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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 14

RIN 2900-AP51

Recognition of Tribal Organizations for Representation of VA Claimants; Delay of Effective Date

AGENCY: Department of Veterans Affairs.

ACTION: Final rule; delay of effective date.

SUMMARY: In accordance with the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled “Regulatory Freeze Pending Review,” this action delays the effective date of the final rule (“Recognition of Tribal Organizations for Representation of VA Claimants”) published January 19, 2017, from February 21, 2017, until March 21, 2017.

DATES: The effective date of the rule that published on January 19, 2017, at 82 FR 6265, is delayed until March 21, 2017.

FOR FURTHER INFORMATION CONTACT: Brandon A. Jonas, Staff Attorney, Benefits Law Group, Office of the General Counsel, (022D), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461-7699. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: On January 19, 2017, the Department of Veterans Affairs (VA) issued a final rule amending its regulations concerning recognition of certain national, State, and regional or local organizations for purposes of VA claims representation. Specifically, the rulemaking allows the Secretary to recognize tribal organizations in a similar manner as the Secretary recognizes State organizations. The final rule allows a tribal organization that is established and funded by one or more tribal governments to be recognized for the purpose of providing assistance on VA benefit claims. In addition, the rulemaking allows an employee of a tribal government to become accredited through a recognized State organization in a similar manner as a County Veterans' Service Officer (CVSO) may become accredited through a recognized State organization. The rule was published with an effective date of February 21, 2017.

VA bases this action on the memorandum of January 20, 2017 (82 FR 8346), from the Assistant to the President and Chief of Staff, entitled "Regulatory Freeze Pending Review" (White House memorandum). That memorandum directed the heads of Executive Departments and Agencies to temporarily postpone for 60 days from the date of the memorandum the effective dates of all regulations that had been published in the Federal Register but had not yet taken effect, for the purpose of "reviewing questions of fact, law, and policy they raise." VA, therefore, is revising the effective date of the rule that published on January 19, 2017 (82 FR 6265), to March 21, 2017.

To the extent that 5 USC 553 applies to this action, it is exempt from notice and comment because it constitutes a rule of procedure under 5 USC 553(b)(A). Alternatively, VA's implementation of this action without opportunity for public comment, effective immediately upon publication today in the Federal Register, is based on the

good cause exceptions in 5 USC 553(b)(B) and (d)(3). Seeking public comment is impracticable, unnecessary, and contrary to the public interest. The temporary delay in the effective date until March 21, 2017, is necessary to give VA officials the opportunity for further review and consideration of the new regulation, consistent with the White House memorandum. Given the imminence of the effective date, the brief length of the extension, and the public's full opportunity to comment prior to the publishing of the final rule, seeking public comment on this temporary delay would have been impracticable, as well as contrary to the public interest in the orderly promulgation and implementation of regulations. VA also believes that further delay, beyond what is required by the White House memorandum, would cause undue inconvenience to the affected entities.

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. Gina S. Farrisee, Deputy Chief of Staff, Department of Veterans Affairs, approved this document on February 15, 2017, for publication.

Approved: February 15, 2017

Jeffrey Martin
Office Program Manager
Office of Regulation Policy & Management
Office of the Secretary
Department of Veterans Affairs
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