurance mechanisms (63 FR 17706 at 17729); and a final rule on October 15, 2003, providing a technical amendment to solid waste location restrictions for airport safety (68 FR 59335). The Federal MSWLF criteria are codified at 40 CFR part 258. Approval procedures for provisions of 40 CFR part 258 are outlined in 40 CFR 239.12.

Iowa's MSWLF permit program was approved on August 19, 1997 (62 FR 44127). On March 17, 2008, Iowa applied for approval of its RD&D permit provisions and its updated rules for its MSWLF program. On December 15, 2008, EPA issued a proposed rule to approve the above modifications, and public comment on the proposed rule closed on January 14, 2009.

II. Comments

EPA received one comment in support of the proposed rulemaking and four adverse comments. The adverse comments challenged EPA's certification that the action would not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act, and requested that EPA provide a factual basis for the certification.

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant impact on a substantial number of small entities. This rule does not impose any