

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 150

[CGD 91-057]

Louisiana Offshore Oil Port: Expansion of Safety Zone to Include Excursion Zone

AGENCY: Coast Guard, DOT.

ACTION: Notice of petition for rulemaking and request for comments.

SUMMARY: In this petition for rulemaking, Louisiana Offshore Oil Port (LOOP) asks the Coast Guard to expand the existing "safety zone." The petitioner wants the Coast Guard to enlarge the safety zone that surrounds the deepwater port by adding to that zone both of two "excursion zones." A safety zone constitutes an area within which no exploration for or extraction of oil or gas may occur.

DATES: Comments must arrive on or before March 23, 1992.

ADDRESSES: Comments must go to: Executive Secretary, Marine Safety Council (G-LRA-2, room 3406) (CGD 91-057), U.S. Coast Guard Headquarters, 2100 Second Street SW, Washington, DC 20593-0001. They may be mailed, or delivered to room 3406, Coast Guard Headquarters, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-267-1477.

The Executive Secretary maintains the public docket for this petition. Comments will become part of this docket and will be available to inspect or copy at room 3406, U.S. Coast Guard Headquarters.

FOR FURTHER INFORMATION CONTACT: Direct inquiries to ENS Claudia C. Gelzer, USCGR, Office of Marine Safety, Security, and Environmental Protection (202) 267-6714.

SUPPLEMENTARY INFORMATION:

Request for Comments

By publishing the substance of the petition, the Coast Guard invites the assistance of the public in determining the need, if any, for the Coast Guard to enlarge the safety zone that surrounds the deepwater port by adding to that zone two excursion zones. Interested persons may participate by reviewing the substance of the petition and submitting what written data, views, and arguments they wish. Comments that furnish factual bases for these views and arguments are particularly conducive to reasoned regulatory choices.

This Notice and Request does not propose a rulemaking, represent a policy of the Coast Guard, or otherwise commit the Coast Guard on the merits of the petition. The Coast Guard intends to consider the petition under applicable law, and to act on it after evaluating it with care in light of comments and other pertinent matter. If the Coast Guard finds that a rule is due, it will publish a Notice of Proposed Rulemaking; if not, it will issue a denial of the petition.

Drafting Information

The principal persons involved in drafting this Notice and Request are ENS Claudia C. Gelzer, USCGR, Office of Marine Safety, Security, and Environmental Protection, Project Manager, and Patrick J. Murray, Office of Chief Counsel, Project Counsel.

Background and Purpose

On 29 December 1980 (45 FR 85649) the Coast Guard established a safety zone to protect six single-point moorings for LOOP. On 13 May 1982 (46 FR 20581) the Coast Guard established a safety fairway to serve the safety zone. On 18 January 1984, LOOP submitted to the Coast Guard a Chart 11359 showing two shaded areas called excursion zones; later, deviations from the safety fairway into these zones came to be known as "excursions." On 20 February 1987, the Acting Chief of the Office of Marine Safety, Security, and Environmental Protection granted for one year a waiver of the requirement that tankers enter and leave the safety zone by the safety fairway. Since then the Coast Guard has renewed the waiver a year at a time.

On 30 December 1987, LOOP asked the Coast Guard to make the waiver permanent. On 8 February 1988, the Chief of the Office of Marine Safety, Security, and Environmental Protection refused the request, noting that someday exploration for or extraction of oil or gas might occur within one or both excursion zones. If such activity took place, the Coast Guard might have to revoke the waiver for the sake of safety. (The waiver has never meant—and the Coast Guard has never implied—priority of importing oil over finding it.) In August 1990, LOOP notified the Coast Guard that Conoco intended to drill under authority of Lease OCS-G 9078 within Grande Isle Block 59, about 500 yards outside of the safety zone and of the safety fairway and inside of the southerly excursion zone.

The Coast Guard is examining several possibilities for resolving this conflict. Among them are: Adding to the safety zone both current excursion zones (granting the request of LOOP); revoking one or both current excursion zones;

rendering one or both current excursion zones permanent; altering the size or shape of either or both current excursion zones; altering the size or shape of the anchorage area; adding new requirements to operations at the LOOP facility, such as tug-escorts for vessels using the facility (these requirements could coexist with one or more of the previous possibilities or could stand alone); and leaving the situation as it is.

LOOP has asked the Coast Guard to enlarge the safety zone, by adding to that zone the two temporary excursion zones. These excursion zones broaden the entrance to the deepwater port, thereby reducing the number of required vessel maneuverings and possibly the risk of accidents. However, a safety zone constitutes a fairway, and no exploration for or extraction of oil or gas may occur within a fairway. Rulemaking is necessary to establish a new safety zone. The Coast Guard holds safety the paramount value. But it would appreciate help from persons in determining which of these courses—or which other course—would best serve the value here.

Dated: January 7, 1992.

A.E. Hann,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 92-1427 Filed 1-17-92; 8:45 am]

BILLING CODE 4910-14-B

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900-AF57

Claims Based on Exposure to Herbicides Containing Dioxin (Peripheral Neuropathy/Lung Cancer)

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) is proposing to amend its rules governing the adjudication of claims for service-connected compensation based on exposure to herbicides containing dioxin. The amendments are necessary to implement a determination by the Secretary of Veterans Affairs that a significant statistical association exists between exposure to herbicides containing dioxin and the subsequent development of peripheral neuropathy, and that there is no significant statistical association between exposure to herbicides containing dioxin and lung

cancer. The intended effect is to establish a regulation governing determinations regarding service connection for peripheral neuropathy and lung cancer for all veterans who claim that these disabilities resulted from exposure to herbicides containing dioxin during military service.

DATES: Comments must be received on or before February 20, 1992. Comments will be available for public inspection until March 2, 1992. The amendments are proposed to be effective September 25, 1985.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding this amendment to the Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments will be available for public inspection only in the Veterans Services Unit, room 170, at the above address, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays), until March 2, 1992.

FOR FURTHER INFORMATION CONTACT: Steven Thornberry, Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, telephone (202) 233-3005.

SUPPLEMENTARY INFORMATION: The Veterans' Advisory Committee on Environmental Hazards (VACEH, or "the Committee") held a public meeting on May 23, 1991, in Washington, DC. At that meeting, the Committee evaluated numerous scientific and medical studies and made recommendations to the Secretary of Veterans Affairs to assist him in determining whether significant statistical associations exist between exposure to herbicides containing dioxin and the subsequent development of peripheral neuropathy or lung cancer.

Under 38 CFR 1.17(c), when VA determines that a significant statistical association exists between exposure to a herbicide containing dioxin and any disease(s), it amends 38 CFR 3.311a to provide guidelines for the establishment of service connection for the disease(s). The regulation stipulates that determinations be based upon evaluations of scientific or medical studies, and that they be made after receiving the advice of the VACEH. A significant statistical association is held to exist when the relative weights of valid positive and negative studies permit the conclusion that it is at least as likely as not that a relationship exists between exposure to dioxin and a specific disease (38 CFR 1.17(d)(1)). The

criteria for "valid positive and negative studies" are in 38 CFR 1.17(d)(2)-(4).

In its consideration of peripheral neuropathy, the Committee reviewed 11 valid studies. It noted that three of these studies demonstrate positive findings relative to peripheral neuropathy. One study found a very high prevalence of peripheral neuropathy among study subjects who had experienced a heavy exposure to dioxin, as measured by the presence of chloracne or raised serum hepatic enzyme levels. Another study reported peripheral neuropathy among individuals exposed to polychlorinated phenols as a consequence of a tank car accident. The Ranch Hand study, which involved comparatively low exposure levels, presented mild evidence of a sustained neurologic effect.

On May 23, 1991, the Committee recommended that the evidence supports the finding of a significant statistical association between exposure to herbicides containing dioxin and peripheral neuropathy. In making its recommendation, however, the Committee indicated that peripheral neuropathy related to dioxin exposure normally would occur shortly after exposure, but no later than 10 years thereafter. It also cautioned that the effects of certain confounding factors, such as aging, alcoholism, diabetes, and exposure to other toxic agents, must be taken into account, and hence that peripheral neuropathy resulting from exposure to dioxin should be a diagnosis of exclusion.

After VA's review of the studies and the recommendations of the VACEH, the Secretary determined on June 27, 1991, that there is a significant statistical association between exposure to herbicides containing dioxin and peripheral neuropathy. Accordingly, we are proposing to amend 38 CFR 3.311a(c) to add peripheral neuropathy to the list of diseases for which service connection may be granted on the basis of exposure to herbicides containing dioxin. The proposed amendment stipulates that two requirements deriving from application of sound scientific and medical principles be addressed in all decisions: First, that peripheral neuropathy must appear within 10 years of exposure; and second, that before service connection under § 3.311a may be established, certain confounding factors must be ruled out as causes, including the effects of aging, alcohol abuse, trauma, diseases known to be associated with peripheral neuropathy (e.g., diabetes, Guillain-Barre syndrome, etc.), and exposure to substances other than dioxin that are known to produce peripheral neuropathy. This list of

confounding factors is not intended to be all-inclusive.

On May 23, 1991, the Committee also considered approximately 40 studies dealing with lung cancer. It grouped the studies into the following types: Proportional mortality studies, standardized mortality ratio studies, standardized incidence studies, one case control study, and one cohort mortality study with internal controls. It noted that the results of the proportional mortality studies are consistent with a null result, and that the standardized mortality ratio studies are also essentially negative. The standardized incidence studies present no consistent conclusions.

The Committee observed that most of the studies fail to deal adequately with documentation of exposure and potential confounding factors, particularly smoking. The Committee agreed that a study which did not adequately address the confounder of smoking should be considered invalid, and it noted that the only study to address the factor of smoking, the Ranch Hand study, was negative in regard to lung cancer.

On May 23, 1991, the Committee recommended that, on the basis of currently available epidemiological data, there is no evidence of a significant statistical association between exposure to herbicides containing dioxin and lung cancer. Thereafter, VA carefully reviewed the evidence and the Committee's findings and recommendation, and the Secretary determined on June 27, 1991, that sound scientific and medical evidence does not establish the required association. Accordingly, we are proposing to amend § 3.311a(d) to include lung cancer as a disease for which service connection may not be granted on the basis of exposure to herbicides containing dioxin.

In *Nehmer v. United States Veterans Administration*, 712 F. Supp. 1404 (N.D. Cal. 1989), the court concluded that VA incorrectly required that, in determining whether diseases would be service connected based on dioxin exposure, scientific evidence demonstrate a cause-and-effect relationship between the disease and exposure, rather than only a significant statistical association. This decision had the effect of invalidating VA's original determinations on service connection *ab initio*. Because those determinations were made under the regulations mandated by section 5(a)(1) of Public Law 98-542, we are proposing to make our current amendments to § 3.311a effective September 25, 1985, the original effective date of this section.

We believe that this effective date is appropriate because the new regulations required as a consequence of the Nehmer decision are remedial in nature and serve as a substitute for the invalidated regulations.

The Secretary hereby certifies that these regulatory amendments will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. The reason for this certification is that these amendments would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), these amendments are exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

In accordance with Executive Order 12291, Federal Regulation, the Secretary has determined that these regulatory amendments are non-major for the following reasons:

(1) They will not have an annual effect on the economy of \$100 million or more;

(2) They will not cause a major increase in costs or prices;

(3) They will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Catalog of Federal Domestic Assistance program numbers are 64.101, 64.109, and 64.110.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans.

Approved: November 21, 1991.

Edward J. Derwinski,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR part 3, Adjudication, is proposed to be amended as follows:

PART 3—[AMENDED]

Subpart A—Pension, Compensation, Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 72 Stat. 1114; 38 U.S.C. 501(a), unless otherwise noted.

2. In § 3.311a, paragraph (c) is revised by adding a new paragraph (c)(3) prior to the parenthetical phrase following paragraph (c)(2), and paragraph (d) is revised to read as follows:

§ 3.311a Claims based on exposure to herbicides containing dioxin.

(c) * * *

(3) Peripheral neuropathy manifested not later than 10 years following the date of exposure, provided that the condition cannot be related to a supervening condition or event, including, but not limited to, the effects of aging, alcohol abuse, trauma, diseases known to be associated with peripheral neuropathy, and exposure to substances other than dioxin known to produce peripheral neuropathy (see § 3.311a(e) on supervening causes or events).

(d) Diseases not associated with exposure to herbicides containing dioxin. Sound scientific and medical evidence does not establish a significant statistical association between exposure to herbicides containing dioxin and the following diseases:

- (1) porphyria cutanea tarda;
- (2) lung cancer.

(Authority: 38 U.S.C. 501(a))

[FR Doc. 92-1354 Filed 1-17-92; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 414

[FRL-4094-9]

Organic Chemicals, Plastics and Synthetic Fibers Category; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period; notice of public hearing.

SUMMARY: On December 6, 1991, EPA proposed a regulation under the Clean Water Act to amend the effluent limitations guidelines, pretreatment standards and new source performance standards for the organic chemicals, plastics, and synthetic fibers (OCPSF) point source category (56 FR 63897). The Agency has received several requests from the OCPSF industry for an extension to the comment period due to the complexity and size of the supporting record for the proposal and because the comment period extended through the holiday season when many facilities were closed and personnel were not available to review the proposal. Also, in reviewing the supporting document ("Supplement to

the OCPSF Development Document for Effluent Limitations Guidelines, and New Source Performance Standards for the Organic Chemicals, Plastics and Synthetic Fibers Point Source Category", EPA 440/1-91/009a), EPA has found several errors that may affect a reviewer's ability to adequately evaluate information related to the December 6, 1991 proposal. In order to correct errors that appeared in the support document and allow the industry adequate time to fully comment and to supply data to support their comments, EPA is extending the period for comment on this proposed regulation from January 21 to March 8, 1992.

Additionally, notice is hereby given of a hearing open to the public, pursuant to the Clean Water Act, section 307(b), to discuss and receive comments on the pretreatment standards proposed in the December 6, 1991 Federal Register notice. The public hearing has been scheduled for February 23, 1992 at the following address: U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 in the north conference room number 9 of the EPA Conference Center located on the first floor of the Waterside Mall.

Registration for the hearing will be held from 8:30 to 9:00 a.m. The hearing will start at 9 a.m. Following the registration period there will be a brief presentation by an EPA official on the development of these pretreatment standards. Opportunity will also be given throughout the session for the audience to submit written questions to the presiding officer and for members of the audience to present oral statements. For those people making an oral presentation, it is requested that a written transcript of their presentation as well as correct spellings of names, affiliations and addresses, be submitted to the presiding officer.

The Agency requests that persons intending to attend the pretreatment hearing please contact Mr. George M. Jett by February 19, 1992 so EPA can arrange to have adequate facilities available for all the parties attending.

DATES: Comments on the proposed regulation for the organic chemicals, plastics and synthetic fibers category (56 FR 63897) must be submitted to EPA by March 8, 1992.

ADDRESSES: Send comments on the proposed regulation and notification of intention to attend the pretreatment hearing to Mr. George M. Jett, Engineering and Analysis Division (WH-552), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Attention: EAD Docket Clerk.