



Paralyzed Veterans
of America

WASHINGTON UPDATE

Recent news regarding legislation and regulatory actions affecting veterans and people with disabilities.

Written and produced by Paralyzed Veterans of America - Government Relations Department

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DOT PROPOSES RULE TO IMPROVE LAVATORY ACCESS ON SINGLE-AISLE AIRCRAFT

The U.S. Department of Transportation (DOT) has issued a new [proposed rule](#) for public comment to improve restroom access for passengers with disabilities on single-aisle aircraft. The proposed regulation calls for limited improvements to lavatory interiors, enhanced criteria for onboard wheelchairs, and training of flight attendants. Comments on DOT's proposal are due by March 2, 2020.

The proposed rule is intended to improve the accessibility of single-aisle aircraft with seating capacity of 125 or more seats as they are increasingly being used by airlines for long-distance flights. Specifically, it would require airlines that operate new single-aisle aircraft with seating capacity of 125 or more seats to ensure the accessibility of features *within* the aircraft lavatory, including but not limited to toilet seats, assist handles, faucets, attendant call buttons, and door locks.

The proposed rule also includes training and information requirements that would apply to the airlines' operations. Airlines would be required to train flight attendants on proper procedures for providing assistance to individuals with disabilities to and from the lavatory from the aircraft seat, including hands-on training on the retrieval, assembly, stowage, and use of the aircraft's on-board wheelchair, and training regarding the accessibility features of the lavatory. To ensure that passengers with disabilities have accurate information about the types of accessibility features available on aircraft and can plan their flight appropriately, DOT proposes to require that airlines make information concerning the accessibility of aircraft lavatories available on the airline's website, on the aircraft, and upon request to individuals with a disability.

In addition, the proposed rule would establish improved performance standards for onboard wheelchairs, which are used to transport non-ambulatory passengers to lavatories from their seats. Under the regulation, the onboard wheelchairs would need to align with the height of airline seats for easier transfer and have wheel locks and other features for safety and stability. The chair would allow entry in a forward manner for passengers who can perform a stand-and-

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pivot transfer. The rule also would require the chair to be capable of completely entering the lavatory in a backward orientation and fitting over the closed toilet lid so that the door can be closed for privacy in performing non-toileting functions.

In August, the Access Board [proposed](#) voluntary guidelines for onboard wheelchairs to supplement DOT's performance criteria. These proposed guidelines, which contain non-binding technical specifications for the dimensions, features, and capabilities of onboard wheelchairs, would provide airlines and onboard wheelchair manufacturers with an example as to how DOT's performance criteria could be met. The Board is currently finalizing these guidelines based on the public comments it received.

Unfortunately, the proposed rule does not address the size of lavatories. Instead, DOT will issue an advance notice of proposed rulemaking (ANPRM) to solicit comment and gather information on the costs and benefits of requiring airlines to make lavatories on new single-aisle aircraft larger, equivalent to that currently found on twin-aisle aircraft. PVA strongly believes in the need for fully accessible lavatories in line with the agreement made during the [2016 negotiated rulemaking on accessible lavatories](#) and will strongly support larger lavatories in the ANPRM.

SSA PROPOSES CHANGES TO CONTINUING DISABILITY REVIEW POLICY

The Social Security Administration (SSA) has issued a notice of proposed rulemaking (NPRM) that would revise its regulations regarding when and how often it conducts continuing disability reviews (CDR). The proposed rule would add a category to the existing medical diary categories used to schedule CDRs, revise the criteria for assigning each of the medical diary categories to cases, and change the frequency with which CDRs are performed for claims within the medical diary category for permanent impairments.

SSA would add a Medical Improvement Likely (MIL) review category for nonpermanent impairments that are likely to improve, based on what SSA claims is its experience with CDR outcomes. As identified by the agency these include impairments such as cancers that are found to be disabling under the Listing of Impairments for a specified period, certain mental and musculoskeletal impairments, and allowances based on medical and vocational factors at step 5 of the sequential evaluation process. The timeframe for review would be every two years.

Most PVA members, if they are on Social Security Disability Insurance (SSDI), fall into the Medical Improvement Not Expected (MINE) review category. The primary change for MINE would be to reduce the time frame for review from its current standard of every five to seven years to every six years. Although spinal cord injuries are on SSA's list of impairments that automatically qualify someone for SSDI, SSA cites seventeen other impairments that currently receive a MINE diary based on the interaction of the impairment with the claimant's age and

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functional limitations. Among the impairments are Amyotrophic Lateral Sclerosis (ALS), Multiple Sclerosis, "other diseases of the spinal cord," and "parkinsonian syndrome." It is unclear from the NPRM what the age threshold is leading to concerns that, if SSA sets the age threshold at a high level, younger people with these conditions could be subject to more frequent CDRs.

Disability advocates have a number of concerns with the NPRM from its impact on persons with impairments that would fall into the new MIL CDR category to SSA's underestimation of the paperwork and administrative burden placed on beneficiaries undergoing a CDR. The NPRM suggests that it should only take a person 60 minutes to complete the 15 page CDR form but the beneficiary is asked to provide medical records, answer short essay questions, provide info about their medications, list tests they have received and any assistive technology they use, describe any hobbies they pursue, and their activities of daily living. Because most beneficiaries attempt to respond to a CDR without any representation, the increased frequency of reviews could lead some to lose their benefits if they fail to respond properly to all that is requested. The NPRM and supporting documentation can be found [here](#). Comments are due by January 31, 2020.

VA NOW PROCESSING BWN CLAIMS

On January 1, VA began deciding Agent Orange exposure claims for "Blue Water Navy" (BWN) veterans who served offshore of the Republic of Vietnam between January 9, 1962, and May 7, 1975. Veterans who served as far as 12 nautical miles from the shore of Vietnam, or who had service in the Korean Demilitarized Zone, are presumed to have been exposed to herbicides, such as Agent Orange, and may be entitled to service connection for any of the [14 conditions](#) related to herbicide exposure.

Veterans, widows, and children who meet specific criteria, are now able to file their claim, have their claim decided, renew their claims, or add information to their claims. Survivors of veterans who meet the criteria who died due to a presumptive-related illness, may file claims as well. Because of the lethality of some of the presumptives, veterans age 85 or older will receive priority processing. For more information, you can contact your PVA Service Officer, visit this [VA website](#), or call VA at 1-800-749-8387.

NEWS ITEMS OF NOTE

- ANNUAL BUDGET REQUEST FOR FISCAL YEAR 2021

The President traditionally outlines his budget priorities in the annual State of the Union Address but the Budget and Accounting Act of 1921 (P.L. 67-13) requires him to submit his formal budget request to Congress by the first Monday in February. PVA has learned

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that the Administration intends to submit its Fiscal Year 2021 budget request to Congress on February 10, 2020. It's unclear if VA's nearly 20-year streak of funding increases will continue but we do know that defense spending is expected to remain about the same as current levels.

- MORAN NAMED SVAC CHAIR

As predicted, Senator Jerry Moran (R-KS) is the new chairman of the Senate Veterans' Affairs Committee (SVAC). Senators [confirmed](#) him for the new role on January 7th, and he replaces Senator Johnny Isakson (R-GA) who left Congress at the end of 2019 due to advancing health issues. PVA Executive Director Carl Blake [issued a statement](#) in response to Moran's being named to the post.

- DoD EXPANDS RETAIL & MWR PRIVILEGES TO ELIGIBLE VETERANS AND CAREGIVERS

On January 1, the Department of Defense (DoD) began allowing eligible veterans and caregivers access to base commissaries, military service exchange, and Morale, Welfare and Recreation (MWR) activities. Before entering the base, all newly eligible veterans, their caregivers and any guests age 18 or older traveling with them must stop at the visitor control center to verify their identify, establish the purpose for the visit, and undergo a basic on-the-spot background check. Answers to the 10 most frequently asked questions about the expanded benefit can be found [here](#), including who is eligible, the types of identification required to enter the base, and a list of what kinds of MWR activities can be used (e.g., golf courses and campgrounds). As a reminder, all honorably discharged veterans have access to tax-free shopping through DoD's [Online Exchange](#) and VA's [Veterans Canteen Service](#).

- VA HOME LOANS NOW EASIER TO USE

VA's home county loan limits were eliminated as part of the [Blue Water Navy Vietnam Veterans Act](#) for veterans and service members with full entitlement. Historically, VA could only guarantee home loans up to the county conforming loan limits as determined by the Federal Housing Finance Agency. These loan limits reflect the changes in average U.S. home prices at the county level. Now, first-time homebuyers, or homebuyers who have sold their home and have full benefit entitlement available, will no longer have to worry about loan limits or down payment requirements when purchasing, refinancing, or constructing a new home. You can learn more about this change and even view examples of how the new formula works by clicking [here](#).

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UPCOMING EVENTS

- Webinar Reminder—On January 16, 2020, at 2:00 p.m. ET, please join us for “Preparing for PVA's 2020 Advocacy/Legislation Seminar Part I: Event Logistics.” Register in advance for this webinar by clicking [here](#).
- PVA Chapters and members are invited to join VA's Under Secretary for Benefits, Paul R. Lawrence, Ph.D., for his next live webcast on Thursday, January 30th, at 2:00 p.m. ET. Dr. Lawrence will provide an update about the Veterans Benefits Administration's performance to include its accomplishments and challenges for the first quarter of Fiscal Year 2020. Click [here](#) to register for this event.
- Registration for the 2020 National ADA Symposium is now open. This annual event will be held May 10-13, 2020, in Kansas City, Missouri. Early registration is available for those who register by March 6th. Click [here](#) to register for this conference.