

period for the NPRM expired on February 27, 2015. To date, the Coast Guard has received approximately 150 public submissions, which are available for viewing in the online docket for this rulemaking.

Additionally, on January 23, 2015, the Coast Guard held a public meeting in Washington, DC, to solicit comments on the proposals in the NPRM.

Approximately 11 parties provided oral comments at the meeting, and more than 500 parties viewed the meeting online via live video feed. A video recording of the public meeting is available for viewing at <https://www.youtube.com/embed/1hAjrvUNyLY?rel=0>.

### Background and Purpose

Since publication of the NPRM, the Coast Guard has received several written and oral comments requesting an extension of the public comment period. Commenters cited different reasons for the request to extend the public comment period, including the timing of the publication, a delay in submitted comments posting to the electronic docket, and the complexity of the NPRM's proposals and economic analysis. The commenters requesting an extended public comment period either requested an additional 60 days, or they did not specify a number of additional days. In response to these requests, the Coast Guard is reopening the public comment period for an additional 60 days. The Coast Guard will consider all of the public comments posted to the docket, including those already submitted. We request that you not re-submit comments that are already in the docket. You may, however, comment on other documents and comments that are in the docket. If you choose to do so, please ensure you identify which document or comment you are responding to.

### Request for Comments

We encourage your participation by submitting your comments to the Docket Management Facility as specified in the **ADDRESSES** section above. Please refer to the NPRM for a detailed discussion of the proposals, as well as the list of topics included in the request for comments on specific issues (79 FR 77981, 77987).

We also encourage you to view the NPRM's accompanying Preliminary Regulatory Analysis and Initial Regulatory Flexibility Analysis (Regulatory Analysis), available for viewing in the docket. To view the Regulatory Analysis, go to <http://www.regulations.gov> and use "USCG-2013-1087" as your search term. Once

you locate and open the docket folder for this rulemaking, click on "View all documents and comments in this Docket." From there check the box, "Supporting & Related Material," on the left side of the screen. This will display a link to the Regulatory Analysis. We are particularly interested in comments from the public on our estimate that there is a 10.3 percent non-compliance rate of facilities with respect to providing seafarers' access.<sup>1</sup> Some commenters have suggested that the 10.3 percent non-compliance rate estimate is too low. We are interested in learning if there is a better estimate or if there are other sources of information for obtaining the non-compliance rate. In addition to comments on this topic, we will consider all public comments on the NPRM received during the reopened comment period.

### Authority

We issue this notice under the authority of 5 U.S.C. 553, 46 U.S.C. 70103 (Note), 46 U.S.C. 70124, 33 U.S.C. 1226, 33 U.S.C. 1231, and Department of Homeland Security Delegation 0710.1(II)(70, 71, and 97).

Dated: May 20, 2015.

### J.C. Burton,

*Captain, U.S. Coast Guard, Director of Inspections & Compliance.*

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## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 70

#### RIN 2900-AO92

### Veterans Transportation Service

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of Veterans Affairs (VA) proposes to amend its medical regulations concerning the transportation of persons for the purposes of examination, treatment, and care. Public Law 112-260, as amended, authorized VA to carry out a program to transport any person to or from a VA facility or other place, among other things, for the purpose of examination, treatment, or care. This authority expires on December 31, 2015. These regulations would provide guidelines for veterans and the public regarding VA's Veterans Transportation Service (VTS).

<sup>1</sup> See NPRM (79 FR 77987), Item 5 from our list of specific requests for comments.

**DATES:** *Comment Date:* Comments must be received on or before July 27, 2015.

**ADDRESSES:** Written comments may be submitted through <http://www.regulations.gov>; by mail or hand-delivery to Director, Regulation Policy and 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-AO92-Veterans Transportation Service." Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1068, between the hours of 8:00 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:

David Riley, Director, Veterans Transportation Program, Chief Business Office (10NB2G), 2957 Clairmont Rd., Atlanta, GA 30329-1647, (404) 828-5601. (This is not a toll-free number.)

### SUPPLEMENTARY INFORMATION:

*Executive Summary:* Purpose of This Regulatory Action: We would create new regulations concerning the Veterans Transportation Service (VTS), a program where the Department of Veterans Affairs (VA) directly transports veterans and other persons to or from VA or VA-authorized facilities for the purposes of examination, treatment, or care. Specifically, these regulations would define which persons are eligible, how they may apply for transportation benefits, and how VA would provide transportation, including such limitations as are necessary for the safe and effective operation of the program.

Summary of the Major Provisions of this Regulatory Action: This proposed rule would—

- Modify VA's existing transportation regulations by including new content specific to VA's direct transportation of veterans and other persons for the purposes of examination, treatment, or care.
- Define key terms used throughout the regulation. These terms would include attendant, which would be similar to the term used in VA's beneficiary travel program and refer to a person who is required to aid or assist another person; guest, which would be a person whose presence is not medically required; scheduled visit,

which would be an appointment arranged prior to a person's appearance at a VA or VA-authorized facility; and unscheduled visit, which would be a visit that was not recorded in VA's scheduling system prior to the visit.

- Define eligible persons, which would include enrolled and non-enrolled veterans; servicemembers; prospective and approved family caregivers; attendants; persons receiving counseling, training, or mental health services; beneficiaries of the Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA); and guests. The regulation would also define limitations on eligibility, such as if the person's behavior has jeopardized or could jeopardize the health or safety of others, or could interfere with the safe transportation of persons. The regulations also would limit access so that only one person may accompany a veteran or servicemember unless a VA clinician determines that more than one person should attend the visit. The regulation also would provide some restrictions for persons under the age of 18.

- Identify and describe the types of transportation authorized under VTS, including door-to-door service, travel to and from designated locations, service between VA facilities, and travel to and from other locations.

- Explain the process for arranging transportation services and how VA would determine which persons can travel if demand for VTS services exceeds supply.

*Costs and Benefits:* As further detailed in the *Regulatory Impact Analysis*, which can be found as a supporting document at <http://www.regulations.gov> and is available on VA's Web site at <http://www.va.gov/orpm/>, by following the link for "VA Regulations Published From FY 2004 Through Fiscal Year to Date," the proposed rule would expand access to transportation options for veterans and other persons. Increasing transportation options should allow more veterans and other beneficiaries to access VA health care services and reduce demand for travel reimbursement under the beneficiary travel program.

*General Discussion:* In section 202 of the Dignified Burial and Other Veterans' Benefits Improvement Act of 2012 (the Act), Public Law 112-260, 126 Stat. 2417 (2013), as amended by Public Law 113-59, 127 Stat. 658 (2013) and Public Law 113-175, 128 Stat. 1901 (2014), Congress codified a new statute, 38 U.S.C. 111A, which authorizes the Department of Veterans Affairs (VA), until December 31, 2015, to transport

any person to or from a VA facility or other place in connection with vocational rehabilitation, counseling required by chapters 34 or 35 of title 38, U.S.C., or for the purpose of examination, treatment, or care.

Vocational rehabilitation is authorized by chapter 31 of title 38, U.S.C., and assists veterans with service-connected disabilities in preparing for, finding, and keeping suitable employment. Chapters 34 and 35 of title 38, U.S.C., authorize education benefits for eligible veterans and their survivors and dependents. Vocational rehabilitation and the education benefits provided under chapters 34 and 35 are administered by the Veterans Benefits Administration (VBA), and are not typically provided at VA health care facilities. Moreover, almost all VA health care facilities administer transportation programs in the form of beneficiary travel payments, and many have already begun addressing transportation service issues by developing infrastructure or identifying the travel needs of their patients as a result of this authority. Consequently, VA is limiting this rulemaking to health care access (meaning any hospital care or medical services under the medical benefits package in 38 CFR 17.38), and we do not include transportation for vocational rehabilitation or education benefits under chapters 34 and 35. VA has promulgated regulations in part 70 of 38 CFR governing transportation benefits for travel to health care facilities, and this rulemaking is consistent with those existing rules. We would use the term "VA facility" rather than the more specific "VA health care facility" in this regulation because the term "VA facility" is already a defined term in 38 CFR 70.2 that refers to health care facilities.

We propose organizing these regulations in 38 CFR part 70, which also contains regulations governing the Veterans Health Administration's (VHA) beneficiary travel program, so that eligible persons and members of the public who are interested in VA transportation benefits could find all relevant information in one location in VA's regulations. Accordingly, we would amend the title for part 70 to read, "Veterans Transportation Programs," to indicate that it contains regulations related to more than one transportation program. Under this heading, there would be two subheadings. The first would identify a new subpart for the current part 70 regulations related to beneficiary travel (§§ 70.1-70.50). This subheading would read, "Subpart A-Beneficiary Travel and

Special Mode Transportation under 38 U.S.C. 111." The second subheading, "Subpart B-Veterans Transportation Service under 38 U.S.C. 111A," would contain the regulations promulgated by this proposed rule. We also would modify the list of authorities for part 70 to include 38 U.S.C. 111A.

This rulemaking is intended to cover only those transportation services provided to eligible persons by the Veterans Transportation Service (VTS) pursuant to 38 U.S.C. 111A. The Veterans Transportation Service is a program where VA transports eligible persons to and from VA or VA-authorized health care facilities and other locations for the purpose of examination, treatment or care. The current regulations governing the beneficiary travel program, located at §§ 70.1 through 70.50, contain numerous references to part 70. For example, § 70.1(a) states that "[t]his part [*i.e.*, part 70] provides a mechanism under 38 U.S.C. 111 for the Veterans Health Administration (VHA) to make payments for travel expenses," and § 70.1(b) states that part 70 does not cover payment for certain other specified transportation. Section 70.2 provides definitions applicable to all of part 70. Because we are organizing the VTS regulations under part 70, these part 70 references and definitions also apply to the VTS program. We have carefully reviewed part 70 and believe that all of the references are appropriate and will not create confusion. For example, the definitions in § 70.2 generally are consistent with the proposed VTS regulations that would be promulgated with this rulemaking, with one exception as noted below. Also, the references in §§ 70.1 and 70.10 clearly refer to beneficiary travel, and VTS is not part of the beneficiary travel program. We are not revising the beneficiary travel regulations at this time. Commenters who identify confusing or contrary sections in part 70 are encouraged to provide comments to this rulemaking. We are currently reviewing the other regulations in part 70 and will make appropriate revisions in a future action. We do not intend to make any changes to the beneficiary travel program as a result of this rulemaking, and this rulemaking should not be interpreted to modify the current beneficiary travel regulations in any way.

#### **70.70 Purpose and Definitions**

Paragraph (a) of § 70.70 states that this subpart would apply to VTS, a program that transports eligible persons to or from a VA or VA-authorized facility or other place for the purpose of

examination, treatment, or care. A VA-authorized health care facility is defined in § 70.2 as a non-VA health care facility where VA has approved care for an eligible beneficiary at VA expense. Travel to such facilities would be covered under VTS as it currently is under the beneficiary travel program.

In § 70.70(b), we would set forth definitions applicable to VTS. The definition of “attendant” for purposes of VTS would include, but not be limited to, the definition used in 38 CFR 70.2. Under § 70.2, an attendant is “an individual traveling with a beneficiary who is eligible for beneficiary travel and requires the aid and/or physical assistance of another person.” Because VTS is intended to support a broader population, VA is not limiting attendants for purposes of VTS to only those persons who are eligible for beneficiary travel. Thus, for purposes of VTS, an attendant also would mean an individual traveling with a veteran or servicemember who is eligible for VTS and requires the aid and/or assistance of another person. This definition would ensure that VA may transport attendants through VTS for all veterans and servicemembers who are eligible for VTS on their own.

We would define an “eligible person” as one described in § 70.71, which would define categories of eligible persons in detail.

We would define a “guest” as any individual the veteran or servicemember would like to have accompany him or her to an appointment but whose presence is not medically required. Some examples of guests who might be asked to attend would be a general caregiver (that is, not a Family Caregiver, which is described later and in regulations at 38 CFR part 71) who provides supervision or other basic support or a friend who can provide emotional support during an appointment.

We also would define “scheduled visit” and “unscheduled visit.” A scheduled visit would mean that a VA beneficiary had an appointment that was made before she or he appeared at a VA or VA-authorized facility, or that a VA beneficiary was specifically authorized to appear at such facility on the date of the visit in order to obtain examination, treatment, or care. Examples of scheduled visits include: Regular appointments for examination, treatment, or care; visits to undergo laboratory work; or doctor-recommended visits to clinics with open hours. This definition would be consistent with common usage of the term in the health care community. An unscheduled visit would be when a

veteran travels to a VA or VA-authorized facility for purposes of examination, treatment, or care not recorded in VA’s scheduling system prior to the veteran’s visit. An unscheduled visit is commonly made for mental health visits, counseling sessions, or other types of clinical interventions, such as weight management counseling or smoking cessation. These visits need not be for an appointment with a VA clinician; for example, a veteran may be traveling to attend a peer-led counseling session. These definitions would allow VA to ensure veterans are able to travel using VTS for the full array of services we provide.

#### 70.71 Eligibility

Section 70.71 would define the categories of persons eligible for transportation services under this authority. Eligibility for VTS would be broader than eligibility for the beneficiary travel program for a number of reasons. First, 38 U.S.C. 111A authorizes VA to provide transportation to “any person” to or from a VA facility or other place, among other things, for the purpose of examination, treatment, or care. In other provisions of title 38, U.S.C., the term person is defined as being broader than the term veteran. For example, in 38 U.S.C. 1708(b), persons eligible for temporary lodging in a Fisher House or other appropriate facility include veterans, family members, and others who accompany a veteran and provide the equivalent of familial support within that definition. We interpret the broad term “any person” to authorize VA to provide VTS to the widest possible range of individuals, including former members of the Armed Forces, family members, and other beneficiaries. In addition, veterans may be eligible for VTS whether they are enrolled in VA’s health care system or not.

VA also would include additional persons as eligible for VTS because 38 U.S.C. 111A does not require VA to provide direct transportation to specific types of persons, as the law did for beneficiary travel payments in 38 U.S.C. 111(b). Moreover, VTS has a negligible marginal cost for each new user of the service compared to beneficiary travel recipients. VTS is designed to provide transportation to several people at once using a single vehicle, and provided that vehicles are not full, adding one more passenger results in extremely small cost increases for VA.

Furthermore the purpose of 38 U.S.C. 111A is to expand transportation options for persons who receive certain benefits from VA. During the House of

Representatives’ consideration of the bill, the Chairman of the Veterans’ Affairs Committee described the intent of this provision as being to complement, and not replace, existing programs that offer transportation assistance to veterans. See 158 Cong. Rec. H7445 (Dec. 30, 2012). This regulation would achieve that goal. Consequently, we would interpret the term “any person” in 38 U.S.C. 111A more broadly than the same term in 38 U.S.C. 111.

Paragraph (a) of § 70.71 would define all persons eligible for beneficiary travel as also being eligible for VTS benefits. This definition would be consistent with the statutory authorities for VTS and the beneficiary travel program. Specifically, the language in 38 U.S.C. 111(a) that authorizes VA to make beneficiary travel payments is the same as the language in 38 U.S.C. 111A in terms of the purpose for the travel. Thus, VA is interpreting 38 U.S.C. 111A as authorizing VTS benefits to the categories of persons eligible for beneficiary travel payments under § 70.10.

Because some individuals will be eligible for transportation benefits under both VTS and the beneficiary travel program, paragraph (a) would prohibit beneficiaries from claiming more than one type of transportation benefit for the same travel. Essentially, this provision would prohibit a beneficiary from receiving direct transportation services through VTS under subpart B of part 70 while also filing a claim for mileage reimbursement or special mode transportation under VA’s beneficiary travel program in subpart A of part 70 for the same travel. However, participation in VTS would not prevent a person eligible for beneficiary travel from receiving benefits under that program for travel expenses actually incurred. For example, if veterans eligible for mileage reimbursement under the beneficiary travel program drove from their residences to a designated location where they boarded a van that took them to a VA facility, these veterans would receive mileage reimbursement for their travel from their residences to the designated location and back, but would not be eligible for reimbursement for the portion of the trip provided by VA. This would be consistent with VA’s requirements in regulations at § 70.30(a) that VA will pay for beneficiary travel by an eligible beneficiary when travel expenses are actually incurred.

Enrolled veterans would be eligible under paragraph (b) if they are traveling for a scheduled visit or urgent care; for retrieval, adjustment, or training

concerning medications or prosthetic appliances; to acquire and become adjusted to a service dog provided pursuant to 38 CFR 17.148; for an unscheduled visit; or to participate and attend other events or functions for the purposes of examination, treatment, or care. Some of these visits are recorded in the files of the specific clinical practice or service line but may not be recorded as a clinical encounter in VA's scheduling package. Veterans may travel to other events or functions, such as Stand Downs for homeless veterans and special events like the Wheelchair Games and the Summer and Winter Sports Clinics, when VA has clinically determined that the event or function is for the purpose of examination, treatment, or care.

VA staff would work to ensure appropriate accommodations are made for veterans traveling with a service animal.

Urgent care may also qualify as an unscheduled visit; however, veterans with emergent care needs should call 911. VTS is not equipped to provide the level of care and services that veterans in a medical emergency require.

Veterans who are not enrolled in VA's health care system also would be eligible for transportation by VTS under paragraph (c) if they are travelling for an unscheduled or walk-in visit. This type of visit will often result from direct interaction with a VA employee or a solicitation by VA to apply for enrollment or other health care benefits for which the person is eligible, but a veteran could choose to come to VA independently. Establishing this category would ensure that VA is able to transport veterans seeking enrollment in the VA health care system or access to other veterans' benefits (such as for compensation and pension) and those who qualify for VA assistance (such as homeless veterans) but who are not currently in VA's health care system. Veterans, whether they are enrolled or not, also would be eligible if they are traveling for a medical examination related to a claim for compensation or pension benefits from the Veterans Benefits Administration. Veterans who are not enrolled also would be allowed to travel to other events or functions VA has clinically determined are for the purpose of examination, treatment, or care.

Paragraph (d) would establish eligibility for active duty servicemembers and members of the National Guard or Reserve traveling to a VA or VA-authorized facility for the purpose of examination, treatment, or care; for a compensation and pension examination; or to enroll or otherwise

receive benefits for which they are eligible from a VA or VA-authorized facility. In many locations across the country, active duty personnel receive health care from a VA facility pursuant to a sharing agreement or other arrangement. In other cases, servicemembers may be in the process of transitioning from the Armed Forces to the VA system. Including these individuals would facilitate the delivery of health care and improve access for persons transitioning from military service.

Paragraph (e) would authorize VA to transport prospective and designated Family Caregivers under 38 CFR 71.25. Family caregivers could travel either to receive their own benefits or to accompany the veteran or servicemember to whom they are furnishing caregiver services. Under paragraph (j)(2) of this section, only one person, whether an attendant, Family Caregiver, or guest would be able to travel at a time for the care of an eligible veteran or servicemember, unless a VA clinician determines that more than one Family Caregiver should be present when services are provided to the eligible veteran or servicemember. This limitation is intended to ensure that eligible veterans and servicemembers have the support of their family caregivers and allow for training and education of Family Caregivers, while still ensuring other veterans and servicemembers are able to access transportation services. The Family Caregiver would not need to travel with the eligible veteran or servicemember. For example, an eligible veteran or servicemember may be receiving inpatient care, and the Family Caregiver may need to travel back and forth to the facility several times during the patient's admission.

Family Caregivers also would be able to travel for receipt of benefits made available to them under the Family Caregivers Program in part 71. When traveling in connection with the examination, treatment, or care of a veteran or servicemember, the Family Caregiver is essentially traveling as an attendant, and VA may limit the number of attendants who can accompany a veteran or servicemember. VA would limit travel to one Family Caregiver per veteran or servicemember at a time when the Family Caregiver is accompanying the veteran or servicemember in the interest of ensuring that veterans or servicemembers have sufficient access to VTS for their own health care needs. This limitation also would apply when a Family Caregiver is traveling without an eligible veteran or servicemember but

in connection with the examination, treatment, or care of an eligible veteran or servicemember. In both circumstances, if a VA clinician determined that more than one Family Caregiver should travel in connection with the examination, treatment, or care of a veteran or servicemember, all of the Family Caregivers requested by the clinician would be able to travel. If the Family Caregiver were traveling for benefits available under the Family Caregivers Program, he or she would be able to travel independent of the veteran or servicemember, and the limitation of only one Family Caregiver per trip would no longer apply. Specifically, prospective Family Caregivers would be able to travel for an initial mandatory assessment and training under 38 CFR 71.25(c)-(d), and Family Caregivers would be able to travel for benefits in 38 CFR 71.40(b), which includes general caregiver benefits; continuing instruction, preparation, or training related to the care of the veteran or servicemember; ongoing technical support in a timely manner; and counseling, training, or mental health services as described in 38 CFR 71.50 and 71.40(b)(5). Family Caregivers also would be able to travel if they were designated as Primary Family Caregivers and were seeking benefits in 38 CFR 71.40(c)(1) or (2), which includes all of the Family Caregiver benefits just described and respite care. VA also would provide transportation to a VA facility if the Primary Family Caregiver is eligible under 38 CFR 71.40(c)(3) to receive health care under the Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA) and if such care is being delivered at a VA facility under the CHAMPVA Inhouse Treatment Initiative (CITI). CITI is an initiative through which VA provides eligible non-veterans with care in VA facilities. Although this program is not available at every facility, extending transportation to these individuals would result in no additional expenditure of resources while providing greater access to health care.

Paragraph (f) would authorize VA to transport an attendant. For purposes of VTS, an attendant, as defined in § 70.70(b), would have the meaning set forth in § 70.2 and also mean an individual traveling with a veteran or servicemember who is eligible for travel under VTS and requires the aid and/or assistance of another person. Such travel would be permitted when it is in connection with the examination, treatment, or care of any enrolled or non-enrolled veteran or servicemember.

Paragraph (g) would authorize VA to transport persons receiving counseling, training, or mental health services under 38 U.S.C. 1782 and 38 CFR 71.50. Under these authorities, VA provides consultation, professional counseling, marriage and family counseling, training, and mental health services to family members of veterans when necessary in connection with the treatment of a disability (both service-connected and non-service connected) for which the veteran is receiving treatment through VA. These services are offered as an extension to the care provided for veterans, and access to these services by family members can be improved by offering direct transportation services to them. For purposes of 38 CFR 71.50, the term "family member" means "(1) A person related to the veteran by birth or marriage who lives with the veteran or has regular personal contact with the veteran; (2) The veteran's legal guardian or surrogate; (3) A Primary or Secondary Family Caregiver or a General Caregiver; or (4) The individual in whose household the veteran has certified an intention to live." 38 CFR 71.50(b). The terms "primary family caregiver," "secondary family caregiver," and "general caregiver" are defined and described in §§ 71.25 and 71.30. Under 38 CFR 71.50(c), VA may provide referral services for family members who cannot be provided benefits under that section because their need is not necessary in connection with the treatment of the veteran. VA would not provide VTS services to aid these family members in following up on these referrals because by definition it lacks authority to provide care to these persons.

Paragraph (h) would authorize VA to transport certain CHAMPVA beneficiaries, specifically those eligible for and receiving care through CITI. CHAMPVA beneficiaries are the spouses or dependents of certain veterans, or as noted previously, the designated Primary Family Caregiver of an eligible veteran. Few CHAMPVA beneficiaries receive care at VA facilities through this program, but including them as eligible persons for VTS will help ensure access to health care. VA would not extend transportation services under this authority to allow transportation to non-VA facilities for CHAMPVA beneficiaries because these persons could receive care at a number of different locations, and providing transportation to these various facilities would be too costly and time-consuming, ultimately depriving veterans and servicemembers of

transportation resources. VA Mobility Managers or other designated personnel could assist CHAMPVA beneficiaries receiving care at non-VA facilities in accessing other resources to travel for their care. Throughout the regulation, we refer to the "facility director or designee" as the responsible official; in almost all cases, this would be the facility's Mobility Manager.

Paragraph (i) would authorize VA to transport a guest of a veteran or servicemember who is traveling for the purpose of examination, treatment, or care. Section 70.70(b) includes a definition of the word guest. A guest would be a person who accompanies an eligible person but who is not providing necessary clinical support. In contrast, an attendant would be someone who has been determined to be clinically needed to aid and assist another person. Including these individuals is important to the care and treatment of veterans because it can provide comfort to the veteran during the clinical encounter and can assist with the veteran's care after the veteran has returned home by either training the guest or supporting the veteran's recollection of the provider's instructions. Transporting one additional individual on a vehicle represents only a marginal cost to VA and can provide a significant benefit to the veteran. However, guests would be transported only as resources permit. Consequently, if a veteran requested transportation for a guest, VA could decline to transport that person if it could not accommodate all veterans, servicemembers, Family Caregivers, attendants, and other CHAMPVA beneficiaries who have requested transportation services. VA Mobility Managers or other designated personnel would provide referrals to other non-VA transportation resources for guests in such a scenario. VA believes this limitation is important because it would allow VA to transport others for the benefit of the veteran, without compromising access for veterans, servicemembers, Family Caregivers, attendants, or other CHAMPVA beneficiaries.

Paragraph (j) would define limitations on eligibility. Under paragraph (j)(1), VA would have the authority to restrict access to VTS when VA has determined that transporting a person has jeopardized or could jeopardize the health or safety of other eligible users of VTS or VA staff. A person may also be ineligible if the person's behavior has interfered or could interfere with the safe transportation of eligible persons to or from a VA facility or other place. Decisions to limit access under this paragraph would be made after

considering, for example, the nature of the risk to other VTS users and VA staff, the individual's particular circumstances, and any prior decisions to restrict access to VTS. This provision is intended to balance an otherwise eligible individual's need for VTS services and the safety and well-being of veterans, other VTS users, and VA employees.

Paragraph (j)(2) would limit the number of Family Caregivers, attendants, or guests that may travel with an eligible person on a given trip. Unless otherwise indicated by a VA clinician, a veteran or servicemember would not be able to be accompanied by more than one Family Caregiver, one attendant, or one guest per trip. This limitation is intended to preserve transportation resources for veterans and servicemembers, while allowing flexibility to ensure that patient needs are appropriately satisfied. However, more than one Family Caregiver may travel for receipt of his or her own benefits under § 70.71(e)(1) or (e)(2)(ii).

Finally, paragraph (j)(3) would provide conditions under which a person under the age of 18 may accompany another person using VTS. Specifically, a parent or legal guardian would have to consent to the transportation, and the facility director or designee would have to consent to the transportation as well. The facility director or designee would consider the special transportation needs of the child, if any; the ability to transport the child safely using the available resources; the availability of services at the facility to accommodate the needs of the child; the appropriateness of transporting the child; and any other relevant factors. Applying these criteria, a facility director or designee may not consent to the transport of a child for several reasons. For example, if the person is an infant or small child, he or she may require a special car seat or other restraining device to ensure safe transportation. VA transportation of children would not be available if State law required the use of a child restraint, such as a child safety seat or booster seat. This limitation would be specifically noted in this paragraph, due to the potential dangers and liabilities that could result from improper use of a child's car seat or use of an improper child's car seat.

Children could be accompanying another person using VTS because child care services could not be arranged. VA notes that a limited number of VA facilities offer child care services through a pilot program authorized by Public Law 111-163, 124 Stat. 1130 (2010), the Caregivers and Veterans

Omnibus Health Services Act of 2010. VA also could consider any other relevant factors on a case-by-case basis when making these determinations. VA does not provide benefits through CITI to persons under the age of 18, and as a result, this section would not address their eligibility.

#### **70.72 Types of Transportation**

Under 38 CFR 70.72, VTS would be operated in one or more of the following types: Door-to-door service, designated location service, service between VA facilities, and other locations.

Door-to-door service, as defined in paragraph (a), would consist of transporting an eligible person between a VA or VA-authorized facility and his or her residence or place where the person is staying. The eligible person could select a location other than his or her residence or place where the person is staying, but the selection of any other location would be subject to the approval of the facility director or designee assessing whether such a location is financially favorable to VA. The focus of this type of transportation is transporting the eligible person between a VA or VA-authorized facility and his or her home. This arrangement is the most patient-centered option and can allow VA to make multiple stops along the way to ensure as many persons are transported for care as possible. This type of transportation is likely to be particularly effective when persons are geographically concentrated in one location, as well as for persons with limited mobility or other disabilities, such as visual impairment, that would make transportation for health care services more difficult. VA could use this type of transportation to transport a patient who is being discharged from inpatient care and requests door-to-door service on an unscheduled basis. This is designed to ensure that veterans who have received inpatient care and may not have another means of returning home can do so safely.

The default location for transportation would be the eligible person's residence or place where the person is staying, as it is with other VA transportation programs, most notably the beneficiary travel program. Under VTS, VA could transport persons from another location when such transportation is financially favorable to VA. For example, if a veteran lives in a remote area but works in an urban center and requests transportation from his or place of employment to a VA medical facility, VA could approve the requested transportation even though the departure location is the person's place

of employment as it would require fewer miles driven and fewer resources used by VA. Determinations regarding financial favorability to the Department are currently made for VA's beneficiary travel program under § 70.30(b)(8), and VA would apply these same criteria in the context of VTS.

VA could also identify designated locations in communities from which it would transport eligible persons on a scheduled basis to VA or VA-authorized health care facilities and to which they would be transported under paragraph (b). This type of transportation moves eligible persons between VA or VA-authorized facilities and designated locations in the community. Veterans or other eligible persons wishing to ensure transport should contact the facility's Mobility Manager or other designated personnel using the process described in § 70.73 to reserve a seat on the vehicle. Decisions regarding reservations and allocation of seats when demand for transportation services exceeds supply would be made in accordance with established guidelines and criteria, as discussed in § 70.73, but eligible persons generally would be accommodated on a first come, first served basis. VA intends that designated locations generally would be identified based upon convenience of access for persons and the consent of the property owner. In some communities, a private shopping complex might be the best location for persons to meet for transportation services, and in such a situation, the VA facility would need to agree with the property owner on the use of the property. Alternatively, a military base or a VA Regional Office may be ideally located, in which case such an agreement would not be necessary, provided the eligible VTS users otherwise have access to the area.

Under paragraph (c), VA could transport eligible persons between VA or VA-authorized health care facilities either on a scheduled or unscheduled basis. An eligible person may need to travel from one VA building to another within a single VA campus for scheduled or unscheduled visits, for example, or a VA facility may wish to transport a veteran to another VA or VA-authorized facility for care that cannot be provided at one location but that could be accommodated at another. Any persons requiring emergency care that could be accommodated at the facility would be transported by ambulance (not a VTS vehicle) to the nearest VA or non-VA medical facility capable of delivering the required care. Payment of the ambulance costs would be determined in accordance with existing

regulations in part 70. As indicated above, paragraph (c) also would authorize transportation from one building to another on a single VA campus. This is intended to ensure eligible veterans and other health care beneficiaries can safely access treatment and services.

Finally, under paragraph (d), VA could transport eligible persons to and/or from a VA or VA-authorized facility or other locations. This type of transportation would allow VA to move eligible persons from one location to another when a VA clinician has determined that such transport is needed to promote, preserve, or restore the health of the individual and is in accord with generally accepted standards of medical practice as defined in § 17.38(b). This is consistent with 38 U.S.C. 111A, which requires that transportation be for the purpose of examination, treatment or care, and with VA's standards for the delivery of care in the medical benefits package in 38 CFR 17.38(b). Eligible persons could be transported from their home to another location, or from a VA or VA-authorized facility to another location, to promote, preserve, or restore the health of the individual. For example, blind or visually impaired veterans often need assistance in learning or updating navigation skills, and clinicians in VA's Blind Rehabilitation Center provide this support. Other transportation, such as day trips for nursing home patients or trips to retreat settings for persons undergoing counseling, could also be undertaken using VTS because the transportation would be considered treatment or care, authorized by chapter 17 of title 38. Travel under paragraph (d) would be permissible only for veterans and servicemembers and any attendants because the basis for transportation is to promote, preserve, or restore the health of an individual seeking or receiving VA care. VA could also transport a CHAMPVA beneficiary receiving health care benefits under the CITI program.

#### **70.73 Arranging Transportation Services**

Eligible persons should contact the facility director or designee, in many cases the Mobility Manager, at the VA facility that is providing or authorizing the examination, treatment, or care for which the person is traveling to request transportation services. Persons could make a reservation by requesting transportation and providing the necessary information, including their name, the basis for the eligibility for transportation (as defined in § 70.71), the name of the veteran or

servicemember they are accompanying (if applicable), the time of the appointment (if known), the location from and to which they will require transportation, any special needs that must be accommodated to allow for transportation (e.g., wheelchair, oxygen tank, service or guide dog), and other relevant information.

Under paragraph (b), persons could travel without a reservation if they were being discharged from an inpatient setting or were traveling for an unscheduled visit pursuant to a recommendation by an attending VA clinician. Eligible persons could also travel without a reservation from one VA or VA-authorized facility to another, such as when a patient needs transportation from one building on campus to another. Eligible persons, whether requesting scheduled or unscheduled transport, would have to provide the necessary information described above. This information is needed to ensure a proper accounting of the program and to identify unmet transportation needs within the eligible population.

Generally, transportation services under this authority would be provided on a first come, first served basis. However, paragraph (c) states that, when there are more requests for transportation than available resources, VA could prioritize the provision of transportation services using several criteria. These criteria are not listed in order of importance or consideration, and decisions would be made based on the totality of the circumstances so that no one factor is determinative. Requests made first in time generally would be prioritized over later requests, but VA could consider the clinical needs of each patient, the inability of a person to transport him or herself, the eligibility of a person for other transportation services and benefits, the availability of other transportation services, and the Department's ability to maximize the use of available resources.

Under paragraph (c)(1), VA also could prioritize according to the eligibility bases for those seeking transportation services. Within this criterion, there would be a hierarchy: Enrolled veterans would receive first priority, followed, in order, by non-enrolled veterans; servicemembers; Family Caregivers; persons receiving counseling, training, or mental health services under 38 U.S.C. 1782 and 38 CFR 71.50; CHAMPVA beneficiaries participating in the CITI program; and guests. VA realizes that some veterans are eligible for examination, treatment, care, or other services without enrolling. However, as a general practice, VA

encourages veterans who seek care to enroll, so we believe the population of unenrolled veterans who would be affected by this hierarchy would be quite small. Based on past experience, VA anticipates the vast majority of eligible veterans would be enrolled but VA wishes to ensure that unenrolled veterans who have not previously come to VA for care or benefits have access to transportation to do so. VA understands that some eligible veterans may nonetheless choose to not enroll for various reasons, and we note that an unenrolled veteran who would be eligible for care notwithstanding his or her enrollment likely would receive priority after consideration of other criteria included here, including the clinical needs of the patient, the inability of the person to transport him or herself, and the availability of other transportation services.

If a veteran or servicemember requires an attendant and is provided transportation through VTS, VA would provide transportation to the attendant as well because by definition, the veteran would be unable to travel without the aid of the attendant. This hierarchy reflects VA's core mission, to provide health care for veterans. Family Caregivers travel for purposes related to a veteran's or servicemember's conditions, and consequently would be prioritized next. Similarly, persons receiving counseling, training, or mental health services under 38 U.S.C. 1782 and 38 CFR 71.50 are receiving these benefits as an extension of care for veterans. CHAMPVA beneficiaries participating in the CITI program are traveling for their own health care conditions and independent of a veteran's care, and consequently would follow. Finally, guests would be accommodated on an "as available" basis.

Persons who are eligible under more than one designation (e.g., a veteran serves as a Family Caregiver for another veteran) would be considered based on the highest priority category applicable to that trip. For example, CHAMPVA beneficiaries participating in the CITI program traveling for their own benefits would qualify only under that designation, but if they were traveling to assist an eligible veteran or servicemember for that person's appointment, they would be traveling as an attendant. Similarly, if a Family Caregiver is also a veteran and is traveling for his or her own medical care, he or she would be traveling as a veteran. VA's Mobility Managers or other designated personnel would work with those seeking to arrange

transportation services to determine the proper basis for eligibility.

VA could also consider other criteria. These criteria would allow VA to ensure those with the greatest need are able to access these services. For example, an enrolled veteran in need of urgent care could be given priority over an enrolled veteran in need of non-urgent care. VA facilities also could make decisions to maximize the use of available resources. For example, if a group of veterans located in the same area request transportation and one veteran in another area several hours away also requests transportation, VA could choose to serve the similarly located veterans using VTS to ensure maximum access to its facilities and health care, and assist the remote veteran with finding transportation alternatives.

VA would endeavor to maintain a greater supply of transportation slots than demand in all locations, but in cases where demand exceeds supply, VA Mobility Managers or other designated personnel at each facility would be responsible for informing persons whose transportation request cannot be accommodated by VTS that VA would not be able to transport them as requested. The Mobility Managers or other designated personnel would be responsible for assisting eligible persons with alternative transportation options.

#### *Effect of Rulemaking*

Title 38 of the Code of Federal Regulations, as proposed to be revised by this proposed rulemaking, would represent VA's implementation of its legal authority on this subject. Other than future amendments to this regulation or governing statutes, no contrary guidance or procedures on this subject would be authorized. All VA guidance would be read to conform with this rulemaking if possible or, if not possible, such guidance would be superseded by this rulemaking.

#### *Paperwork Reduction Act*

This proposed rule includes a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) that requires approval by the Office of Management and Budget (OMB). Accordingly, under 44 U.S.C. 3507(d), VA has submitted a copy of this rulemaking to OMB for review.

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 currently valid OMB control number. Section 70.73 contains a collection of information under the

Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). If OMB does not approve the collection 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 collection 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, Regulation Policy and Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue 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–AO92–Veterans Transportation Service.”

OMB is required to make a decision concerning the collections of information contained in this 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 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 amendments to title 38 CFR part 70 contain collections of information under the Paperwork Reduction Act of 1995 for which we are requesting approval by OMB. These collections of information are described immediately following this paragraph, under their respective titles.

*Title:* Veterans Transportation Service.

*Summary of collection of information:* Section 70.73 would require eligible persons requesting transportation services from VA to provide their name, the basis of their eligibility (veteran, servicemember, Family Caregiver, attendant, CITI beneficiary, or guest), the name of the veteran or servicemember they are accompanying (if applicable), the time of the appointment (if known), the location of the person’s arrival or departure, any special needs that must be accommodated to allow for transportation (e.g., wheelchair, oxygen tank, service or guide dog), and other relevant information.

*Description of the need for information and proposed use of information:* The information is needed to ensure that only eligible persons are receiving VTS benefits, and to ensure the integrity of related transportation programs such as beneficiary travel. It is also necessary to measure and evaluate VTS to determine the effectiveness and need for the program, especially as it relates to the possibility of eligible persons also being eligible for beneficiary travel benefits. This information is also needed to ensure the safety of veterans in the event of an accident or other problem in the operation of the vehicle, and to ensure VA is prepared to assist the person in entering, exiting, and riding in the vehicle safely. VA may use this information to identify trends in usage of transportation services and make decisions on the allocation of resources to maximize benefits to the eligible population.

*Description of likely respondents:* Eligible persons seeking transportation services from VA.

*Estimated number of respondents per year:* 100,872 eligible persons.

*Estimated frequency of responses per month:* 3.32 times per month.

*Estimated average burden per response:* 5 minutes.

*Estimated total annual reporting and recordkeeping burden:* 334,895 hours.

#### *Executive Orders 12866 and 13563*

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review)

emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a “significant regulatory action” requiring review by OMB, unless OMB waives such review, as “any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in this Executive Order.”

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined, and it has been determined not to be a significant regulatory action. VA’s impact analysis can be found as a supporting document at <http://www.regulations.gov>, usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA’s Web site at <http://www.va.gov/orpm/>, by following the link for VA Regulations Published from FY 2004 through FYTD.

#### *Unfunded Mandates*

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year. This proposed rule would have no such effect on State, local, and tribal governments, or on the private sector.

#### *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. This proposed rule would authorize VA to transport eligible persons to and from VA or VA-authorized health care

facilities for the purposes of examination, treatment, or care. The proposed rule would affect individuals and have no impact on any small entities. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

#### *Catalog of Federal Domestic Assistance*

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are as follows: 64.007, Blind Rehabilitation Centers; 64.009, Veterans Medical Care Benefits; 64.010, Veterans Nursing Home Care; 64.011, Veterans Dental Care; 64.013, Veterans Prosthetic Appliances; 64.018, Sharing Specialized Medical Resources; 64.019, Veterans Rehabilitation Alcohol and Drug Dependence; and 64.022, Veterans Home Based Primary 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. Jose D. Riojas, Chief of Staff, Department of Veterans Affairs, approved this document on January 9, 2015, for publication.

#### **List of Subjects in 38 CFR Part 70**

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

Dated: May 21, 2015 .

#### **Michael Shores,**

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

For the reasons set forth in the preamble, VA proposes to amend 38 CFR part 70 as follows:

#### **PART 70—VETERANS TRANSPORTATION PROGRAMS**

■ 1. The authority citation for part 70 is revised to read as follows:

**Authority:** 38 U.S.C. 101, 111, 111A, 501, 1701, 1714, 1720, 1728, 1782, 1783, and E.O. 11302.

■ 2. Revise the heading of part 70 to read as set forth above.

■ 3. Add a heading for subpart A immediately before § 70.1 to read as follows:

#### **Subpart A—Beneficiary Travel and Special Mode Transportation under 38 U.S.C. 111**

■ 4. Designate §§ 70.1 through 70.50 as subpart A.

■ 5. Add subpart B to read as follows:

#### **Subpart B—Veterans Transportation Service under 38 U.S.C. 111A**

Sec.

70.70 Purpose and definitions.

70.71 Eligibility.

70.72 Types of transportation.

70.73 Arranging transportation services.

#### **Subpart B—Veterans Transportation Service under 38 U.S.C. 111A**

##### **§ 70.70 Purpose and definitions.**

(a) *Purpose.* This subpart implements the Veterans Transportation Service (VTS), through which VA transports eligible persons to or from a VA or VA-authorized facility or other place for the purpose of examination, treatment, or care.

(b) *Definitions.* For purposes of this subpart:

*Attendant* has the meaning set forth in § 70.2, and also means an individual traveling with a veteran or servicemember who is eligible for travel under VTS and requires the aid and/or assistance of another person.

*Eligible person* means a person described in § 70.71.

*Guest* means any individual the veteran or servicemember would like to have accompany him or her to an appointment but whose presence is not medically required.

*Scheduled visit* means that a VA beneficiary had an appointment that was made before she or he appeared at a VA, or VA-authorized, facility, or that a VA beneficiary was specifically authorized to appear at such facility on the date of the visit in order to obtain examination, treatment, or care. Examples of scheduled visits include: regular appointments for examination, treatment, or care; visits to undergo laboratory work; or doctor-recommended visits to clinics with open hours.

*Unscheduled visit* means a visit to a VA, or VA-authorized, facility for purposes of examination, treatment, or care that was not recorded in VA's scheduling system prior to the veteran's

visit. For example, an unscheduled visit may be for a simple check of a person's blood pressure, for counseling, or for clinical intervention.

(Authority: 38 U.S.C. 111A, 501, 1714)

##### **§ 70.71 Eligibility.**

Except as provided in paragraph (j) of this section, VA facilities may provide VTS benefits to the following:

(a) *Persons eligible for beneficiary travel.* All persons eligible for beneficiary travel benefits in § 70.10 are eligible for VTS benefits (however, persons cannot claim benefits under both programs for the same trip or portion of a trip).

(b) *Enrolled veterans.* Regardless of a veteran's eligibility for beneficiary travel, VA may provide VTS to veterans enrolled in VA's health care system who need transportation authorized under § 70.72 for:

- (1) A scheduled visit or urgent care;
- (2) Retrieval of, adjustment of, or training concerning medications, prosthetic appliances, or a service dog (as defined in 38 CFR 17.148);
- (3) An unscheduled visit; or
- (4) To participate and attend other events or functions, as clinically determined by VA, for the purposes of examination, treatment, or care.

(c) *Non-enrolled veterans.* VA may provide VTS to veterans not enrolled in VA's health care system who need transportation authorized under § 70.72 for:

- (1) A compensation and pension examination;
- (2) An unscheduled or walk-in visit;
- (3) To apply for enrollment or health care benefits; or
- (4) To participate and attend other events or functions, as clinically determined by VA, for the purposes of examination, treatment, or care.

(d) *Servicemembers.* VA may provide VTS to a member of the Armed Forces (including the National Guard or Reserve) traveling to a VA or VA-authorized facility for VA hospital care or medical services, including examination, treatment or care, a compensation and pension examination, or to enroll or otherwise receive benefits for which they are eligible.

(e) *Prospective Family Caregivers and Family Caregivers.* (1) VA may provide VTS to a prospective Family Caregiver who has applied for designation as a Family Caregiver under 38 CFR 71.25(a) when the travel is for purposes of assessment and training under 38 CFR 71.25(c) and (d).

(2) VA may provide VTS to a Family Caregiver (who is approved and designated under 38 CFR 71.25) of veteran or servicemember described in

paragraphs (b) through (d) of this section to:

(i) Accompany or travel independently from a veteran or servicemember for purposes of examination, treatment, or care of the veteran or servicemember; or

(ii) Receive benefits under 38 CFR 71.40(b) or 71.40(c). For health care benefits provided under 38 CFR 71.40(c)(3), Primary Family Caregivers may travel using VTS for care only if it is provided at a VA facility through the Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA) Inhouse Treatment Initiative (CITI).

(f) *Attendants.* VA may provide VTS to an attendant of a veteran or servicemember described in paragraphs (b) through (d) of this section.

(g) *Persons receiving counseling, training, or mental health services.* VA may provide VTS to persons receiving counseling, training, or mental health services under 38 U.S.C. 1782 and 38 CFR 71.50.

(h) *CHAMPVA beneficiaries.* VA may provide VTS to persons eligible for health care under the Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA) under 38 CFR 17.270 through 17.278, provided that such care is being provided at a VA facility through the CHAMPVA Inhouse Treatment Initiative (CITI).

(i) *Guests.* For each veteran described in paragraph (b) or (c) of this section or member of the Armed Forces described in paragraph (d) of this section, a guest may travel with the veteran or servicemember provided resources are still available after providing services to individuals identified in paragraphs (b) through (h) of this section.

(j) *Limitations on eligibility.* Notwithstanding an individual's eligibility under this section:

(1) A person may be ineligible for transportation services if VA determines the person's behavior has jeopardized or could jeopardize the health or safety of other eligible users of VTS or VA staff, or otherwise has interfered or could interfere with the safe transportation of eligible persons to or from a VA facility or other place.

(2) Only one person may travel with an eligible veteran or servicemember as a Family Caregiver, attendant, or guest, unless a VA clinician determines that more than one such person is needed or would otherwise be beneficial to the examination, treatment, or care of the eligible veteran or servicemember. Family Caregivers traveling for benefits under paragraph (e)(1) or (e)(2)(ii) of this section are not subject to this limitation.

(3) Persons under the age of 18 may accompany another person using VTS with the consent of their parent or legal guardian and the medical facility director or designee. VA transportation of children is not available if State law requires the use of a child restraint, such as a child safety seat or booster seat. In making determinations under this provision, the medical facility director or designee will consider:

(i) The special transportation needs of the child, if any;

(ii) The ability to transport the child safely using the available resources;

(iii) The availability of services at the facility to accommodate the needs of the child;

(iv) The appropriateness of transporting the child; and

(v) Any other relevant factors.

(Authority: 38 U.S.C. 111A, 1714, 1720G, 1781, 1782, 501)

#### **§ 70.72 Types of transportation.**

The following types of transportation may be provided by VA facilities through VTS:

(a) *Door-to-door service.* VA facilities may use VTS to transport, on a scheduled or unscheduled basis, eligible persons between a VA or VA-authorized facility and their residence or a place where the person is staying. VA facilities may use VTS to transport eligible persons to and from a VA or VA-authorized facility and another location identified by the person when it is financially favorable to the government to do so.

(b) *Travel to and from designated locations.* VA facilities may use VTS to provide transportation between a VA or VA-authorized facility and a designated location in the community on a scheduled basis.

(c) *Service between VA facilities.* VA facilities may use VTS to provide scheduled or unscheduled transportation between VA or VA-authorized health care facilities. This includes travel from one building to another within a single VA campus.

(d) *Other locations.* VA facilities may use VTS to provide scheduled or unscheduled transportation to and/or from a VA or VA-authorized facility or other places when a VA clinician has determined that such transportation of the veteran, servicemember, their attendant(s), or CHAMPVA beneficiary receiving benefits through the CITI program would be needed to promote, preserve, or restore the health of the individual and is in accord with generally accepted standards of medical practice, as defined in 38 CFR 17.38(b).

(Authority: 38 U.S.C. 111A, 501, 1718, 7301)

#### **§ 70.73 Arranging transportation services.**

(a) *Requesting VTS.* An eligible person may request transportation services by contacting the facility director or designee at the VA facility providing or authorizing the examination, treatment, or care to be delivered. The person must provide the facility director or designee with information necessary to arrange these services, including the name of the person, the basis for eligibility, the name of the veteran or servicemember they are accompanying (if applicable), the time of the appointment (if known), the eligible person's departure location and destination, any special needs that must be accommodated to allow for transportation (e.g., wheelchair, oxygen tank, service or guide dog), and other relevant information. Transportation services generally will be provided on a first come, first served basis.

(b) *Travel without a reservation.* Eligible persons who have provided the facility director or designee with the information referred to in the previous paragraph may travel without a reservation for the purpose of examination, treatment, or care when, for example:

(1) The person is being discharged from inpatient care;

(2) The person is traveling for an unscheduled visit, pursuant to a recommendation for such a visit by an attending VA clinician; or

(3) The person is being transported to another VA or VA-authorized facility.

(c) *Determining priority for transportation.* When the facility director or designee determines there are insufficient resources to transport all persons requesting transportation services, he or she will assist any person denied VTS in identifying and accessing other transportation options. VTS resources will be allocated using the following criteria, which are to be assessed in the context of the totality of the circumstances, so that no one factor is determinative:

(1) The eligible person's basis for eligibility. Enrolled veterans will receive first priority, followed in order by non-enrolled veterans; servicemembers; Family Caregivers; persons receiving counseling, training, or mental health services under 38 U.S.C. 1782 and 38 CFR 71.50; CITI beneficiaries; and guests. Persons eligible under more than one designation will be considered in the highest priority category for which that trip permits. VA will provide transportation to any attendant accompanying a veteran or servicemember who is approved for transportation.

- (2) First in time request.
- (3) An eligible person's clinical need.
- (4) An eligible person's inability to transport him or herself (e.g., visual impairment, immobility, etc.).
- (5) An eligible person's eligibility for other transportation services or benefits.
- (6) The availability of other transportation services (e.g., common carriers, veterans' service organizations, etc.).
- (7) The VA facility's ability to maximize the use of available resources. (The Office of Management and Budget has approved the information collection requirements in this section under control number XXXX-XXXX.)

(Authority: 38 U.S.C. 111A, 501)

[FR Doc. 2015-12724 Filed 5-26-15; 8:45 am]

BILLING CODE 8320-01-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R10-OAR-2015-0329, FRL-9928-32-Region 10]

#### Approval and Promulgation of Implementation Plans; Washington: Interstate Transport Requirements for the 2008 Lead and 2010 Nitrogen Dioxide National Ambient Air Quality Standards

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a submittal by the Washington Department of Ecology (Ecology) demonstrating that the State Implementation Plan (SIP) meets certain interstate transport requirements of the Clean Air Act (CAA) for the National Ambient Air Quality Standards (NAAQS) promulgated for lead (Pb) on October 15, 2008, and nitrogen dioxide (NO<sub>2</sub>) on January 22, 2010. Specifically, Ecology conducted an emissions inventory analysis and reviewed monitoring data to show that sources within Washington do not significantly contribute to nonattainment, or interfere with maintenance, of the Pb and NO<sub>2</sub> NAAQS in any other state.

**DATES:** Comments must be received on or before June 26, 2015.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R10-OAR-2015-0329, by any of the following methods:

- *Email:* [R10-Public\\_Comments@epa.gov](mailto:R10-Public_Comments@epa.gov).

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.

- *Mail:* Jeff Hunt, EPA Region 10, Office of Air, Waste and Toxics (AWT-150), 1200 Sixth Avenue, Suite 900, Seattle, WA 98101.

- *Hand Delivery:* EPA Region 10 Mailroom, 9th floor, 1200 Sixth Avenue, Suite 900, Seattle, WA 98101. Attention: Jeff Hunt, Office of Air, Waste and Toxics, AWT-150. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

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**SUPPLEMENTARY INFORMATION:** Throughout this document wherever "we," "us" or "our" is used, it is intended to refer to the EPA. Information is organized as follows:

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#### I. Background

On October 15, 2008 (73 FR 66964) and January 22, 2010 (75 FR 6474), the EPA revised the Pb and NO<sub>2</sub> NAAQS, respectively. Within three years after promulgation of a new or revised standard, states must submit SIPs meeting the requirements of CAA sections 110(a)(1) and (2), often referred to as "infrastructure" requirements. On May 11, 2015, Ecology submitted a SIP revision including an emissions inventory and monitoring data analysis to demonstrate that sources within Washington do not significantly contribute to nonattainment, or interfere with maintenance, of the Pb and NO<sub>2</sub> NAAQS in any other state to address the CAA section 110(a)(2)(D)(i)(I) requirements for those pollutants.<sup>1</sup>

#### II. Analysis of the State's Submittal

CAA section 110(a)(2)(D)(i)(I) requires state SIPs to contain adequate provisions prohibiting any source or other type of emissions activity within a state from contributing significantly to nonattainment, or interfering with maintenance of the NAAQS in any other state.

##### A. 2008 Pb NAAQS

*State submittal:* Washington's submittal cites the EPA's guidance to address Pb infrastructure SIP elements under CAA sections 110(a)(1) and (2).<sup>2</sup>

<sup>1</sup> Washington's May 11, 2015 submittal also included an interstate transport analysis for the ozone standard promulgated by the EPA in 2008. The EPA is not acting on the ozone interstate transport analysis at this time.

<sup>2</sup> Stephen D. Page, Director, Office of Air Quality Planning and Standards. 1.) "Guidance on Infrastructure State Implementation Plan (SIP) Elements Required Under Sections 110(a)(1) and (2) for the 2008 Lead (Pb) National Ambient Air Quality Standards." Memorandum to EPA Air Division Directors, Regions I-X, October 14, 2011,