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Agencies in this issue—

Detailed list of Contents appears inside.

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[Revised as of January 1, 1966]

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Contents

(*Continued on next page*)

List of CFR Parts Affected

(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1966, and specifies how they are affected.

5 CFR

213 6769

14 CFR

39 (2 documents) 6790
71 (2 documents) 6791

19 CFR

10 6769

21 CFR

PROPOSED RULES:
51 6792

29 CFR

548 6769
800 6770

38 CFR

2 6770
21 6771

46 CFR

PROPOSED RULES:
510 6792

47 CFR

PROPOSED RULES:
73 6792

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

General Service Administration

Section 213.3337 is amended to show that three positions of Confidential Assistant to the Administrator and one position of Confidential Assistant to the Deputy Administrator are no longer excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, paragraph (a) of § 213.3337 is amended by revoking subparagraph (4) and amending subparagraph (9) as set out below.

§ 213.3337 General Services Administration.

(a) *Office of the Administrator.* * * *

(4) [Revoked]

* * * * *

(9) One Confidential Assistant to the Deputy Administrator.

* * * * *

(R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633; E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] MARY V. WENZEL,
Executive Assistant to the Commissioners.

[F.R. Doc. 66–4986; Filed, May 5, 1966; 8:50 a.m.]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 66–93]

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

Customs Forms Abolished

Customs Form 3745, "Affidavit of Use of Bonded Salt in Curing Fish on Vessels," customs Form 3751, "Affidavit of Principal on Withdrawal Bond as to Salt Withdrawn From Warehouse and Used in Curing Fish," and customs Form 3753, "Affidavit of Two Persons Actually Employed in Curing Fish on Shore as to the Quantity of Salt Used for That Purpose," have been abolished.

Although this action was taken on the basis of our conclusion that the regulation which prescribed the forms (§ 10.82, Customs Regulations) was sufficiently detailed so that separate forms were not necessary, the amendment required to delete reference to the forms from the regulations was inadvertently not made. In order that that omission may be corrected, § 10.82(a) of the Customs Regulations is amended as follows:

Subparagraph (1) is amended by substituting "A" for "The" before "certificate", and by deleting ", customs Form 3751," so that that subparagraph will read as follows:

(1) A certificate of the person making the withdrawal that the salt has been actually used in curing fish taken by vessels of the United States licensed to engage in the fisheries or in curing fish on the shores of navigable waters of the United States, giving the names of the vessels, tonnage, names of masters, the approximate quantity of fish cured thereby, and the locality in the district where cured if cured on shore;

Subparagraph (2) is amended by substituting "A" for "The" before "certificate", and by deleting ", customs Form 3745," so that that subparagraph will read as follows:

(2) A certificate of the master and of at least one other person employed on board any vessel during any voyage on which it is claimed that any part of the salt so withdrawn for curing fish was used, that the salt delivered to the vessel by the person making the withdrawal was actually used in curing fish taken by such vessel; and

Subparagraph (3) is amended by deleting ", customs Form 3753," so that that subparagraph will read as follows:

(3) The certificates of at least two persons actually employed in curing fish on shore (if two or more were so employed) if any part of such salt was so used, stating the quantity of salt used in curing fish on shore and where cured, that it was used in curing fish taken by American fishermen, and the approximate quantity of fish cured.

Section 10.82(b) is amended by substituting "a" for "the" before "certificate" and by deleting ", customs Form 3751," so that that subparagraph will read as follows:

(b) If the person making the withdrawal is actually employed in curing the fish on shore, a certificate of one other person so employed will be sufficient.

(Sec. 313 (e), (i), 46 Stat. 694, as amended; 19 U.S.C. 1313 (e), (i))

[SEAL] LESTER D. JOHNSON,
Commissioner of Customs.

Approved: April 28, 1966.

TRUE DAVIS,
Assistant Secretary of the Treasury.

[F.R. Doc. 66–4968; Filed, May 5, 1966; 8:48 a.m.]

Title 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

PART 548—AUTHORIZATION OF ESTABLISHED BASIC RATES FOR COMPUTING OVERTIME PAY

Exclusion of Certain Petty Sums

In the March 9, 1966, issue of the FEDERAL REGISTER (31 F.R. 4149), there was published a proposal to amend Part 548 of Title 29 of the Code of Federal Regulations to increase from 30 to 50 cents a week the maximum amount that may be excluded from overtime compensation otherwise required under the Fair Labor Standards Act by reason of certain complex "regular rate" computations.

Interested persons were given 15 days in which to file statements of data, views, or argument in regard to this proposal. None were received. Accordingly, the proposal is hereby adopted effective June 5, 1966, as set forth below.

1. Paragraph (e) of § 548.3 is amended to read as follows:

§ 548.3 Authorized basic rates.

* * * * *

(e) The rate or rates (not less than the rates required by section 6 (a) and (b) of the act) which may be used under the act to compute overtime compensation of the employee but excluding additional payments in cash or in kind which, if included in the computation of overtime under the act, would not increase the total compensation of the employee by more than 50 cents a week on the average for all overtime weeks (in excess of the number of hours applicable under section 7(a) of the act) in the period for which such additional payments are made.

* * * * *

2. Section 548.305 is amended to read as follows:

§ 548.305 Excluding certain additions to wages.

(a) Section 548.3(e) authorizes as established basic rates: "The rate or rates (not less than the rates required by section 6 (a) and (b) of the act) which may be used under the act to compute overtime compensation of the employee but excluding additional payments in cash or in kind which, if included in the computation of overtime under the act, would not increase the total compensation of the employee by more than 50 cents a week on the average for all overtime weeks (in excess of the number of hours applicable under section 7(a) of the act) in the period for which such additional payments are made."

(b) Section 548.3(e) permits the employer, upon agreement or understanding with the employee, to omit from the computation of overtime certain incidental payments which have a trivial effect on the overtime compensation due. Examples of payments which may be excluded are: modest housing, bonuses or prizes of various sorts, tuition paid by the employer for the employee's attendance at a school, and cash payments or merchandise awards for soliciting or obtaining new business. It may also include such things as payment by the employer of the employee's social security tax.

(c) The exclusion of one or more additional payments under § 548.3(e) must not affect the overtime compensation of the employee by more than 50 cents a week on the average for the overtime weeks.

Example. An employee, who normally would come within the 40-hour provision of section 7(a) of the act, is paid a cost-of-living bonus of $260 each calendar quarter, or $20 per week. The employee works overtime in only 2 weeks in the 13-week period, and in each of these overtime weeks he works 50 hours. He is therefore entitled to $2 as overtime compensation on the bonus for each week in which overtime was worked (i.e., $20 bonus divided by 50 hours equals 40 cents an hour; 10 overtime hours, times one-half, times 40 cents an hour, equals $2 per week). Since the overtime on the bonus is more than 50 cents on the average for the 2 overtime weeks, this cost-of-living bonus would not be excluded from the overtime computation under section 548.3(e).

(d) It is not always necessary to make elaborate computations to determine whether the effect of the exclusion of a bonus or other incidental payment on the employee's total compensation will exceed 50 cents a week on the average. Frequently the addition to regular wages is so small or the number of overtime hours is so limited that under any conceivable circumstances exclusion of the additional payments from the rate used to compute the employee's overtime compensation would not affect the employee's total earnings by more than 50 cents a week. The determination that this is so may be made by inspection of the payroll records or knowledge of the normal working hours.

Example. An employer has a policy of giving employees who have a perfect attendance record during a 4-week period a bonus of $10. The employee never works more than 50 hours a week. It is obvious that exclusion of this attendance bonus from the rate of pay used to compute overtime compensation could not affect the employee's total earnings by more than 50 cents a week.[14]

(e) There are many situations in which the employer and employee cannot predict with any degree of certainty the amount of bonus to be paid at the end of the bonus period. They may not be able to anticipate with any degree of certainty the number of hours an employee might work each week during the bonus period. In such situations the employer and employee may agree prior to the performance of the work that a bonus will be disregarded in the computation of overtime pay if the employee's total earnings are not affected by more than 50 cents a week on the average for all overtime weeks during the bonus period. If it turns out at the end of the bonus period that the effect on the employee's total compensation would exceed 50 cents a week on the average, then additional overtime compensation must be paid on the bonus. (See § 778.209 of this chapter, for an explanation of how to compute overtime on the bonus.)

(f) In order to determine whether the exclusion of a bonus or other incidental payment would affect the total compensation of the employee by not more than 50 cents a week on the average, a comparison is made between his total compensation computed under the employment agreement and his total compensation computed in accordance with the applicable overtime provisions of the act.

Example. An employee, who normally would come within the 40-hour provision of section 7(a) of the act, is paid at piece rates and at one and one-half times the applicable piece rates for work performed during hours in excess of 40 in the workweek. The employee is also paid a bonus, which when apportioned over the bonus period, amounts to $2 a week. He never works more than 50 hours a week. The piece rates could be established as basic rates under the employment agreement and no additional overtime compensation paid on the bonus. The employee's total compensation computed in accordance with the applicable overtime provision of the act, section 7(f)(1),[15] would be affected by not more than 20 cents in any week by not paying overtime compensation on the bonus.[16]

(g) Section 548.3(e) is not applicable to employees employed at subminimum wage rates under learner certificates, or special certificates for handicapped workers, or in the case of employees in Puerto Rico or the Virgin Islands employed at special minimum rates authorized by wage orders issued pursuant to the act.

(Sec. 7, 52 Stat. 1063, as amended; 29 U.S.C. 207)

Signed at Washington, D.C., this 2d day of May 1966.

CLARENCE T. LUNDQUIST,
Administrator.

[F.R. Doc. 66-4984; Filed, May 5, 1966; 8:50 a.m.]

PART 800—EQUAL PAY FOR EQUAL WORK UNDER FAIR LABOR STANDARDS ACT

Equality and Inequality of Pay in Particular Situations; Commissions

Pursuant to the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.), Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004), and General Order No. 45–A of the Secretary of Labor (15 F.R. 3290), I hereby amend paragraph (e) of § 800.116 of Part 800 of Title 29 of the Code of Federal Regulations to read as set forth below.

The provisions of section 4 of the Administrative Procedure Act (5 U.S.C. 1003) which require notice of proposed rule making, opportunity for public participation, and delay of effective date are not applicable because 29 CFR Part 800 consists only of interpretative rules. I do not believe such procedures will serve a useful purpose here. Accordingly, the amendment shall become effective immediately.

As amended 29 CFR 800.116(e) reads as follows:

§ 800.116 Equality and inequality of pay in particular situations.

* * * * *

(e) *Commissions.* The establishment of different rates of commission on different types of merchandise would not result in a violation of the equal pay provisions where the factor of sex provides no part of the basis for the differential. For example, suppose that a retail store maintains two shoe departments, each having employees of both sexes, that the shoes carried in the two departments differ in style, quality, and price, and that the male and female sales clerks in the one department are performing "equal work" with those in the other. In such a situation, a prohibited differential would not result from payment of a lower commission rate in the department where a lower price line with a lower markup is sold than in the other department where the merchandise is higher priced and has a higher markup, if the employer can show that the commission rates paid in each department are applied equally to the employees of both sexes in the establishment for all employment in that department and that the factor of sex has played no part in the setting of the different commission rates.

(52 Stat. 1060, as amended; 77 Stat. 56; 29 U.S.C. 201 et seq.)

Signed at Washington, D.C., this 2d day of May 1966.

CLARENCE T. LUNDQUIST,
Administrator.

[F.R. Doc. 66-4985; Filed, May 5, 1966; 8:50 a.m.]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans' Administration

PART 2—DELEGATIONS OF AUTHORITY

Chief Benefits Director, et al.

In Part 2, §§ 2.78, 2.79, 2.80, 2.81, and 2.82 are revised to read as follows:

[14] For a 50-hour week, an employee's bonus would have to amount to $5 a week to affect his overtime compensation by 50 cents.

[15] Section 7(f)(1) of the act provides that overtime compensation may be paid at one and one-half times the applicable piece rate but extra overtime compensation must be properly computed and paid on additional pay required to be included in computing the regular rate.

[16] Bonus of $2 divided by 50 hours equals 4 cents an hour. Half of this hourly rate multiplied by 10 overtime hours equals 20 cents.

§ 2.78 Except as otherwise provided, Chief Benefits Director and supervisory or adjudicative personnel within jurisdiction of Compensation, Pension and Education Service designated by him delegated authority to make findings and decisions under 38 U.S.C. Chapters 34, 35, and 36 and applicable regulations, precedents and instructions, as to programs of education or special restorative training.

This delegation of authority is identical to § 21.4001(a) of this chapter.

§ 2.79 Chief Benefits Director delegated authority to enter into agreements for reimbursment of State approving agencies under § 21.4153 of this chapter.

This delegation of authority is identical to § 21.4001(b) of this chapter.

§ 2.80 Director, Compensation, Pension and Education Service delegated authority to waive penalties for conflicting interests under § 21.4005 of this chapter.

This delegation of authority is identical to § 21.4001(c)(1) of this chapter.

§ 2.81 Director, Compensation, Pension, and Education Service delegated authority to exercise the functions otherwise required of State approving agencies, under § 21.4150(c) of this chapter.

This delegation of authority is identical to § 21.4001(c)(2) of this chapter.

§ 2.82 Director, Compensation, Pension, and Education Service delegated authority to approve courses under § 21.4250(c) of this chapter.

This delegation of authority is identical to § 21.4001(c)(3) of this chapter.

By direction of the Administrator.

[SEAL] A. H. MONK,
Acting Deputy Administrator.

[F.R. Doc. 66-4907; Filed, May 5, 1966; 8:45 a.m.]

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Miscellaneous Amendments

1. In § 21.20(c), subparagraph (1) is amended to read as follows:

§ 21.20 Vocational rehabilitation.

* * * * *

(c) *Training in a foreign country.* (1) Vocational rehabilitation may not be afforded to a veteran outside of a State (see § 3.1(i) of this chapter) based on post-World War II service if the veteran was not a citizen of the United States when he rendered such service (38 U.S.C. 1502(c)).

* * * * *

2. Sections 21.21 and 21.22 are revised to read as follows:

§ 21.21 Nonduplication; 38 U.S.C. chapters 31, 34, and 35.

A person who is eligible for vocational rehabilitation training under chapter 31 and is also eligible for educational assistance under chapters 34 or 35 must elect which benefit he will receive. The election is subject to the restrictions specified in § 21.4022 (38 U.S.C. 1661(d), 1711(c)).

§ 21.22 Nonduplication; Federal programs.

Neither vocational rehabilitation training nor subsistence allowance may be authorized for any period during which the veteran is enrolled in and pursuing a course of education or training under a Federal program which is subject to the restrictions contained in § 21.4025.

3. In § 21.131, the introductory portion preceding paragraph (a) is amended to read as follows:

§ 21.131 Commencing dates.

The commencing date of an award or increased award of subsistence allowance will be determined under this section, but will not be authorized for any period prior to the earliest date for which disability compensation is payable, or would be payable except for the receipt of retirement pay.

* * * * *

4. Section 21.136 is revised to read as follows:

§ 21.136 Two-veteran cases; dependents.

The payment of additional subsistence allowance under § 21.133 to a veteran for a wife who is also a veteran and for a child will not bar the payment of additional subsistence allowance or educational assistance allowance under § 21.4136 to the wife for her husband and the same child. The husband of a female veteran may be considered a dependent only if he meets the requirements of § 3.51(a) of this chapter.

5. In § 21.224, paragraph (b) is amended to read as follows:

§ 21.224 Effective date of induction into training.

* * * * *

(b) A veteran, however, may be inducted into vocational rehabilitation training retroactively when the facts, equities, and demonstrated good faith on the part of the veteran justify such action.

6. In Part 21, a new Subpart B is added to read as follows:

Subpart B—Veterans' Educational Assistance Under 38 U.S.C. Chapter 34

GENERAL

Sec.
21.1020 Educational assistance.
21.1021 Definitions.
21.1022 Nonduplication; 38 U.S.C. chapters 31, 34, and 35.
21.1025 Nonduplication; Federal programs.

CLAIMS

21.1030 Claims.
21.1031 Informal claims.
21.1032 Time limits.

ELIGIBILITY AND ENTITLEMENT

21.1040 Basic eligibility.
21.1041 Periods of entitlement.
21.1042 Ending dates of eligibility.
21.1045 Entitlement charges.

AUTHORITY: The provisions of this Subpart B issued under 72 Stat. 1114, 80 Stat. 12; 38 U.S.C. 210, chapter 34.

GENERAL

§ 21.1020 Educational assistance.

(a) *General.* A program of education may be authorized for a veteran whose service meets the requirements of § 21.1041.

(b) *36 months limitation.* Educational assistance may not exceed a period of 36 months, or the equivalent in part-time training, except as specified in § 21.1041.

(c) *Training in a foreign country.* A course to be pursued at a school not located in a State may not be approved except under the circumstances outlined in § 21.4260.

§ 21.1021 Definitions.

(a) "Eligible veteran" or "veteran" means a veteran whose service meets the requirements of § 21.1040. Unless otherwise specifically identified the terms include a person on active duty who has basic eligibility for educational assistance under the provisions of § 21.1040(e).

(b) "Active duty" means active duty as defined in § 3.6(b)(1) of this chapter (38 U.S.C. 1652(a); 1682(b)). See §§ 21.1040, 21.1042, and 21.4136.

(c) "State" means each of the several States, Territories, and possessions of the United States, the District of Columbia, the Commonwealth of Puerto Rico and the Canal Zone (38 U.S.C. 101(20); Pub. Law 89-358).

§ 21.1022 Nonduplication; 38 U.S.C. chapters 31, 34, and 35.

A person who is eligible for educational assistance under chapter 34 and is also eligible for vocational rehabilitation under chapter 31 or educational assistance under chapter 35 must elect which benefit he will receive. The election is subject to the restrictions specified in § 21.4022.

§ 21.1025 Nonduplication; Federal programs.

Educational assistance is subject to the restrictions contained in § 21.4025 with respect to a veteran who is pursuing a course of education or training under a Federal program (38 U.S.C. 1781).

CLAIMS

§ 21.1030 Claims.

A specific claim in the form prescribed by the Administrator must be filed by the veteran in order for an educational assistance allowance to be paid (38 U.S.C. 1671).

§ 21.1031 Informal claims.

(a) Any communication from a veteran, an authorized representative or a Member of Congress indicating an intent to apply for educational assistance may be considered an informal claim. Upon receipt of an informal claim, if a formal claim has not been filed, an application form will be sent to the veteran for execution. If received within 1 year after the date it was sent to the veteran, it will be considered filed as of the date of receipt of the informal claim.

(b) The act of enrolling in an approved school does not in itself constitute an informal application.

§ 21.1032 Time limits.

The provisions of this section are applicable to original applications, formal or informal, and to applications for increased educational assistance allowance by reason of the existence of a dependent.

(a) *Completion of claim.* Where evidence requested in connection with a claim is not furnished within 1 year after the date of request, or the veteran for other than a reason determined by the Veterans Administration to have been beyond his control, fails to report for a required scheduled counseling appointment within 1 year after the scheduled date, the claim will be considered abandoned. After the expiration of 1 year, further action will not be taken unless a new claim is received.

(b) *New claim.* Where an application has been considered abandoned, any subsequent communication which meets the requirements of an informal claim will be considered a new application. The date of receipt of such later communication will be considered the date of application. Where counseling was required, educational assistance allowance may not be paid for any period prior to the date the veteran reports for counseling.

(c) *Failure to furnish claim or notice of time limit.* Failure to furnish any form or information concerning the right to file claim or to furnish notice of the time limit for the filing of claim or for the completion of any action required will not extend the periods allowed for these actions. As to appeals, see § 19.110 of this chapter.

CROSS REFERENCES: *Notice to claimants.* See § 3.103 of this chapter.
Computation of time limit. See § 3.110 or this chapter.

ELIGIBILITY AND ENTITLEMENT

§ 21.1040 Basic eligibility.

Basic eligibility for educational assistance to subject to the following requirements:

(a) *Service.* The veteran must have served on active duty for a continuous period of 181 days or more, any part of which occurred on or after February 1, 1955, or if he served for less than 181 days, must have been discharged or released on or after February 1, 1955, because of service-connected disability. Travel time which meets the requirements of § 3.6(b)(6) of this chapter may be included.

(b) *Periods excluded.* In computing the 181 days service, there will be excluded any period during which he:

(1) Was assigned full time by the service department to a civilian school for a course of education which was substantially the same as established courses offered to civilians;

(2) Served as a cadet or midshipman at one of the service academies;

(3) Served under the provisions of 10 U.S.C. 511(d) in an enlistment in the Army National Guard or the Air National Guard, or as a reservist in the Army, Navy, Air Force, Marine Corps, or Coast Guard Reserve; or

(4) Is not entitled to credit for service for the periods of time specified in § 3.15 of this chapter.

(c) *Periods excluded; Korean conflict veterans.* Where a veteran has received education or training under the Veterans' Readjustment Assistance Act of 1952, Title II, or 38 U.S.C. chapter 33 (as in effect before Feb. 1, 1965) as a Korean conflict veteran based on service which extended beyond January 31, 1955, the months of service after January 31, 1955, which were previously used to establish eligibility for the education or training received will be excluded in determining eligibility credits for educational assistance under chapter 34.

(d) *Discharge or release.* The veteran must have received an unconditional discharge or release under conditions other than dishonorable from the period of service on which eligibility is predicated. A discharge or release will be considered unconditional if the veteran was eligible for complete separation from active duty on the date the discharge was issued. The provisions of § 3.12 of this chapter as to character of discharge and § 3.13 of this chapter as to conditional discharges are applicable.

(e) *Persons on active duty.* Educational assistance may be afforded a person while on active duty if he:

(1) Meets the requirements applicable to a discharged veteran under paragraphs (a), (b), and (d) of this section, or

(2) Has served a total of 2 or more years (730 days or more) on active duty, any part of which occurred on or after February 1, 1955, excluding periods of time specified in § 3.15 of this chapter. Educational assistance otherwise payable may be provided under this subparagraph so long as he continues on active duty.

(38 U.S.C. 1652, Pub. Law 89-358)

CROSS REFERENCES: *Duty periods.* See § 3.6(b) of this chapter.
Persons included. See § 3.7 of this chapter.

§ 21.1041 Periods of entitlement.

(a) *General.* (1) A veteran or a person on active duty who meets the requirements of § 21.1040 will be eligible for full-time educational assistance for a period computed on the basis of 1 month (or the equivalent in part-time educational assistance) for each month or fraction of month of service on active duty on or after February 1, 1955, but not in excess of 36 months. There will be excluded from the period of entitlement the periods specified in § 21.1040 (b) and (c).

(2) The veteran may use his entitlement at any time during the 8-year period determined under § 21.1042. It is not required that the entitlement time will be used in consecutive months.

(b) *Prior Veterans Administration training.* The period of entitlement for educational assistance when added to education or training received under any or all of the following laws, will not exceed 36 months of full-time educational assistance, except where an extension is authorized under paragraph (d) of this section. A reduction in the period of entitlement by reason of prior training will be computed as provided in paragraph (c) of this section.

(1) Veterans Regulation No. 1(a), Parts VII or VIII;

(2) Veterans' Readjustment Assistance Act of 1952, Title II;

(3) War Orphans' Educational Assistance Act of 1956;

(4) Title 38, United States Code, chapters 31, 33 (as in effect before February 1, 1965), or 35.

(c) *Reduction for prior Veterans Administration training.* Where the period of entitlement is subject to reduction by reason of prior training the period remaining after subtracting the period of prior training will be converted to months and quarter fractions of a month. Periods of less than a month will be converted to quarter fractions as follows:

1 to 7 days, inclusive—one-fourth month.
8 to 15 days, inclusive—one-half month.
16 to 23 days, inclusive—three-fourth month.
24 to 31 days, inclusive—full month.

(d) *Extension.* The period of entitlement, including the 36 months period, may be extended, but not beyond the 8-year delimiting date specified in § 21.1042:

(1) To the end of a term, quarter, or semester in a school regularly operated on a term, quarter or semester system, when the period of entitlement ends during the term, quarter or semester.

(2) To the end of the course or for 12 weeks, whichever is less, in all other schools, when the period of entitlement ends after more than half of the course has been completed.

(38 U.S.C. 1661; Pub. Law 89-358)

§ 21.1042 Ending dates of eligibility.

The ending date of eligibility will be the latest of the following dates:

(a) *General.* No educational assistance will be afforded a veteran later than 8 years after his last discharge or release from active duty after January 31, 1955.

(b) *Correction of military records.* If the veteran became eligible for educational assistance as the result of a correction of military records under 10 U.S.C. 1552 or a change, correction, or modification of a discharge or dismissal pursuant to 10 U.S.C. 1553, or other corrective action by competent military authority, educational assistance will not be afforded later than 8 years after the date his discharge or dismissal was changed, corrected or modified.

(c) *Discharge or release before June 1, 1966.* Where eligibility is based on a discharge or release from active duty before June 1, 1966, educational assistance will not be afforded later than May 31, 1974.

(d) *Discontinuance.* If the veteran is pursuing a course on the date of expiration of eligibility as determined under this section, the educational assistance allowance will be discontinued effective

the day preceding the end of the 8-year period.

(38 U.S.C. 1662; Pub. Law 89-358)

§ 21.1045 Entitlement charges.

(a) *General.* Charges against a period of entitlement will be made in terms of full months and fractions of a month for periods during which the veteran is enrolled in an approved course. Where a program of education is pursued on a full-time basis the total elapsed time will be charged. Where a program is pursued on a three-fourths, one-half time or less than half-time basis, a proportionate rate of the elapsed time will be charged. Where the computation results in a period of time other than a full month, or exactly three-fourths, one-half, or one-fourth fractional part of a month, the figure will be reduced to the next lower quarter.

(b) *Correspondence courses.* A charge against the period of entitlement for a program of education conducted exclusively by correspondence will be made on the basis of one-fourth of the elapsed time during which the course is pursued. The date of commencement for pursuit of a correspondence course will be the date the first lesson is sent to the veteran; the date of discontinuance will be the date the last lesson is serviced by the school (38 U.S.C. 1682 (c)(2)).

(c) *Less than half-time.* A charge against the period of entitlement for a program of education pursued at less than half-time will be made on the basis of one-fourth of the elapsed time during which the course is pursued.

(d) *Active duty.* A charge against the period of entitlement for a program of education pursued by a veteran or serviceman on active duty will be made on the basis of the credit hours for which enrolled or clock hours of attendance. See § 21.4270.

(e) *Elapsed time.* The elapsed time will be computed from commencing date of enrollment to date of discontinuance on the basis of full calendar months and quarter fractions of a month. The fractional months are those periods other than full calendar months at the beginning and end of the enrollment period. These partial months will be converted to fractions of a month, or to full months, in accordance with the following table. No charge will be made for any quarter month in which the full quarter was not utilized.

Commencing date of enrollment sec. 21.4131	Elapsed time	Date of discontinuance sec. 21.4135	Elapsed time
1st day of month.	Full month.		
2d to 7th, inclusive.	¾ month..	1st to 7th day of month, inclusive.	No charge.
8th to 15th, inclusive.	½ month..	8th to 15th, inclusive.	¼ month.
16th to 23d, inclusive.	¼ month..	16th to 23d, inclusive.	½ month.
24th to 31st, inclusive.	No charge.	24th to day before end of month, inclusive.	¾ month.
		Last day of month.	Full month.

§§ 21.3001—21.3009 [Revoked]

7. In Subpart C, §§ 21.3001 through 21.3009 are revoked.

8. In § 21.3020, paragraphs (a) and (c) are amended to read as follows:

§ 21.3020 Educational assistance.

(a) *General.* A program of education or special restorative training may be authorized for a child whose education would otherwise be impeded or interrupted by reason of the disability or death of a parent from a disease or injury incurred or aggravated in the Armed Forces after the beginning of the Spanish-American War (38 U.S.C. 1701 (d)). The requirements of basic eligibility of a child are set forth in § 3.807 of this chapter.

* * * * *

(c) *Courses in foreign countries.* A course to be pursued at a school not located in a State or in the Philippines may not be approved except under the circumstances outlined in § 21.4260.

9. In § 21.3021, paragraphs (a) and (e) are amended to read as follows:

§ 21.3021 Definitions.

(a) "Eligible person" means a son or daughter of a veteran who died of a service-connected disability or has a total disability permanent in nature arising from a service-connected disability or who died while a disability so evaluated was in existence, arising out of active military, naval or air service after April 20, 1898. See §§ 3.6 and 3.807 of this chapter.

* * * * *

(e) "State" means each of the several States, Territories, and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico, and the Canal Zone (38 U.S.C. 101(20)). (Although the Republic of the Philippines is not included in the definition of a State, eligible persons may pursue courses of training in that country.)

10. Section 21.3022 is revised to read as follows:

§ 21.3022 Nonduplication; 38 U.S.C. chapters 31, 34, and 35.

A person who is eligible for educational assistance under 38 U.S.C. chapter 35 and is also eligible for vocational rehabilitation under 38 U.S.C. chapter 31 or educational assistance under chapter 34, must elect which benefit he will receive. The election is subject to the restrictions specified in § 21.4022.

11. In § 21.3023(c), subparagraph (1) is amended to read as follows:

§ 21.3023 Nonduplication; pension, compensation and dependency and indemnity compensation.

* * * * *

(c) *Election.* The commencement of a program of education constitutes an election.

(1) Except as provided in subparagraph (2) of this paragraph, an election is final when the payee has negotiated one check for this benefit.

* * * * *

12. Section 21.3025 is revised to read as follows:

§ 21.3025 Nonduplication; Federal programs.

Educational assistance is subject to the restrictions contained in § 21.4025 with respect to an eligible person who is pursuing a course of education or training under a Federal program (38 U.S.C. 1781)).

13. In § 21.3041, paragraphs (d)(3) and (e) footnotes 1 and 2 are amended to read as follows:

§ 21.3041 Periods of eligibility.

* * * * *

(d) *Modified ending date.* * * *

(3) Date of first unconditional discharge or release from "duty with the Armed Forces" served as an eligible person if he served after age 18 and before age 23. See § 21.3042.

* * * * *

(e) *Extensions to ending dates.* * * *

(2) * * *

[1] "Processing time" means the period of time which elapses between the eligible person's 18th birthday or the date of receipt of the application, whichever is later, and the date on which the Certificate for a Program of Education is signed by an authorized official, or would have been signed except that the expected date of enrollment is more than 60 days in the future.

(3) * * *

[2] Such extension applies, without regard to whether the midpoint of the quarter, semester, or course has been reached, when a son or daughter who, while enrolled, ceases to be an eligible person because the parent from whom eligibility is derived is found to no longer have a "total disability permanent in nature" § 21.4135(o).

14. In § 21.3042, paragraph (a) is amended to read as follows:

§ 21.3042 Service with Armed Forces.

(a) No educational assistance may be provided an otherwise eligible person during any period he is on duty with the Armed Forces. See § 21.3021 (c) and (d). This does not apply to brief periods of active duty for training. See § 21.4135 (n).

* * * * *

15. In § 21.3043, the introductory portion preceding paragraph (a) is amended to read as follows:

§ 21.3043 Suspension of program.

For an eligible person who suspends his program due to conditions determined by the Veterans Administration to have been beyond his control the period of eligibility may, upon his request, be extended by the number of months and days intervening the date the suspension began and the date the reason for suspension ceased to exist. The burden of proof is on the eligible person to establish that suspension of a program was due to conditions beyond his control. The period of suspension shall be considered to have ended as of the date of the person's first available opportunity to resume training after the condition which caused it ceased to exist. The fol-

lowing circumstances may be considered as beyond the eligible person's control:

* * * * *

16. In § 21.3044, paragraph (a) is amended to read as follows:

§ 21.3044 Entitlement.

(a) Each eligible person is entitled to educational assistance for a period not in excess of 36 months, or the equivalent thereof in part-time training. The period of entitlement will be reduced by the full-time equivalent of any period of vocational rehabilitation received by him under 38 U.S.C. chapter 31, or education under chapter 33 or 34. The period of entitlement will not be reduced by any period during which subsistence allowance was paid after determination of employability following vocational rehabilitation. Where the period of entitlement is subject to reduction by reason of prior training the period remaining after subtracting the period of prior training will be converted to months and quarter fractions of a month. Periods of less than a month will be converted by using the table in § 21.1041(c).

* * * * *

17. Section 21.3045 is revised to read as follows:

§ 21.3045 Entitlement charges.

Charges against the period of entitlement of an eligible person pursuing a program of education will be made in accordance with § 21.1045 (a) and (e).

§§ 21.3100—21.3278 [Revoked]

18. Sections 21.3100 through 21.3278 are revoked.

19. In § 21.3302, paragraph (d) is revoked.

§ 21.3302 Agreements.

* * * * *

(d) [Revoked]

20. In § 21.3330, paragraphs (a), (b) (2), and (c) are amended to read as follows:

§ 21.3330 Payments.

(a) Payments will be made to the person designated to receive the payments under the provisions of § 21.4139.

(b) * * *

(2) An educational assistance allowance is paid.

(c) The following regulations governing the payment of educational assistance allowance apply to the payment of special restorative training allowance:

(1) Section 21.4140, *Apportionment.*

(2) Section 21.4141, *Offsets; pension, compensation and dependency and indemnity compensation.*

21. Section 21.3331 is revised to read as follows:

§ 21.3331 Commencing dates.

The commencing date of an authorization of a special training allowance will be the date of entrance or reentrance into the prescribed course of special restorative training, or the date the Vocational Rehabilitation Board approved such course for the eligible person, whichever is later. See also § 21.4131.

22. In § 21.3332, paragraph (c) is amended to read as follows:

§ 21.3332 Discontinuance dates.

* * * * *

(c) Date of discontinuance under the applicable provisions of § 21.4135.

23. Section 21.3333 is revised to read as follows:

§ 21.3333 Rates.

(a) *Rates.* Special training allowance is payable at the following monthly rate.

Course	Monthly rate	Accelerated charges
Special restorative training.	$130	If costs for tuition and fees average in excess of $41 per month, rate may be increased by such amount in excess of $41.

(b) *Accelerated charges.* The additional monthly rate may be paid if the parent or guardian concurs in having the eligible person's period of entitlement reduced by 1 day for each $4.25 that the special training allowance exceeds the basic monthly rate of $130. Fractions of more than one-half day will be charged as 1 day; fractions of one-half or less will be disregarded. Charges will be recorded when the eligible person is entered into training (38 U.S.C. 1742).

24. In Part 21, a new Subpart D is added to read as follows:

Subpart D—Administration of Educational Benefits; 38 U.S.C. Chapters 34, 35, and 36

ADMINISTRATIVE

GENERAL

COUNSELING

PAYMENTS; EDUCATIONAL ASSISTANCE ALLOWANCE

STATE APPROVING AGENCIES

SCHOOLS

PROGRAMS OF EDUCATION

COURSES

ASSESSMENT AND PURSUIT OF COURSE

AUTHORITY: The provisions of this Subpart D issued under 72 Stat. 1114; 38 U.S.C. 210.

Subpart D—Administration of Educational Benefits; 38 U.S.C. Chapters 34, 35, and 36

ADMINISTRATIVE

§ 21.4001 Delegations of authority.

(a) Except as otherwise provided, authority is delegated to the Chief Benefits Director and to supervisory or adjudicative personnel within the jurisdiction of the Compensation, Pension, and Education Service designated by him to make findings and decisions under 38 U.S.C. chapters 34, 35, and 36 and the applicable regulations, precedents, and instructions, as to programs of education or special restorative training.

(b) Authority is delegated to the Chief Benefits Director to enter into agreements for reimbursement of State approving agencies under § 21.4153.

(c) Authority is delegated to the Director, Compensation, Pension, and Education Service to exercise the functions required of the Administrator for:

(1) Waiver of penalties for conflicting interests under § 21.4005;

(2) Actions otherwise required of State approving agencies, under § 21.4150(c);

(3) Approval of courses under § 21.4250(c).

§ 21.4002 Finality of decisions.

(a) The decision of a duly constituted agency of original jurisdiction on which an action was predicated will be final and binding upon all field offices of the Veterans Administration as to conclusions based on evidence on file at that time and will not be subject to revision on the same factual basis except by duly constituted appellate authorities or except as provided in § 21.4003. (See §§ 19.153 and 19.154 of this chapter.)

(b) Current determinations of line of duty, character of discharge, relationship, and other pertinent elements of eligibility for a program of education or special restorative training, made by either an adjudicative activity or an insurance activity by application of the same criteria and based on the same facts are binding one upon the other in the absence of clear and unmistakable error.

§ 21.4003 Revision of decisions.

The revision of a decision on which an action was predicated will be subject to the following sections:

(a) Clear and unmistakable error, § 3.105(a) of this chapter;

(b) Difference of opinion, § 3.105(b) of this chapter;

(c) Character of discharge, § 3.105(c) of this chapter;

(d) Severance of service connection, § 3.105(d) of this chapter;

(e) Veteran no longer totally and permanently disabled, § 21.4135(o).

§ 21.4005 Conflicting interests.

(a) *General.* (1) Every officer or employee of the Veterans Administration who has, while such an officer or employee, owned any interest in, or received any wages, salary dividends, profits, gratuities, or services from, any school operated for profit in which a veteran or eligible person was pursuing a course of education under 38 U.S.C. chapter 34 or 35 will be immediately dismissed from his office or employment.

(2) If the Administrator finds that any person who is an officer or employee of a State approving agency has, while he was such an officer or employee, owned any interest in, or received any wages, salary, dividends, profits, gratuities, or services from, a school operated for profit in which a veteran or eligible person was pursuing a course of education or training under chapter 34 or 35, payments under § 21.4153 to such State approving agency will be discontinued unless such agency takes, without delay, such steps as may be necessary to terminate the employment of such person and payments will not be resumed while such person is an officer or employee of the State approving agency, or State Department of Veterans' Affairs or State Department of Education.

(3) A State approving agency will not approve any course offered by a school operated for profit and, if any such course has been approved, will disapprove each such course, if it finds that any officer or employee of the Veterans Administration, or the State approving agency owns an interest in, or receives any wages, salary, dividends, profits, gratuities, or service from, such school.

(4) The Administrator may, after reasonable notice, and public hearings if requested, waive in writing the application of this paragraph in the case of any officer or employee of the Veterans Administration or of a State approving agency, if it is found that no detriment will result to the United States or to veterans or eligible persons by reason of such interest or connection of such officer or employee (38 U.S.C. 1783).

(b) *Waiver.* Where a request is made for waiver of application of paragraph (a)(1) of this section, it will be considered that no detriment will result to the United States or to veterans or eligible persons by reason of such interest or connection of such officer or employee, if the officer or employee:

(1) Acquired his interest in the school by operation of law, or before the statute became applicable to the officer or employee, and his interest has been disposed of and his connection discontinued, or

(2) Meets all of the following conditions:

(i) His position involves no policy determinations, at any administrative level, having to do with matters pertaining to payment of educational assistance allowance, or special training allowance.

(ii) His position has no relationship with the processing of any veteran's or eligible person's application for education or training.

(iii) His position precludes him from taking any adjudicative action on individual applications for education or training.

(iv) His position does not require him to perform duties involved in the investigation of irregular actions on the part of schools or veterans or eligible persons in connection with 38 U.S.C. chapters 34 and 35.

(v) His position is not connected with the processing of claims by, or payments to, schools, or students enrolled therein under the provisions of 38 U.S.C. chapters 34 and 35.

(vi) His work is not connected in any way with the inspection, approval, or supervision of schools desiring to train veterans or eligible persons.

(c) *Authority.* (1) Authority is delegated to the Director, Compensation, Pension, and Education Service and to the field station head in cases of Veterans Administration employees under his jurisdiction, to waive the application of paragraph (a)(1) of this section in the case of any Veterans Administration employee who meets the criteria of paragraph (b) of this section and to deny requests for waiver which do not meet such criteria. If the circumstances warrant, the request may be submitted to the Administrator for decision.

(2) Authority is reserved to the Administrator to waive the requirement of paragraph (a)(1) of this section in the case of an officer of the Veterans Administration, and in the case of any employee who does not meet all of the criteria of paragraph (b) of this section.

(d) *Disapproval of courses.* Where it is found that an officer or employee of the Veterans Administration has any interest in, or receives any wages, salary, dividends, profits, gratuities, or services from any such school, and waiver has not been granted, the State approving agency and the school will be notified immediately that the courses offered by the school shall be disapproved, the reason for disapproval, and the conditions under which the disapproval may be lifted.

(e) *Notice to veterans and eligible persons.* The veteran or eligible person will be notified in writing sent to his latest address of record when:

(1) The course or courses are disapproved by the State approving agency, or

(2) The State approving agency fails to disapprove the course or courses within 15 days after the date of written notice to the agency, and no waiver has been requested, or

(3) Waiver has been denied.

The veteran or eligible person will be informed that he may apply for enrollment in an approved course in another school, but that in the absence of such transfer, educational assistance allowance payments will be discontinued effective the date of discontinuance of the course, or the 30th day following the date of such letter, whichever is earlier.

§ 21.4006 False or misleading statements.

(a) Except as provided in this section, payments may not be authorized based on a claim where it is found that the school or any person has willfully submitted a false or misleading claim, or that the veteran or eligible person with the complicity of the school or other person has submitted such a claim. A complete report of the facts will be made to the State approving agency, and if in order to the Attorney General of the United States (38 U.S.C. 1787).

(1) Where it is determined prior to payment that a certification or claim is false or misleading, payment will be authorized for only that portion of the claim to which entitlement is established on the basis of other evidence of record.

(2) Where the falsity of a certification or claim is discovered after payment has been released an overpayment will be set up for only that portion of the claim to which the claimant was not entitled.

(b) A determination that false or misleading statements have been made will not constitute a bar to payments based on further training, if the requirements

of § 21.4008(b) as to waiver or recovery of any overpayment have been satisfied.

(c) The provisions of this section are not for application where forfeiture of all rights has been or may be declared under the provisions of § 21.4007.

§ 21.4007 Forfeiture.

The rights of a veteran or eligible person to receive educational assistance allowance or special training allowance are subject to forfeiture under the provisions of §§ 19.1, 19.2, and 19.3 of this chapter (38 U.S.C. 3503, 3504, and 3505).

§ 21.4008 Overpayments.

(a) *Denial of further benefits.* Where an overpayment of educational assistance or special training allowance or other gratuitous benefit has been made to or on behalf of a veteran or eligible person, no further payments of educational assistance allowance or special training allowance will be made to the veteran or eligible person until the overpayment has been collected or arrangements have been made for repayment, unless recovery has been waived.

(b) *Benefits following recovery or waiver.* Where a veteran or eligible person has been denied entrance or reentrance under this section and subsequently liquidates or makes arrangements to liquidate the outstanding overpayment, or the overpayment has been waived, the effective date of entrance or reentrance will be determined under § 21.4131 or as to eligible persons in special restorative training, under § 21.3331.

(c) *Prevention of overpayments.* Where there is a question on whether approval of a course should be withdrawn, and it appears that overpayments may exist or be created, further payments to veterans or eligible persons enrolled in the school may be withheld pending resolution of the question. See § 21.4134.

§ 21.4009 Overpayments; waiver or recovery.

(a) *General.* The amount of an overpayment of educational assistance allowance or special training allowance on behalf of a veteran or eligible person constitutes a liability of the school if it is determined that the overpayment was made as the result of (1) willful or negligent failure of the school to report, as required by § 21.4204, excessive absences from a course, or discontinuance or interruption of a course by the veteran or eligible person, or (2) false certification by the school. The amount of the overpayment may be recovered from the school in the same manner as any other debt due the United States. Any amount so collected from the school will be reimbursed if the overpayment is recovered from the veteran or eligible person. This provision does not preclude the imposition of any civil or criminal liability under this or any other law (38 U.S.C. 1785).

(b) *False certification.* Liability resulting from a false certification is not contingent upon willfullness or negligence, but simply upon a finding that the overpayment resulted from a certification which was contrary to fact at the time it was made and therefore false.

(c) *Evidence.* A determination will be made whether there is prima facie evidence that an overpayment is the result of a false certification. When the decision is in the affirmative the school will be notified in writing of the Veterans Administration's intent to apply the liability provisions of paragraph (a) of this section. The notice will also state that unless a written request for a hearing is filed within 30 days of the receipt of such notice, a determination of liability will be made on the evidence of record. The case will then be referred to the Committee on Waivers for the field station having jurisdiction where the school is located.

(d) *Committees on Waivers.* If the overpayment amounts to less than $2,500, and jurisdiction is not assumed by Central Office, Chairmen and Section Chairmen, Committees on Waivers in the field stations having jurisdiction over the school are authorized to find:

(1) Whether recovery may be waived as to the veteran or eligible person.

(2) Liability of the school.

(3) Liability of both the school and the veteran or eligible person.

(e) *Extent of liability.* Waiver of collection of an overpayment as to a veteran or eligible person will not relieve the school of liability for the overpayment. Recovery in whole or in part from the veteran or eligible person will limit such liability accordingly. If an overpayment has been recovered from the school and the veteran or eligible person subsequently repays the amount in whole or in part, the amount repaid will be reimbursed to the school.

(f) *Notice to school.* If the school is found liable for an overpayment, the school will be notified of the decision and the right to request an administrative review of the decision within 60 days from the date notice of the decision is mailed to the school. The 60-day time limit may be extended to 90 days at the discretion of the Liability Review Section, Compensation, Pension, and Education Service. The request must be in writing, setting forth fully all of the contentions and errors assigned.

(g) *Liability Review Section.* Administrative review will be conducted by the Liability Review Section, whose decisions will serve as authority for instituting collection proceedings, if appropriate, or to discontinue collection proceedings instituted on the basis of the original decision of the regional Committee on Waivers in any case where the Review Section reverses a finding made by the regional Committee that the school is liable.

(h) *Review and modification.* The Liability Review Section may review and modify its decision upon submission of new and material evidence. The regional Committee will forward such evidence with its recommendation.

CROSS REFERENCE: *Waiver; educational benefits.* See § 3.1908 of this chapter.

GENERAL

§ 21.4022 Nonduplication; 38 U.S.C. chapters 31, 34, and 35.

(a) *Election.* A veteran or eligible person who is eligible for education or training under more than one program under 38 U.S.C. chapters 31, 34, and 35 must elect which benefit he will receive. The election must be in writing, except as provided in paragraph (b) of this section.

(1) If he elects vocational rehabilitation under chapter 31 he will have no further right to benefits under chapter 34 or 35.

(2) If he elects educational assistance under chapter 34 or 35 he will have no further right to vocational rehabilitation, except that such election will not bar him from a course of vocational rehabilitation to overcome a handicap arising out of a period of service subsequent to the election.

(3) If he elects either chapter 34 or 35 benefits he may at any time elect or reelect the other, subject to continuing eligibility.

(b) *Inferred election.* A veteran or an eligible person will be considered to have made his election if he:

(1) Enters or resumes a program of education under chapter 34 or 35, or special restorative training under chapter 35, after he has been notified of potential rights to vocational rehabilitation under chapter 31, or

(2) Continues to pursue a program of education or special restorative training for a period of more than 30 days after such notification without having filed an application for vocational rehabilitation, or

(3) Having filed an application for vocational rehabilitation, continues to pursue a program of education or special restorative training for a period of more than 30 days after the date of notice that he has been found in need of vocational rehabilitation.

(c) *Prior training.* (1) Where a veteran or an eligible person becomes entitled to and elects to receive vocational rehabilitation after having commenced a program of education under chapter 34 or 35, or special restorative training under chapter 35, the program of education or special restorative training previously pursued shall be utilized to the fullest extent practicable in determining the character and duration of vocational rehabilitation to be furnished him (38 U.S.C. 1661(d), 1711(c)).

(2) Where a veteran who is also an eligible person has received educational assistance under chapter 34 or chapter 35, the program of education previously pursued will be utilized to the fullest extent practicable in determining the character and duration of the course for which enrollment may be approved under the other chapter.

§ 21.4025 Nonduplication; Federal programs.

(a) *General.* Neither educational assistance allowance nor special training allowance may be authorized for any

period during which the veteran or eligible person is enrolled in and pursuing a course of education or training paid for by the United States in whole or in part under any other provision of law, where the educational assistance would constitute a duplication of benefits from the Federal Treasury. This includes the receipt of a stipend paid under a grant or fellowship or receipt of a payment as a trainee or student under any program administered by another Federal agency if the stipend or payment is to provide an allowance for living expenses or tuition and is paid from the Federal Treasury to the veteran or eligible person or to his parent or guardian in his behalf (38 U.S.C. 1781).

(b) *Programs barred.* The bar to concurrent payments includes the following:

(1) An Atomic Energy Commission fellowship,

(2) A Public Health Service fellowship,

(3) A National Science Foundation fellowship,

(4) The U.S. Maritime Commission training program,

(5) The Financial Assistance program in the Senior Reserve Officers' Training Corps of the Air Force, Army or Navy (Pub. Law 88–647) (similar to the former regular Navy ROTC program, Holloway Plan),

(6) The program provided under the Universal Military Training and Service Act (Pub. Law 51, 82d Cong.),

(7) The Veterans Administration Career Resident program as a full-time physician of the Veterans Administration Department of Medicine and Surgery,

(8) Tuition assistance paid by a service department to a person on active duty,

(9) A National Defense Education Act fellowship (Pub. Law 85–864, as amended), and

(10) Educational assistance under the Manpower Development and Training Act (Pub. Law 87–415).

(c) *Programs not barred.* Educational assistance allowance or special training allowance is not barred solely because the veteran or eligible person is:

(1) Enrolled in a land-grant college which is receiving Morrill-Nelson and Bankhead-Jones funds,

(2) Enrolled in a vocational training course conducted under the Act of February 23, 1917, as amended or the Vocational Educational Act of 1946 (Pub. Law 586, 79th Cong.),

(3) Enrolled in a school and participating in the 2-year Senior Reserve Officers' Training Corps, or the 4-year Senior ROTC program of the Air Force, Army, or Navy, other than the Financial Assistance program (see par. (b)(5) of this section),

(4) Participating in an on-the-job training program in a governmental establishment, such as a Navy Yard,

(5) Receiving benefits under Public Law 87–256 (Fulbright Act),

(6) Participating in the residency and internship program operated by the Veterans Administration Department of Medicine and Surgery under the provisions of 38 U.S.C. 4114(b) or in the Veterans Administration training program for clinical psychologists, social workers or similar programs and being paid for part-time work, or

(7) Receiving assistance as part of a Work-Study program under the Economic Opportunity Act (Pub. Law 88–452).

COUNSELING

§ 21.4100 Counseling.

(a) The purpose of counseling is to assist in selecting an objective, in developing a suitable program of education or training and in resolving any personal problems which are likely to interfere with successful pursuit of a program.

(b) Counseling not required by Veterans Administration regulations may be provided upon request so long as the counselor determines that it will aid the veteran or eligible person in obtaining maximum benefit from the pursuit of a program of education.

§ 21.4101 Requirement; 38 U.S.C. chapter 34.

(a) Counseling is not required for approval of an initial course selected by a veteran or for a change from such course when conduct and progress are satisfactory.

(b) Except as required by § 21.4106, counseling may be required before a second change of program is approved, or before a change of program or reentrance is approved where an earlier course was discontinued because of unsatisfactory conduct or progress. See § 21.4277.

§ 21.4102 Requirement; 38 U.S.C. chapter 35.

Counseling is required for the eligible person before approval of an initial course, reentrance after discontinuance because of unsatisfactory conduct or progress, or a change of program. The counselor will assist in preparing an educational plan if requested by the eligible person, his parent or guardian (38 U.S.C. 1720).

§ 21.4103 Failure to cooperate.

When counseling is required and a veteran or eligible person fails to report for or fails to cooperate in the counseling process, further action on the application will not be taken. See §§ 21.1032 and 21.3032.

§ 21.4104 Travel expenses.

Travel at Government expense to and from the place of counseling may be authorized for the veteran or eligible person whenever counseling is required, but not when provided as the result of a voluntary request (38 U.S.C. 111).

§ 21.4105 Special training; 38 U.S.C. chapter 35.

(a) Counseling will be provided a handicapped person before a case is considered by the Vocational Rehabilitation Board (established under § 21.715) for determination of need for a course of specialized vocational training or for special restorative training.

(b) When an eligible person completes or discontinues a course of special restorative training without having selected an objective and a program of education, additional counseling will be provided to assist in selecting a program of education.

§ 21.4106 Counseling; change or reentrance.

(a) *When required.* Counseling, or additional counseling, will be required under the following circumstances unless it is found by the counselor that the change requested is from a program that was not considered suitable in the initial counseling to a program which is supported by the counseling data, and need for additional counseling is not shown.

(1) *38 U.S.C. chapter 34.* For a change from the initial program if interrupted or discontinued due to the veteran's own misconduct, neglect, or lack of application, for any second change of program, or for resumption of a course of education which had been discontinued because of unsatisfactory conduct or progress under § 21.4277.

(2) *38 U.S.C. chapter 35.* For any change of program or for resumption of a course of education which had been discontinued because of unsatisfactory conduct or progress under § 21.4277.

(b) *Approval.* The counselor will recommend approval of a change of program or reentrance into the same program, if he finds that the program which the veteran or eligible person proposes to pursue is suitable to his aptitudes, interests, and abilities; and where the veteran's or eligible person's program has been interrupted, or he has failed to progress in, his program due to his own misconduct, neglect or lack of application, the cause for the unsatisfactory conduct or progress has been removed and there exists a reasonable likelihood that there will not be a recurrence of such an interruption or failure to progress. Negative determinations involving unsatisfactory conduct or progress will be made by the Vocational Rehabilitation Board.

PAYMENTS; EDUCATIONAL ASSISTANCE ALLOWANCE

§ 21.4130 Educational assistance allowance.

Educational assistance allowance will be paid at the rate specified in § 21.4136 or § 21.4137 while the veteran or eligible person is pursuing a course of education. No payment will be made, however, based on a course not leading to a standard college degree, for excessive absences as determined under § 21.4205 (b).

(a) The commencing date will be the date of entrance or reentrance into a course as determined under § 21.4131.

(b) The ending date will be the earliest of the following dates:

(1) The ending date of the course or period of enrollment as certified by the school.

(2) The ending date of the veteran's eligibility as determined under §§ 21.1041 and 21.1042.

(3) The ending date of the eligible person's eligibility as determined under §§ 21.3041 and 21.3042.

(4) The ending date specified in § 21.4135.

§ 21.4131 Commencing dates.

The commencing date of an award or increased award of educational assistance allowance will be determined under this section.

(a) *Entrance or reentrance including change of program or school (§ 21.4234).* (1) The date certified by school as provided in paragraph (b) or (c) of this section, or date of approval of course, whichever is later, if application for entrance or reentrance or request for change is received not later than 15 days after date certified by school and notice of State approving agency's approval is received not later than 60 days after date of approval.

(2) If time limits specified in subparagraph (1) of this paragraph are not met, the date of receipt of application or request for change, or 60 days prior to receipt of notice of approval by State approving agency.

(3) The time limits specified in subparagraphs (1) and (2) of this paragraph may be waived under § 21.4132.

(b) *Certification by school; course leads to standard college degree.* The date of registration, or the date of reporting where the student is required by published standards of the school to report in advance of registration, but not later than the date the person first reports for classes.

(c) *Certification by school; course does not lead to standard college degree.* First date of class attendance.

(d) *Reopened application after abandonment (§§ 21.1032 and 21.3032).* The date the veteran or eligible person reports for counseling if pursuing an approved course.

(e) *Increase for dependent; chapter 34.* Date of entrance or reentrance into program if dependent shown on the application and evidence is received within 1 year after date of request; otherwise date of receipt of claim for dependent or date entitlement for dependent arose, whichever is later, subject to 1-year time limit for filing evidence.

(f) *Liberalizing laws and Veterans Administration issues.* In accordance with facts found, but not earlier than the effective date of the act or administrative issue.

CROSS REFERENCE: Special restorative training. See § 21.3331.

§ 21.4132 Waiver of time limits.

The time limits specified in § 21.4131 (a) may be waived under the following circumstances:

(a) *Veteran or eligible person.* The time limit for filing application or request for a change of program or place of training may be waived if the facts, equities and demonstrated good faith on the part of the veteran for purposes of 38 U.S.C. chapter 34, or on the part of the parent, guardian, or eligible person for purposes of 38 U.S.C. chapter 35, warrant such waiver.

(b) *State approving agency.* The time limit for receipt of notice of approval from the State approving agency may be waived if the facts, equities and demonstrated good faith on the part of the veteran, parent, guardian, or eligible person and the State approving agency warrant such waiver, and

(1) Approval action was not denied or withheld for cause during the retroactive period, and

(2) Credit is granted toward completion of the course from the date of approval.

§ 21.4133 Change of rate.

An increase or reduction in the monthly rate of educational assistance allowance because of a change in the extent of the course being pursued, e.g., change from full-time to part-time pursuit of a course, will be effective the first day of the month following the month in which the change occurred.

§ 21.4134 Withholding and discontinuance.

Nothwithstanding the approval of a course by a State approving agency, educational assistance allowance may be discontinued if it is determined that the course of education in which the individual is enrolled fails to meet, or the school has violated, any of the requirements of chapters 34, 35, or 36 (38 U.S.C. 1686, 1736). Where preliminary evidence indicates that it would be to the best interests of the Government, the station head may withhold further payments to persons enrolled in the school until a determination has been made as to whether approval should be withdrawn and whether overpayments exist. Payments will be promptly released whenever the facts developed justify such action.

§ 21.4135 Discontinuance dates.

The effective date of reduction or discontinuance of educational assistance allowance will be as specified in this section. If more than one type of reduction or discontinuance is involved, the earliest date will control.

(a) *Death of veteran or eligible person.* Last date of attendance.

(b) *Death of dependent.* Last day of month in which death occurs.

(c) *Divorce.* Last day of month in which divorce occurs.

(d) *Child*—(1) *Marriage.* Last day of month in which marriage occurred.

(2) *Age 18.* Day preceding 18th birthday.

(3) *School attendance.* Last day of month in which school attendance ceased or day preceding 23d birthday, whichever is earlier.

(4) *Helplessness ceased.* Last day of month following 60 days after notice to the payee that helplessness has ceased.

(e) *Course discontinued.* Last date of attendance or, if enrollment certified for ordinary school year and veteran or eligible person has completed one or more terms, but does not return for the next term, discontinuance will be effective the end of the term completed.

(f) *Discontinued by Veterans Administration (§§ 21.4134 and 21.4207).* End of month in which action is taken.

(g) *Unsatisfactory progress (§ 21.4277).* The date the veteran's or eligible person's enrollment is discontinued by the school or the date of administrative determination by the Veterans Administration, whichever is earlier.

(h) *Monthly certifications not received after certification of enrollment (§§ 21.4203 and 21.4204).* (1) Date of enrollment if no certifications are received for first two reporting periods.

(2) The end of the month for which the last payment was properly made, if payments have been made for one or or more periods and certifications are not received for two consecutive reporting periods.

(i) *False or misleading statements.* See § 21.4006.

(j) *Disapproval by State approving agency (§ 21.4259(a)).* End of month in which disapproval is effective or notice of disapproval is received in Veterans Administration, whichever is later.

(k) *Disapproval by Veterans Administration (§§ 21.4207 and 21.4259(c)).* End of month in which disapproval occurred.

(l) *Conflicting interests (not waived) (§ 21.4005).* Thirty days after date of letter notifying veteran or eligible person, unless terminated earlier for other reason.

(m) *School listed by Attorney General (§ 21.4201).* Day before date of listing.

(n) *Active duty (§§ 21.4136(a) and 21.8042).* Day before entrance on active duty. (Does not apply to brief periods of active duty for training if school permits such absence without interruption of training; however, where course does not lead to standard college degree, the absence must be reported as required by § 21.4205.)

(o) *Veteran no longer rated permanent total disabled; chapter 35 (§ 21.3041).* End of quarter or semester if school is operated on quarter or semester system.

(2) End of course or 9 weeks whichever is earlier, if school is not operated on quarter or semester system.

(p) *Error; payee's or administrative.* (1) Effective date of award or day preceding act, whichever is later, but not prior to the date entitlement ceased, on an erroneous award based on an act of commission or omission by a payee or with his knowledge.

(2) Date of last payment on an erroneous award based solely on administrative error or error in judgment.

(q) *Fraud; forfeiture resulting (§ 21.4007).* Beginning date of award or day preceding date of fraudulent act, whichever is later.

(r) *Treasonable acts or subversive activities; forfeiture (§ 21.4007).* Beginning date of award or date preceding date of commission of treasonable act or subversive activities for which convicted, whichever is later.

(s) *Reduction in rate of pursuit of course (§ 21.4270).* End of month in which reduction occurred.

CROSS REFERENCE: *Special restorative training.* See § 21.3332.

§ 21.4136 Rates; educational assistance allowance; 38 U.S.C. chapter 34.

(a) *Rates.* Educational assistance allowance is payable for periods commencing on or after June 1, 1966, at the following monthly rates.

Type of courses	Monthly rate		
	No dependents	1 dependent	2 or more dependents
Institutional:			
Full time	$100	$125	$150
¾ time	75	95	115
½ time	50	65	75
Less than ½ time	(1)	(1)	(1)
Cooperative (full time only)	80	100	120
Correspondence	(2)	(2)	(2)

[1] See paragraph (b) of this section.
[2] Established charge for number of lessons completed by veteran and serviced by school—allowance paid quarterly.

(b) *Active duty or less than half-time.* Educational assistance allowance for an individual who is eligible solely by reason of the provisions of § 21.1040(e)(2) and is pursuing an institutional course while on active duty or for any individual who is pursuing an institutional course on less than half-time basis will be computed on the lesser of the following rates:

(1) The established charges for tuition and fees which the school requires similarly circumstanced nonveterans enrolled in the same course to pay, or

(2) $100 per month for a full-time course.

(c) *June 1966.* A veteran who commenced a course prior to June 1, 1966, will not be paid for any part of the month of June 1966, unless his course continues through June 30, 1966. (Sec. 12(a), Pub. Law 89-358.)

(d) *Excessive absences.* When enrollment is in a course which does not lead to a standard college degree absences in excess of the maximum number allowable will cause a reduction in the educational assistance allowance payable for the month in which such absences occurred. The rate of reduction will be determined by the following table:

Days of scheduled attendance per week	*Rate of reduction for each day of excessive*
5 or more	1/25
4	1/20
3	1/15
2	1/10
1	1/5

(e) *Dependents.* The term "dependent" means a wife, child, or dependent parent who meets the definitions of relationship specified in §§ 3.50, 3.51, 3.57, and 3.59 of this chapter. A child adopted outside the veteran's family is included only if the veteran is contributing to the child's support.

(f) *Two-veteran cases; dependents.* The payment of additional educational assistance allowance to a veteran for a wife who is also a veteran and for a child will not bar the payment of additional educational assistance allowance or additional subsistence allowance under § 21.133 to the wife for her husband and the same child. The husband of a female veteran may be considered a dependent only if he meets the requirements of § 3.51(a) of this chapter.

(38 U.S.C. 1682)

§ 21.4137 Rates; educational assistance allowance; 38 U.S.C. chapter 35.

(a) *Rates.* Educational assistance allowance is payable at the following monthly rates.

Type of course	Monthly rate		
	Full time	¾ time	½ time
Institutional	$130	$95	$60
Cooperative (full time only)	105	None	None

(b) *Less than half-time.* No educational assistance allowance will be paid when an institutional course is pursued at less than half time (38 U.S.C. 1732).

(c) *Excessive absences.* Reduction of educational assistance allowance by reason of excessive absences in a course which does not lead to a standard college degree will be made in the same manner described in § 21.4136(d) (38 U.S.C. 1732).

§ 21.4138 Certifications.

Educational assistance allowance will be paid to or on behalf of a veteran or eligible person under chapter 34 or 35 for any period only after the Veterans Administration has received a report which shows that the individual has been pursuing his course. The report must be certified by the student on a form provided by the Veterans Administration for that purpose. Where the student is enrolled in a course which does not lead to a standard college degree, or a course pursued exclusively by correspondence, a certification from the school is required. On certifications of enrollment, periodic certifications and absences, see §§ 21.4203, 21.4204, and 21.4205 respectively.

§ 21.4139 Payee.

(a) *Educational assistance allowance; chapter 34.* Payment will be made to the veteran or to a duly appointed fiduciary. Direct payment to the veteran may be made notwithstanding his minority.

(b) *Educational assistance allowance; chapter 35.* (1) Payment will be made to the eligible person if he has attained majority and has no known legal disability or, notwithstanding his minority, where it is found to be in his best interests unless there is some known reason why he should not be designated as payee.

(2) Where the eligible person is not designated as payee, payments will be made to the parent or guardian of the eligible person, to a fiduciary or to some other suitable person.

§ 21.4140 Apportionment.

Educational assistance allowance is not subject to apportionment.

§ 21.4141 Offsets; 38 U.S.C. chapter 35; pension, compensation and dependency and indemnity compensation.

Payment of educational assistance allowance will be subject to offset of amounts of pension, compensation, or dependency and indemnity compensation paid over the same period on behalf of a child based on school attendance (38 U.S.C. 1762).

CROSS REFERENCE: *Discontinuance of pension, compensation or dependency and indemnity compensation.* See § 3.503(h) of this chapter.

STATE APPROVING AGENCIES

§ 21.4150 Designation.

(a) The Chief Executive of each State is requested to create or designate a State department or agency as the "State approving agency" for his State, for the purpose of assuming the responsibilities delegated to the State under 38 U.S.C. chapter 36, or if the law of the State provides otherwise, to indicate the agency provided by such law (38 U.S.C. 1771(a)).

(b) The Chief Executive of each State will notify the Veterans Administration of any change in the designation of a State approving agency.

(c) If any State does not have and fails or declines to create or designate a State approving agency, the provisions of 38 U.S.C. chapter 36 which refer to the State approving agency will, with respect to such State, be deemed to refer to the Administrator (38 U.S.C. 1771(b)). See § 21.4001(c).

(d) Any function, power or duty otherwise required to be exercised by a State, or by an officer or agency of a State, will, with respect to the Republic of Philippines, be exercised by the station head (38 U.S.C. 212(a), 1761(b)).

CROSS REFERENCE: *Approval of courses.* See § 21.4250.

§ 21.4151 Cooperation.

(a) The Veterans Administration and the State approving agencies will take cognizance of the fact that definite duties, functions and responsibilities are conferred upon each of them. To assure that programs of education are administered effectively and efficiently, the cooperation of the Veterans Administration and the State approving agencies is essential (38 U.S.C. 1773(a)).

(b) State approving agencies are responsible for inspecting and supervising schools within the borders of their respective States and for determining those courses which may be approved for the enrollment of veterans and eligible persons. They are also responsible for ascertaining whether a school at all times complies with its established standards relating to the course or courses which have been approved.

(c) The Veterans Administration will furnish State approving agencies with

copies of such Veterans Administration informational and instructional material as may aid them in carrying out the provisions of 38 U.S.C. chapter 36 (38 U.S.C. 1773(b)).

§ 21.4152 Control by agencies of the United States.

(a) No department, agency, or officer of the United States will exercise any supervision or control over any State approving agency or State educational agency, or any educational institution.

(38 U.S.C. 1782)

(b) The provisions of paragraph (a) of this section do not restrict the authority conferred on the Veterans Administration:

(1) To define full-time training in certain courses.

(2) To determine whether overcharges were made by a school and to disapprove the school for enrollment of veterans or eligible persons not previously enrolled. See § 21.4202.

(3) To determine whether the State approving agencies under the terms of contract or reimbursement agreements are complying with the standards and provisions of the law.

(4) To examine the records and accounts of schools which are required to be made available for examination by duly authorized representatives of the Federal Government. See § 21.4209.

(5) To disapprove schools or courses for reasons stated in the law and to approve schools or courses notwithstanding lack of State approval.

§ 21.4153 Reimbursement of expenses.

(a) *General.* If a State or local agency requests to be paid for service contemplated by the law, and submits information prescribed in paragraph (e) of this section, contracts or agreements will be negotiated with such State agencies to pay for the reasonable and necessary expenses of salary and travel incurred by its employees in:

(1) Determining the qualification of educational institutions for furnishing courses of training to veterans and eligible persons and in the supervision of such educational institutions. Supervision for which reimbursement may be made will consist of services required in determining that the courses are furnished in accordance with the criteria set forth in the law or prescribed by the State approving agencies pursuant to the law and upon which the original approval was granted, and of those services required in disapproving any courses which fall below the established criteria.

(2) Furnishing any other services in connection with the law as may be requested by the Veterans Administration.

(b) *Reimbursement.* The Chief Benefits Director is authorized to enter into agreements for reimbursement to the extent necessary to fulfill the purpose of paragraph (a) of this section. See § 21.4001(b).

(c) *Reimbursable expenses.* Reimbursement may be made from the funds provided in the existing contract with the State approving agency under the provisions of this section. No reimbursement may be authorized for expenses incurred by any individual who is not an employee of the State approving agency.

(1) *Salaries.* Salaries for which reimbursement may be authorized under contract will not be in excess of the established rate of pay for other employees of the State having comparable or equivalent duties and responsibilities and will further be limited to the actual salary expense incurred by the State.

(2) *Travel.* Travel expenses for which reimbursement may be authorized under contract will be determined on the basis of expenses allowable under applicable State laws or travel regulations of the State or agency and will be for travel actually performed by employees specified under the terms of the contract. Reimbursement for travel will be provided only to cover actual expenses for transportation, meals, lodging, and local telephone calls, or the regular per diem allowance in lieu thereof. In claiming reimbursement for travel authorized under the terms of a contract, all claims must be supported by factual vouchers and all transportation allowances must be supported by detailed claims which can be checked against work assignments in the office of the State approving agency. Reimbursement will be made for expenses of attending out-of-State meetings and conferences only where the travel is performed upon prior approval and at the request of the Director, Compensation, Pension, and Education Service.

(3) *Committee assignments.* Reimbursement may also be authorized for the salary and travel of the employee of the State approxing agency serving as a designated member of the field station Committee on Educational Allowances.

(d) *Nonreimbursable expenses.* Reimbursement will not be provided under reimbursement contracts for:

(1) Expenditures other than salaries and travel of personnel required to perform the services specified in the contract and Veterans Administration regulations.

(2) Supplies, equipment, printing, postage, telephone services, rentals, and other miscellaneous items or a service furnished directly or indirectly.

(3) Except as provided in paragraph (c)(2) of this section, the salaries and travel of personnel while attending training sessions, or when they are engaged in activities other than: Those in connection with the inspection, approval, or supervision of educational institutions; or services rendered as members of a field station Committee on Educational Allowances.

(4) The supervision of educational institutions which do not have veterans or eligible persons enrolled.

(5) Expenses incurred in the administration of an educational program which are costs properly chargeable as tuition costs, such as the development of course material or individual educational programs, teacher training or teacher improvement activities, expenses of coordinators, or administrative costs, such as those involving selection and employment of teachers. (This does not preclude reimbursement for expenses of the State agency incurred in the development of standards and criteria for the approval of courses under the law.)

(6) Expenses of a State approving agency for inspecting, approving, or supervising courses where such agency is responsible for establishing, conducting, and supervising the courses approved.

(7) Any expense for supervision or other services to be covered by contract which are already being reimbursed or paid from tuition funds under this law.

(e) *Agency operating plan.* A request by a State approving agency for reimbursement under the law will be subject to the requirements of 41 CFR 8–7.5101–8 as to "Equal Opportunity". The request will be accompanied by the proposed plan of operation and the specific duties and responsibilities of all personnel for which reimbursement of salaries and travel expense is required.

(1) Personnel requirements for which reimbursement is to be provided will be determined on the basis of estimated workloads as agreed upon between the Veterans Administration and the State agency. Such agreements will be subject to constant review and any necessary adjustment.

(2) Workloads will be determined upon three factors: (i) Inspection and approval visits, (ii) supervisory visits, and (iii) special visits at request of the Veterans Administration.

(f) *Contract compliance.* Reimbursement under each contract or agreement will be conditioned upon compliance with the standards and provisions of the contract and the law. If it is determined that the State has failed to comply with the standards and provisions of the law and with the terms of the reimbursement contract, the station head will withhold reimbursement for claimed expenses under the contract. In any instance in which the State takes exception to the field station action, the matter will be referred to the Director, Compensation, Pension, and Education Service, for review (38 U.S.C. 1774).

SCHOOLS

§ 21.4200 Definition.

(a) *School.* The term "school," "educational institution," or "institution" means any public or private secondary school, vocational school, business school, junior college, teachers' college, college, normal school, professional school, university, or scientific or technical institution, or any other institution if it furnishes education at the secondary school level or above.

(1) *Chapter 34.* The term includes correspondence schools.

(2) *Chapter 35.* The term includes institutions which provide specialized vocational courses for the mentally or physically handicapped generally recognized as on the secondary school level or above (38 U.S.C. 1652(c) and 1701(a)(6)).

(b) *Quarter; semester.* These terms include:

(1) "Term," any regularly established division of the ordinary school year under which the school operates.

(2) "Quarter," a division of the ordinary school year, usually a period from 10 to 13 weeks long.

(3) "Semester," a division of the ordinary school year, usually a period from 15 to 19 weeks long.

(4) "Summer quarter" (term or session), the whole of the summer period of instruction specified for the course in which the veteran or eligible person is enrolled, without regard to any divisions of such a period which may be made by the institution for administrative or other purposes.

§ 21.4201. Schools listed by Attorney General.

Enrollment may not be approved for a course in a school while it is listed by the Attorney General under section 12, Executive Order 10450 (38 U.S.C. 1789).

§ 21.4202 Overcharges; restrictions on enrollments.

(a) *Overcharges.* When it is found that a school has charged or received from any veteran or eligible person any amount in excess of the established charges for tuition and fees which the school requires from similarly circumstanced nonveterans or noneligibile persons enrolled in the same course, the school may be disapproved for enrollment of any person not already enrolled in the school. A school disapproved for chapter 35 purposes before March 3, 1966, is considered disapproved for chapter 34 purposes for enrollment of any veteran not already enrolled (38 U.S.C. 1684). See § 21.4207.

(b) *Restrictions on enrollments.* A school will be disapproved for further enrollments or reenrollments, and educational assistance allowance to veterans or eligible persons already enrolled will be discontinued when one or more of the following conditions has been found to exist:

(1) The school has willfully and knowingly submitted a false report or certification concerning a student or his course of education which has or could result in an improper payment of allowances.

(2) The school has willfully and knowingly failed to report to the Veterans Administration excessive absences, discontinuance, or interruption of education, which has resulted or could result in improper payment of allowances.

(3) The school through gross negligence has submitted improper or incorrect reports which have resulted or could result in improper payment of allowances. This condition will not be found to exist where:

(i) The improper report occurs only in an isolated instance or instances; or

(ii) It is the first occurrence and the school has not been previously notified in writing; or

(iii) The improper report or reports represent a very small proportion of the reports submitted by the school and may be attributed to clerical errors and are shown not to be the result of failure upon the part of the school to provide and maintain a recording and reporting procedure which under normal circumstances would result in proper reports to the Veterans Administration.

(4) The school has, after being notified in writing of a violation of a provision of law or of failure of a course to meet the specific requirements of law other than approval criteria, failed to correct the situation within 30 days of date of such notice or has knowingly and willfully repeated the violation.

(5) The school, after having been disapproved for the enrollment of any veteran or eligible person not already enrolled therein, has willfully and knowingly repeated the violation.

(6) The school fails or refuses to make available for examination to duly authorized representatives of the Government records and accounts pertaining to the education of veterans and eligible persons enrolled therein under chapters 34 and 35.

(7) The requirements of §§ 21.4250, 21.4253, and 21.4254 are not being met in respect to a substantial number of veterans and eligible persons, written notice having been given to the State approving agency as to specific violations and such violations have not been eliminated within 30 days following such notice or 60 days following such notice when the station head determines that conditions warrant allowing the additional time to take corrective action.

(c) *Restrictions; 85 percent enrollment.* Enrollment under chapter 34 will not be approved for any veteran, not already enrolled, in any nonaccredited course below the college level offered by a proprietary school during any period when more than 85 percent of the students enrolled in the course are having all or any part of their tuition, fees, or other charges paid to or for them by the school or the Veterans Administration under chapters 31, 34, or 35 (38 U.S.C. 1673(d)).

§ 21.4203 Reports by schools; requirements.

(a) *General.* Educational institutions are required to report promptly the entrance, reentrance, change in hours of credit, or attendance, interruption, and termination of attendance of each veteran or eligible person who is enrolled.

(b) *Entrance or reentrance.* The certification must clearly specify the program objective. Upon receipt of a certification of enrollment, an official authorization will be issued showing the beginning and ending dates of each period for which an allowance may be paid. The authorization will be for the period of enrollment or the extent of the eligible person's entitlement, whichever is the lesser.

(1) Schools organized on a term, quarter, or semester basis may report enrollment for the term, quarter, or semester, or for the ordinary school year. Enrollment certifications for the ordinary school year are encouraged. A summer session may not be included as part of the ordinary school year but must be reported separately.

(2) Schools organized on a year-round basis will report enrollment for the length of the course. The certification will include a report of the dates during which the school closes for summer vacation, the dates of any intervals between the dates of any intervals between periods of instruction which occur in the summer and any intervals designated in the school's approval data as breaks between school years. No allowances are payable for these intervals.

(c) *Course changes.* Any changes in the number of credit hours or the clock hours of attendance or instruction or any other modification in the course as certified at enrollment must be reported promptly to the Veterans Administration.

(d) *Interruptions and terminations.* When a veteran or eligible person interrupts or terminates his training for whatever reason, including unsatisfactory conduct or progress, this fact must be reported promptly to the Veterans Administration.

(1) Where the school is required to submit monthly certifications, the information required by this paragraph and paragraph (c) of this section should be included in the endorsement to the veteran's or eligible person's certification.

(2) In other cases the school will initiate the certification. Information regarding any changes or an interruption or termination of training must be reported during or immediately after the end of the month in which the event occurred.

(e) *Correspondence courses.* Where the course in which a veteran is enrolled under 38 U.S.C. chapter 34, is pursued exclusively by correspondence the school will report by an endorsement on the veteran's certification the number of lessons completed by the veteran and serviced by the school. Such reports will be submitted quarterly.

(f) *Monthly certification*—(1) *Courses not leading to standard college degree.* A certification must be submitted monthly, except as provided in paragraph (e) of this section, for each veteran and eligible person enrolled in a course which does not lead to a standard college degree. See § 21.4204. The report will consist of a certification containing the information required for release of payment, signed by the veteran or eligible person and the school on or after the final date of the reporting period. The date on which each person signed must be clearly shown. The only exception to the requirement of two signatures is a certification of interruption of training when the veteran or eligible person is not available for signature.

(2) *Courses leading to a standard college degree.* Schools which have veterans or eligible persons enrolled in courses which lead to a standard college degree are not required to submit monthly certifications for students enrolled in such courses. Certifications are, however, required under paragraphs (b), (c), and (d) of this section.

§ 21.4204 Periodic certifications.

Educational assistance allowance is payable only after the Veterans Administration has received the required certification that the veteran or eligible per-

son has been pursuing his course during the reporting period.

(a) *Reports by veterans and eligible persons.* A veteran or eligible person enrolled in a course which leads to a standard college degree must submit to the Veterans Administration a monthly report certifying as to continued enrollment in and pursuit of his course during the month. Reports by other veterans and eligible persons will be submitted in accordance with § 21.4203 (e) or (f).

(b) *Requirements.* The certifications required by § 21.4203 and paragraph (a) of this section will include a report on the following items when applicable:

(1) Continued enrollment in and pursuit of the course.

(2) Absences. See § 21.4205.

(3) Conduct and progress. See § 21.4277.

(4) Date of interruption or termination of training.

(5) Changes in number of semester hours or clock hours of attendance.

(6) Any other changes or modifications in the course as certified at enrollment.

(c) *Term, quarter, or semester.* For a course which does not lead to a standard college degree, if a school organized on a term, quarter, or semester basis has reported enrollment:

(1) For the ordinary school year, the periodic certification will show the intervals between terms, quarters, or semesters as absences. This also applies to intervals between the ordinary school year and a summer session.

(2) By term, quarter, or semester, the periodic certification will not cover the intervals between terms, quarters, or semesters.

(d) *Year-round courses.* Where appropriate, the monthly certification will show the dates on which the school closed for summer vacation, the date of any intervals between periods of instruction which occurred in the summer, and the dates of any intervals which are designated in the approval data as breaks between school years.

§ 21.4205 Absences.

Absences must be reported on the monthly certification of pursuit of a course which does not lead to a standard college degree.

(a) *General.* Absence will be charged for a full day when the veteran or eligible person did not attend any scheduled class on that day. Tardiness will be charged when the veteran or eligible person was late for the start of the school day. A partial day of absence will be charged for any period of absence during or at the end of a day.

(b) *Maximum allowable absences.* Maximum allowable absences will be determined as provided in this paragraph.

(1) For a 12-month course requiring attendance for 5 or more days a week, 30 days.

(2) For a 12-month course requiring attendance for less than 5 days a week, the pro rata part of 30 days which the number of days per week of scheduled attendance bears to 5.

(3) If the length of the course is not 12 months or a multiple of 12, allowable absences will be figured separately for each 12-month period and for any period which is less than 12 months.

(4) In computing pro rata allowable absences a fraction of one-half day or less will be disregarded. A fraction greater than one-half day will be counted as 1 day.

(5) Unused allowable absences may not be carried over from one 12-month period to another, or from one school year to another.

(c) *Reporting.* (1) Veterans and eligible persons must report each full day of absence from scheduled attendance as well as days when the school was closed for Federal, State or local holidays and school holidays and intervals between terms, quarters or semesters. When the school is closed for the weekend, those days will not be reported. However, if classes are normally scheduled for Saturday and Sunday, absences must be reported.

(2) The school will verify the full days of absence reported and endorse the report. In addition, the school will convert partial days of absence to full days in accordance with the following formula and report the accumulated total.

(i) Compute the average hours of daily attendance. (Divide the hours of required attendance per week by the days of required attendance per week.)

(ii) Total the absences of less than a full day which occurred during the month (see subpar. (3) of this paragraph).

(iii) Divide the total hours of absence for the month (subdivision (ii) of this subparagraph) by the average hours of daily attendance (subdivision (i) of this subparagraph) to determine the full days of absence to be reported.

(3) An occasional tardiness (not more than two per week) of one-half hour or less will not be counted if it is excused by the school. Tardiness which is not excused and tardiness of more than one-half hour, whether excused or not, will be counted as one or more hours of absence. Absences during any portion of the day will be counted, whether more or less than an hour. All early departures will be counted, even though excused. Except for an occasional tardiness of one-half hour or less which is excused by the school, any absence of less than an hour will be counted as a full hour of absence.

§ 21.4207 Failure of school to meet requirements.

When the Veterans Adminstration discovers facts which appear to warrant a finding that the school is in violation of specific criteria of 38 U.S.C. chapters 34, 35, or 36, including failure to meet requirements for approval of a course offered to a veteran or eligible person, the facts will be referred to the field station Committee on Educational Allowances.

(a) *Committee on Educational Allowances.* The Committee on Educational Allowances in the field station is authorized to make recommendations on action to be taken for the purposes of this section, subject to approval by the station head. The Committee will include one member designated by the State approving agency, or in the absence of such designation, a staff employee designated by the station head. The recommendation of the Committee, when approved by the station head, becomes the final administrative decision of the Veterans Administration unless an application for review is filed as provided in paragraph (d) of this section.

(b) *Hearings.* A hearing may be held at the request of the school. No expenses incurred for counsel or witnesses will be paid by the Veterans Administration.

(c) *Referral to Central Office.* If the station head does not approve the recommendation of the Committee on Educational Allowances, the decision will be made by Central Office.

(d) *Request for review.* The school may file an application for review by Central Office of any decision rendered under paragraph (a) of this section. The application must be received in Central Office within 30 days after the date of notice of the decision. See § 21.4208.

(e) *Effective date.* The decision of the station head will be effective as of the date of the decision. A decision rendered under § 21.4208 affirming discontinuance of educational assistance allowance will be effective the date of receipt of the decision in the field station. A decision which reverses the field station's decision will be effective as of the date of the original decision.

(f) *Reapproval of enrollments.* Educational assistance allowance which was finally discontinued by reason of the provisions of this section will not be resumed without prior approval at the level of authority where the final decision was made.

§ 21.4208 Central Office Education and Training Review Panel.

(a) *Purpose.* The panel will receive evidence and hear the testimony of witnesses and the arguments of interested parties regarding matters considered by the field station Committee on Educational Allowances and make recommendations to the Director, Compensation, Pension, and Education Service, in connection with such matters which are before him for final administrative determination under § 21.4202 or § 21.4207.

(b) *Composition of panel.* The panel will consist of one staff employee from the Office of the Director of Compensation, Pension, and Education Service, and two persons who are not employees of the Veterans Administration chosen from a group of consultants selected for that purpose.

(c) *Disposition of matters reviewed by the panel.* The concurrence of the Director with the recommendation of the panel will constitute the final administrative decision of the Veterans Administration. If the Director does not concur with the recommendation of the panel, the final decision will be made by the Chief Benefits Director.

§ 21.4209 Examination of records.

(a) *Availability.* The records and accounts of educational institutions pertaining to veterans and eligible persons enrolled in programs of education or special restorative training under 38 U.S.C. chapters 34 or 35 will be available for examination by duly authorized representatives of the Government (38 U.S.C. 1786).

(b) *Type of records.* Each school will upon request of duly authorized representatives of the Government make available for examination all appropriate records and accounts, including but not limited to:

(1) Records and accounts which are evidence of tuition and fees charged to and received from or on behalf of all veterans and eligible persons and from other students similarly circumstanced.

(2) Records of previous education or training of veterans and eligible persons at the time of admission as students and records of advance credit, if any, granted by the school at the time of admission, and

(3) Records of the veteran's or eligible person's grades and progress.

(c) *Below college level.* The school having veterans or eligible persons enrolled in a course or courses which do not lead to a standard college degree will make available, in addition to the records and accounts required in paragraph (b) of this section, the records of leave, absences, class cuts, makeup work, and tardiness.

(d) *Nonaccredited courses.* The school having veterans or eligible persons enrolled in nonaccredited courses will make available, in addition to the records and accounts required in paragraphs (b) and (c) of this section the following:

(1) Records of interruptions for unsatisfactory conduct or attendance.

(2) Records of refunds of tuition, fees and other charges made to a veteran or eligible person who fails to enter the course or withdraws or is discontinued prior to completion of the course.

(e) *Nonavailability.* Failure to make such records available as provided in this section will be grounds for discontinuing the payment of educational assistance allowance or special training allowance.

(f) *Retention of records.* The records and accounts, as described in this section, pertaining to each period of enrollment of a veteran or eligible person, will be kept intact and in good condition at the school for at least 3 years following the termination of such enrollment period. Longer retention will not be required unless a written request is received from the General Accounting Office or the Veterans Administration not later than 30 days prior to the end of the 3-year period.

PROGRAMS OF EDUCATION

§ 21.4230 Requirements.

A program of education will consist of a combination of subjects or unit courses pursued at a school which is generally acceptable to meet requirements for a predetermined educational, professional, or vocational objective (38 U.S.C. 1652(b), 1701(a)(5)).

(a) *Educational.* An educational objective is one that leads to the awarding of a diploma, degree, or certificate which reflects educational attainment.

(b) *Professional or vocational.* A professional or vocational objective is one that leads to an occupation. It may include educational objectives essential to prepare for the chosen occupation. When a program consists of a series of courses not leading to an educational objective, such courses must be directed toward attainment of a designated professional or vocational objective.

(c) *Selection; chapter 34.* A program of education under chapter 34 selected by an eligible veteran will be approved if it meets the requirements of paragraph (a) or (b) of this section and the veteran is not already qualified for the objective for which the program of education is offered (38 U.S.C. 1670).

(d) *Provisional; chapter 35.* When application for educational assistance under chapter 35 is approved provisionally the eligible person and, if a minor, the parent or guardian also will be informed of the need to develop a program of education consistent with paragraphs (a) and (b) of this section (38 U.S.C. 1713, 1720).

§ 21.4231 Educational plan; 38 U.S.C. chapter 35.

(a) During or subsequent to counseling the eligible person (with concurrence of the parent or guardian, if a minor, and with the assistance of the counselor, if desired), will prepare an educational plan on a prescribed form which will be signed and treated as an integral part of the application. The educational plan will show the objective and program selected, the school where the program will be pursued and the estimated cost for tuition and fees.

(b) Final approval of the educational plan will be given when it is determined that:

(1) The eligible person is not already qualified for the objective for which the plan is prepared.

(2) The educational plan is consistent with Veterans Administration regulations on providing a program of education and does not include any courses which are precluded under 38 U.S.C. chapter 36 (38 U.S.C. 1720).

§ 21.4232 Specialized vocational training; 38 U.S.C. chapter 35.

(a) A program consisting of a specialized course of vocational training may be provided to an eligible person who has passed his 14th birthday, who is not in need of special restorative training and who requires such a program because of a mental or physical handicap (38 U.S.C. 1737). The Vocational Rehabilitation Board will determine whether such a course is in the best interest of the eligible person. If the determination is in the affirmative the Board will assist in developing the program and a suitable educational plan. If it is determined that such a program is not in the best interest of the eligible person the application for the program will be denied.

(b) The objective of a program of specialized vocational training will be designated as a vocational objective.

(c) When needed, special assistance will be provided under § 21.4276.

§ 21.4233 Combination.

An approved program may consist of a combination of courses with instruction offered by a school alternating with instruction in a business or industrial establishment (a cooperative course); courses offered by two schools concurrently; or courses offered through class attendance and by television concurrently.

(a) *Cooperative courses.* A full-time program of education consisting of phases of school instruction alternated with training in a business or industrial establishment with such training being strictly supplemental to the school instruction may be approved. For purposes of approval the school offering the course must submit to the State approving agency with its application statements of fact showing at least the following:

(1) That the alternate in-school periods of the course are at least as long as the alternate periods in the business or industrial establishment;

(2) That the course is set up as a cooperative course in the school catalog or other literature of the school;

(3) That the school itself arranges with the employer's establishment for providing the alternate on-job periods of training on such basis that the on-job portion of the course will be training in a real and substantial sense and will supplement the in-school portion of the course;

(4) That the school arranges directly with the employer's establishment for placing the individual student in that establishment and exercises supervision and control over the student's activities at the establishment to an extent that assures training in a true sense to the student; and

(5) That the school grants credit for the on-job portion of the course for completion of a part of the work required for granting a degree or diploma (38 U.S.C. 1682(a)(2) and 1732(b)).

(b) *Concurrent enrollment.* Where a veteran or eligible person cannot successfully schedule his complete program at one school, a program of concurrent enrollment may be approved. When requesting such a program the veteran or eligible person must show that his complete program of education or training is not available at the school in which he will pursue the major portion of his program (the primary school), or that it cannot be scheduled successfully within the period in which he plans to complete his program.

(1) Where the standards for measurement of the courses pursued concurrently in the two schools are different, the extent of the course will be determined by converting the measurement of courses in the second school to its equivalent in value to the measurement re-

quired for full-time courses in the primary institution; e.g., school courses on a clock-hour basis converted to its equivalent in value to semester hours of credit will be 0.56 semester credits (14÷30), as applicable, for each clock hour of attendance.

(2) Periodic certifications of training will be required from the veteran and each of the schools where concurrent enrollment is approved in a course which does not lead to a standard college degree.

(c) *Television—(1) Open circuit telecast.* An undergraduate program may be pursued in part by open circuit telecast when:

(i) The veteran or eligible person is enrolled as a resident student in a program leading to a standard college degree.

(ii) The subjects taken by television are integral parts of his degree program.

(iii) A major portion of the credit hours for which the veteran or eligible person is enrolled during any semester or quarter is offered through conventional classroom and/or laboratory sessions. In no instance may a veteran or eligible person include in his program during any one semester or quarter more than 6 credit hours of open circuit telecast instruction for the purpose of computing the rate of educational assistance allowance. Under these circumstances, a veteran or eligible person may pursue 8 or more credit hours during any one term through regular classroom and/or laboratory instruction and 6 credit hours by open circuit telecast for a full-time resident training load.

(2) *Closed circuit telecast.* Instruction offered through closed circuit telecast which requires regular classroom attendance is to be recognized to the same extent as regular classroom and/or laboratory instruction.

§ 21.4234 Change of program.

A request for a change of program will be made by a veteran or eligible person on the prescribed form. The request of the eligible person will have the concurrence of his parent or guardian, where required. Not more than two changes of program may be approved.

(a) *Definition.* A change of program consists of a change in the educational, professional or vocational objective for which the veteran or eligible person entered training and a like change in the type of courses required to attain a new objective.

(b) *Chapter 34.* The veteran may make one optional change of program if his previous course was not interrupted or discontinued due to his own misconduct, neglect or lack of application. He may make a second change or an initial change after interruption or discontinuance due to his own misconduct, neglect or lack of application if it is found that:

(1) The program of education which the veteran proposes to pursue is suitable to his aptitudes, interests, and abilities; and

(2) In any instance where the veteran has interrupted, or failed to progress in, his program due to his own misconduct, neglect or lack of application, there exists a reasonable likelihood with respect to the program which the veteran proposes to pursue that there will not be a recurrence of such an interruption or faliure to progress (38 U.S.C. 1672).

(c) *Chapter 35.* After further counseling one change will be approved and a second change may be approved, if the criteria of paragraph (b) (1) and (2) of this section are satisfied. The approval of such change will also be subject to the requirement that the educational plan for the new program must meet the criteria applicable to final approval of an original application. See §§ 21.4230 and 21.4231 (38 U.S.C. 1722).

(d) *Adjustments; transfers.* A change in courses or places of training will not be considered a change of objective in the following instances:

(1) The pursuit of the first program is a prerequisite for entrance into and pursuit of a second program.

(2) A transfer from one school to another when the program at the second school leads to the same educational, professional or vocational objective, and does not involve a material loss of credit, or increase training time.

(3) Revision of a program which does not involve a change of objective or material loss of credit nor loss of time originally planned for completion of the veteran's or eligible person's program. For example, an eligible person enrolled for a bachelor of science degree may show a professional objective such as chemist, teacher, or engineer. His objective for purposes of this paragraph shall be considered to be "bachelor degree" and any change of courses will be considered only an adjustment in the program, not a change, so long as the subjects he pursues lead to the bachelor degree and there is no extension of time in the attaining of that degree.

COURSES

§ 21.4250 Approval of courses.

(a) *General.* A course of education offered by a school must be approved by the State approving agency for the State in which the school is located, or, where appropriate, by the Veterans Administration.

(1) A course approved under chapter 36 shall be deemed approved for purposes of chapters 34 and 35.

(2) Any course which was approved under chapter 33 (as in effect before February 1, 1965), or under chapter 35 prior to March 3, 1966, and was not or is not disapproved for failure to meet any of the requirements of the applicable chapters will be deemed to be approved for purposes of chapter 36 (38 U.S.C. 1770).

(b) *State approving agencies.* Approval by State approving agencies will be in accordance with the provisions of 38 U.S.C. chapter 36 and such regulations and policies as the agency may adopt not in conflict therewith.

(1) *Notice of approval.* Each State approving agency will furnish to the Veterans Administration a current list of schools specifying courses which it has approved, and will furnish such other information as it and the Veterans Administration may determine to be necessary. See § 21.4258.

(2) *Notice of disapproval.* Each State approving agency will notify the Veterans Administration of the disapproval of any course previously approved and will set forth the reasons for such disapproval. See § 21.4259 (38 U.S.C. 1772 (a)).

(3) *Failure to act.* If notice has been furnished that the State approving agency does not intend to act on the application of a school, the school may request approval by the Veterans Administration.

(c) *Veterans Administration approval.* The Director, Compensation, Pension, and Education Service may approve:

(1) Special restorative training in excess of 9 months, to overcome or lessen the effects of a physical or mental disability so as to enable an eligible person to pursue a program of education under chapter 35;

(2) A course of education offered by an agency of the Federal government authorized under other laws to offer such courses;

(3) A course of education to be pursued under 38 U.S.C. chapter 34 or 35 offered by a school located in the Canal Zone, Guam, or Samoa;

(4) Except as provided in § 21.4150(d) as to the Republic of the Philippines, a course of education to be pursued under 38 U.S.C. chapter 34 offered by an institution of higher learning not located in a State (38 U.S.C. 1676); and

(5) Any course in any other school in accordance with the provisions of 38 U.S.C. chapter 36 (38 U.S.C. 1772(b)).

§ 21.4251 Period of operation of course.

(a) *General.* A course offered by a school will be appropriate for the enrollment of a veteran or eligible person only if it has been in operation for 2 years or more immediately prior to the date of enrollment of such person, except that this provision does not apply to:

(1) Any course to be pursued in a public or other tax-supported educational institution;

(2) Any course which is similar in character to instruction previously offered by the school for more than 2 years;

(3) Any course which has been offered by a school for a period of more than 2 years, notwithstanding that the school has moved to another location within the same general locality; or

(4) Any course which is offered by a nonprofit school of college level and which is recognized for credit toward a standard college degree (38 U.S.C. 1675, 1725).

(b) *Operation for 2 years.* A course is considered to have been in operation for 2 years when it has been given continuously for 24 calendar months inclusive of reasonable vacation and holiday periods. Where courses are only offered on an ordinary school-year basis (approximately 9 months), 2 ordinary school years in the 24 calendar months will constitute a 2-year period. Where short

courses of less than an ordinary school year are offered on a regular cycle each calendar year, two cycles of such operation will constitute the 2-year period.

(c) *Course similar in character.* A course will be considered similar in character if it provides training for the same general objective and involves the same or related instructional processes, tools, and material as a course previously furnished by the school for a period of at least 2 years. When the State approving agency approves a new course which has not been in operation for a period of at least 2 years, as similar in character to a course which has been in operation for at least 2 years, the State will furnish the Veterans Administration with a copy of the approval and the basis for its view as to the similarity in character.

(d) *Move to new location.* A school will be considered to have moved to another location in the same general locality when the new location is within normal commuting distance of the original location, and remains essentially the same as to faculty and student body and offers the same courses.

(e) *Change of ownership or management.* Where a school has been in operation for 2 years or more and changes ownership or management, and remains essentially the same as to faculty, student body and courses offered, the school will not again be subject to the 2-year limitation.

(f) *Subsidiary branch or extension.* The 2-year period of operation requirement will apply to courses offered by a subsidiary branch or extension of a school. Additional facilities acquired by a school in the same general locality because of space limitations will not be considered to be a subsidiary branch or extension and will not be subject to the 2-year limitation if all of the following conditions are met:

(1) The school has been in operation for a period of 2 years or more;

(2) The school has reached the limit of its enrollment capacity in its present facilities;

(3) The courses to be offered at the additional facilities are the same as those given in the present facilities; and

(4) The additional facilities are within normal commuting distance of the present facilities.

§ 21.4252 Courses precluded.

(a) *Bartending, dancing, and personality development.* Enrollment will not be approved in any bartending, dancing, or personality development course, except where dancing is included in a physical education course in an institution of higher learning.

(b) *Avocational and recreational.* Enrollment will not be approved in any course which is avocational or recreational in character. The courses identified in subparagraphs (1), (2), and (3) of this paragraph, are presumed to be avocational or recreational in character and require justification for their pursuit.

(1) Any photography course or entertainment course, or

(2) Any music course, instrumental or vocal, public speaking course, or course in sports or athletics, such as horseback riding, swimming, fishing, skiing, golf, baseball, tennis, bowling, sports officiating, or other sport or athletic courses, except courses of applied music, physical education, or public speaking which are offered by institutions of higher learning for credit as an integral part of a program leading to an educational objective, or

(3) Any other type of course which the Veterans Administration determines to be avocational or recreational (38 U.S.C. 1673(a), 1723(a)).

(4) To overcome the presumption that a course is avocational or recreational in character, the veteran or eligible person will be required to establish that the course will be of bona fide use in the pursuit of his present or contemplated business or occupation.

(c) *Flight training.* Enrollment in a course of flight training will not be approved except one given by an institution of higher learning for credit toward the standard collegiate degree for which the veteran or eligible person is enrolled (38 U.S.C. 1673(b), 1723(b)).

(d) *Apprenticeship or other training on the job, on-farm and courses by radio.* Enrollment in such courses will not be approved.

(e) *Correspondence courses.* Enrollment in such courses will not be approved for eligible persons under chapter 35. See § 21.4256 as to chapter 34.

(f) *Courses on secondary level; chapter 35.* (1) A curriculum offered by a public or private school at the secondary level leading to the completion of the eligible person's regular secondary school education, that is, leading to a high school diploma or its equivalent, may not be pursued as a program of education or as a part of a course of education under chapter 35.

(2) Where the eligible person has ended his secondary school education, by completion or otherwise, after having passed the age of compulsory school attendance, he may pursue a specialized vocational program of education in a school at the secondary level if such program leads to a bona fide vocational objective. Such a program may be pursued if it is deemed adequate to prepare graduates to enter directly into employment in the occupation or vocation which the eligible person expects to enter.

(3) Enrollment in a specialized vocational program will not be approved where the program, although containing essential elements of vocational instruction, includes a heavy weighting of subjects of secondary level thereby requiring for completion a total number of instructional hours approximately equal to that required for high school graduation (38 U.S.C. 1723(d)).

§ 21.4253 Accredited courses.

(a) *General.* A course may be approved as an accredited course if it meets one of the following requirements:

(1) The course has been accredited and approved by a nationally recognized accrediting agency or association.

(2) Credit for such course is approved by the State department of education for credit toward a high school diploma (chapter 34 only).

(3) The course is conducted under 20 U.S.C. 11–28 (vocational education).

(4) The course is accepted by the State department of education for credit for a teacher's certificate or teacher's degree (38 U.S.C. 1775).

(b) *Course objective.* Any curriculum offered by a college or university which is a member of one of the nationally recognized accrediting agencies or associations and which leads to a degree, diploma, or certificate will be accepted as an accredited course when approved as such by the State approving agency. Approval of the individual subjects, required or elective, which are designated as a part of the curriculum will not be necessary. Such approval may include noncredit subjects that are prescribed as a required part of the curriculum.

(c) *Accrediting agencies.* A nationally recognized accrediting agency or association is one that appears on the list published by the Commissioner of Education as required by 38 U.S.C. 1775(a). The State approving agencies may utilize the accreditation of such accrediting agencies or associations for approval of the courses specifically accredited and approved by such agency or association.

(d) *School qualification.* A school desiring to enroll veterans or eligible persons in accredited courses will make application for approval of such courses to the State approving agency and will submit copies of its catalog or bulletin, together with such other information as will make it possible for the State approving agency to determine whether:

(1) Adequate records are kept by the school to show the progress of each veteran or eligible person; and

(2) The school maintains a written record of the previous education and training of the veteran or eligible person and clearly indicates that appropriate credit has been given by the school for previous education and training, with the training period shortened proportionately, and the person and the Veterans Administration so notified (38 U.S.C. 1775(b).

(e) *College level.* Under the provisions of paragraph (a)(1) of this section, any course at college level approved by the State approving agency as an accredited course will be accepted by the Veterans Administration as an accredited course when all of the following conditions are met:

(1) The college or university is accredited by a nationally recognized accrediting agency listed by the Commissioner of Education; and

(2) The course has entrance requirements of not less than the requirements applicable to the college level program of the school; and

(3) Credit for the course is awarded in terms of standard semester or quarter hours.

(f) *Business schools.* Any 1- or 2-year business course in a business school approved by the State approving agency will be accepted as an accredited course when all of the following conditions are met:

(1) The school offering such business course is accredited by the appropriate accrediting agency; and

(2) The course offers training in the field of business as distinguished from other fields (this excludes courses such as radio and television service or repair, medical laboratory or X-ray, etc.); and

(3) The course leads to a vocational objective in the field of business; and

(4) The course is offered in residence at the school.

§ 21.4254 Nonaccredited courses.

(a) *General.* Nonaccredited courses are courses which are not approved as accredited courses and which are offered by a public or private, profit or nonprofit, educational institution. These include nonaccredited courses offered by extension centers or divisions, or vocational or adult education departments of institutions of higher learning.

(b) *Application.* Any school desiring to enroll veterans or eligible persons in nonaccredited courses will submit a written application to the appropriate State approving agency for approval of such courses (38 U.S.C. 1776(a)). Such application will be accompanied by not less than two copies of the current catalog or bulletin which is certified as true and correct in content and policy by an authorized owner or official of the school and will include the following:

(1) Identifying data, such as volume number, and date of publication;

(2) Names of the school and its governing body, officials, and faculty;

(3) A calendar of the school showing legal holidays, beginning and ending date of each quarter, term, or semester, and other important dates;

(4) School policy and regulations on enrollment with respect to enrollment dates and specific entrance requirements for each course;

(5) School policy and regulations relative to leave, absences, class cuts, makeup work, tardiness, and interruptions for unsatisfactory attendance;

(6) School policy and regulations relative to standards of progress required of the student. This policy will define the grading system of the school, the minimum grades considered satisfactory conditions for interruption for unsatisfactory grades or progress, and a description of the probationary period, if any, allowed by the school, and conditions of reentrance for those students dismissed for unsatisfactory progress. A statement will be made regarding progress records kept by the school and furnished the student;

(7) School policy and regulations relating to student conduct and conditions for dismissal for unsatisfactory conduct;

(8) Detailed schedule of fees, charges for tuition, books, supplies, tools, student activities, laboratory fees, service charges, rentals, deposits, and all other charges;

(9) Policy and regulations relative to the refund of the unused portion of tuition, fees, and other charges in the event the student does not enter the course, or withdraws, or is discontinued therefrom;

(10) A description of the available space, facilities, and equipment;

(11) A course outline for each course for which approval is requested, showing subjects or units in the course, type of work, or skill to be learned, and approximate time and clock hours to be spent on each subject or unit; and

(12) Policy and regulations relative to granting credit for previous education and training (38 U.S.C. 1776(b)).

(c) *Approval criteria.* The appropriate State approving agency may approve the application of such school when the school and its nonaccredited courses are found upon investigation to have met the following criteria:

(1) The courses, curriculum, and instruction are consistent in quality, content, and length with similar recognized accepted standards.

(2) There is in the school adequate space, equipment, instructional material, and instructor personnel to provide training of good quality.

(3) Educational and experience qualifications of directors, administrators, and instructors are adequate.

(4) The school maintains a written record of the previous education and training of the veteran or eligible person and clearly indicates that appropriate credit has been given for previous education and training, with the training period shortened proportionately, and the veteran or eligible person and the Veterans Administration so notified.

(5) A copy of the course outline, schedule of tuition, fees, and other charges, regulations pertaining to absences, grading policy, and rules of operation and conduct will be furnished the veteran or eligible person upon enrollment.

(6) Upon completion of training, the veteran or eligible person is given a certificate by the school indicating the approved course and indicating that training was satisfactorily completed.

(7) Adequate records as prescribed by the State approving agency are kept to show attendance and progress or grades, and satisfactory standards relating to attendance, progress, and conduct are enforced.

(8) The school complies with all local, city, county, municipal, State, and Federal regulations, such as fire codes, building, and sanitation codes. The State approving agency may require such evidence of compliance as it deemed necessary.

(9) The school is financially sound and capable of fulfilling its commitments for training.

(10) The school does not utilize advertising of any type which is erroneous or misleading, either by actual statement, omission, or intimation. The school will not be deemed to have met this requirement until the State approving agency:

(i) Has ascertained from the Federal Trade Commission whether the Commission has issued an order to the school to cease and desist from any act or practice, and

(ii) Has, if such an order has been issued, given due weight to that fact.

(11) The school does not exceed its enrollment limitations as established by the State approving agency.

(12) The school's administrators, directors, owners, and instructors are of good reputation and character.

(13) The school has and maintains a policy for the refund of the unused portion of tuition, fees, and other charges in the event the veteran or eligible person fails to enter the course or withdraws or is discontinued therefrom at any time prior to completion. Such policy must provide that the amount charged to the veteran or eligible person for tuition, fees, and other charges for a portion of the course shall not exceed the approximate pro rata portion of the total charges for tuition, fees, and other charges that the length of the completed portion of the course bears to its total length. See § 21.4255.

(14) Such additional criteria as may be deemed necessary by the State approving agency (38 U.S.C. 1776(c)).

§ 21.4255 Refund policy; nonaccredited courses.

A refund policy will meet the requirements of § 21.4254(c)(13), if it provides that the amount charged for tuition, fees, and other charges for a portion of the course does not exceed the approximate pro rata portion of the total charges for tuition, fees, and other charges that the length of the completed portion of the course bears to the total length when the school makes provision for refund within the following limitations:

(a) *Registration fee.* An established registration fee in an amount not to excede $10 need not be subject to proration. Where the established registration fee is more than $10, the amount in excess of $10 will be subject to proration.

(b) *Breakage fee.* Where the school has a breakage fee, it may provide for the retention of only the exact amount of the breakage, with the remaining part, if any, to be refunded.

(c) *Consumable instructional supplies.* Where the school makes a separate charge for consumable instructional supplies, as distinguished from laboratory fees, the exact amount of the charges for supplies consumed may be retained but any remaining part must be refunded.

(d) *Books, supplies and equipment.* Where the veteran or eligible person purchases his books, supplies, and equipment from a bookstore or other source, and the cost of such items is separate and independent from the charge made by the school for tuition and fees, he may retain or dispose of such items at his own discretion. Where the school furnishes the books, supplies, and equipment, with the cost thereof included in the total charge payable to the school for the course, and the veteran or eligible person withdraws or is discontinued prior to the completion of the course, refund will be made in full for the amount of the charge for the unissued books, supplies, and equipment. Issued items may be disposed of at the discretion of the veteran or eligible person.

(e) *Tuition and other charges.* Where the school either has or adopts an established policy for the refund of the unused portion of tuition, fees, and other charges subject to proration, which is more favorable to the veteran or eligible person than the approximate pro rata basis as provided in this section, such established policy will be applicable. Otherwise, the school will refund a sum which does not vary more than 10 percent from the exact pro rata portion of such tuition, fees, and other charges that the length of the completed portion of the course bears to its total length. The exact proration will be determined on the ratio of the number of days of instruction completed by the student to the total number of instructional days in the course.

§ 21.4256 Correspondence courses; 38 U.S.C. chapter 34.

(a) A school desiring to enroll veterans under chapter 34 for correspondence courses may have such courses approved when the courses and the school meet the requirements of § 21.4253 or § 21.4254, as applicable, and when its application demonstrates that the course is satisfactory in all elements.

(b) Whenever the State approving agency approves a correspondence course for training of veterans under chapter 34, it shall immediately notify the Veterans Administration, identifying the school, the course or courses approved, and the educational or vocational objective of each approved course.

§ 21.4257 Cooperative courses.

A cooperative course may be approved when the course meets the requirement of § 21.4233(a).

§ 21.4258 Notice of approval.

(a) The State approving agency, upon determining that a school has complied with all the requirements for approval will notify the school by letter setting forth the courses which have been approved, and will furnish to the Veterans Administration an official copy of the letter and attachments and any subsequent amendments. The letter of approval for each school will be accompanied by a copy of the catalog or bulletin of the school, as approved by the State approving agency, and will contain the following information:

(1) Date of letter and effective date of approval of courses;

(2) Proper address and name of each school;

(3) Authority for approval and conditions of approval, referring specifically to the approved catalog or bulletin published by the school;

(4) Name of each course approved;

(5) Where applicable, enrollment limitations, such as maximum number of students authorized and student-teacher ratio;

(6) Signature of responsible official of State approving agency; and

(7) Such other fair and reasonable provisions as are considered necessary by the appropriate State approving agency (38 U.S.C. 1777).

§ 21.4259 Disapproval.

(a) Any course which, after being approved, fails to meet any of the requirements for approval will be immediately disapproved by the appropriate State approving agency. Upon disapproval, the State approving agency will notify the school by certified or registered letter with a return receipt secured (38 U.S.C. 1778). It is incumbent upon the State approving agency to determine the conduct of courses and to take immediate appropriate action in each case in which it is found that the conduct of a course in any manner fails to comply with the requirements for approval.

(b) Each State approving agency will immediately notify the Veterans Administration of each course which it has disapproved.

(c) The Veterans Administration will disapprove courses under conditions specified in paragraph (a) of this section where it functions for the State approving agency. See § 21.4150(c).

(d) The Veterans Administration will immediately notify the State approving agency in each case of Veterans Administration disapproval of any school under chapter 31 (38 U.S.C. 1778).

§ 21.4260 Courses in foreign countries.

(a) *Chapter 34.* Enrollment in a course at a school not located in a State may be approved when such course is pursued at an institution of higher learning and is approved in accordance with § 21.4250(c). The educational assistance allowance to a veteran pursuing a course in a foreign country will be denied or discontinued when it is found that such enrollment is not for the best interests of the veteran or the Government (38 U.S.C. 1676).

(b) *Chapter 35.* Enrollment in a course at a school not located in a State or in the Republic of the Philippines may be approved when all of the following conditions are met:

(1) The subjects to be taken at the foreign school are an integral part of and fully creditable toward the satisfactory completion of an approved course in which the veteran or eligible person is enrolled in an institution of higher learning (hereafter in this paragraph referred to as his principal school) which is located in a State or in the Republic of the Philippines,

(2) The tuition and fees for attendance at such foreign school are paid for by the principal school, and

(3) The principal school agrees to assume the responsibility for submitting to the Veterans Administration required enrollment certificates and monthly certifications of training as to attendance, conduct, and progress. An application for a program of education or for a change of program which includes education in a foreign school will not be given final approval until the applicant has been provided educational and vocational counseling by a Veterans Administration counseling service in a State or the Republic of the Philippines (38 U.S.C. 1723(c)).

ASSESSMENT AND PURSUIT OF COURSE

§ 21.4270 Measurement of courses.

Clock hours mentioned in this table mean clock hours per week.

Courses		Full time	¾ time	½ time
Kind of school	Kind of course			
(a) Trade or technical (includes college courses not leading to a standard degree).	Shop practice an integral part of course.	30 clock hours attendance with not more than 2½ hours rest period allowance.	22 to 30 clock hours attendance with not more than 2 hours rest period allowance.	15 to 22 clock hours attendance with not more than 1¼ hours rest period allowance.
	Theory and class instruction predominates.	25 clock hours net instruction.	18 to 25 clock hours net instruction.	12 to 18 clock hours net instruction.
(b) High school	High school diploma or equivalent.[1]	25 clock hours net instruction.	18 to 25 clock hours net instruction.	12 to 18 clock hours net instruction.
(c) College undergraduate.	Standard collegiate courses including cooperative.[2]	14 semester hours or equivalent.	10 to 14 semester hours or equivalent.	7 to 10 semester hours or equivalent.
(d) Collegiate graduate.	Standard collegiate graduate courses including law.	As in paragraph (c) of this section or certified by responsible official of school.	As in paragraph (c) of this section or certified by responsible official of school.	As in paragraph (c) of this section or as certified by responsible official of school.
(e) Professional (nonaccredited).	Law only [3]	12 class sessions per week.	9 to 12 class sessions per week.	6 to 9 class sessions per week.
(f) Professional (accredited and equivalent).	Internships and residencies: medical, dental, osteopathic.	As established by accrediting association.	Full time only.	
	Nursing, X-ray medical technology, medical records librarian, physical therapy.	25 clock hours or 14 semester hours, as appropriate.	18 to 25 clock hours or 10 to 14 semester hours, as appropriate.	12 to 18 clock hours or 7 to 10 semester hours, as appropriate.

[1] High school diploma courses available only under chapter 34.
[2] Cooperative course may be pursued on full time basis only.
[3] 12 class sessions per week will consist of at least 600 minutes; 9 class sessions will consist of at least 450 minutes; and 6 class sessions will consist of at least 300 minutes. These required minutes pertain to net instruction, independent of supervised study, class breaks, or rest periods.

§ 21.4271 Trade or technical; high schools.

(a) *Shop practice predominates.* Trade or technical courses, which include shop practice as an integral part of the course, will be measured on a basis of clock hours per week. This includes such courses under the supervision of a college or university where credit is not given towards a standard college degree.

(b) *Theoretical or classroom instruction predominates.* A technical course in which theoretical or classroom instruction constitutes more than 50 percent of the required hours per week, will be measured on a clock-hour basis. This includes such courses given by a college or university for which credit is not granted towards a standard college degree.

(c) *High schools; chapter 34.* Courses offered at the secondary level which lead to a high school diploma or the equivalent will be measured on the basis of clock hours of instruction per week. Enrollment in such courses will not be approved for eligible persons under chapter 35.

§ 21.4272 Collegiate undergraduate; credit-hour basis.

An undergraduate course in an institution of higher learning will be measured on a credit-hour basis provided all the conditions under paragraph (a), (b), or (c) of this section are met:

(a) The course is offered by a college or university which is a member of a nationally recognized accrediting association, and

(1) The course is offered on a semester- or quarter-hour basis, and

(2) The course leads to an associate, baccalaureate, or higher degree which is granted by the school offering the course.

(b) The course is offered by a college or university which is not a member of a nationally recognized accrediting association, and,

(1) The course is offered on a semester- or quarter-hour basis, and,

(2) The course leads to an associate, baccalaureate, or higher degree, which is granted by the school offering the degree, and

(3) The president of the college or university will certify that three institutions identified by him as members of a nationally recognized accrediting association will recognize credit received on transfer at full value; i.e., credit hour for credit hour, and that at least 40 percent of the subjects within each curriculum, desired to be measured on a credit-hour basis, are acceptable in partial fulfillment of the requirements for a baccalaureate or higher degree. In lieu of such certification the school may furnish letters from three schools that are members of nationally recognized accrediting associations certifying that credits are received on transfer at full value, and that at least 40 percent of the subjects within each curriculum, desired to be measured on a credit-hour basis, are acceptable in partial fulfillment of the requirements for a baccalaureate or higher degree.

(c) The course is offered by either a member or nonmember of a nationally recognized accrediting association, and

(1) The course is offered on a semester- or quarter-hour basis, and

(2) The course does not lead to a degree, and

(3) The course requires not less than high school graduation or equivalent for admission, and

(4) A minimum of two full-time academic years is required for completion of the course, and

(5) If the school is a member of a nationally recognized accrediting association, and certifies that credit for at least 40 percent of the subjects within the curriculum, desired to be measured on a credit-hour basis, is granted upon transfer to the element of the school which offers a baccalaureate or higher degree, and credit is awarded at full value; i.e., credit hour for credit hour toward partial fulfillment of the requirements for a baccalaureate or higher degree, or

(6) If the school is not a member of a nationally recognized accrediting association, and it furnishes proper certification as provided in paragraph (b) of this section.

(d) Where the course is of less than a regular semester, term, or quarter duration, it will be measured as full, three-fourths, or one-half time according to the certification of the school. In making such certification, the school will state the number of credit hours for which the veteran or eligible person is registered, including the credit hour equivalent of noncredit courses, if any, required by the school and will be required to observe the following criteria:

(1) Full time—the number of credit hours for which the veteran or eligible person must be registered in order to be considered pursuing full-time training is that number which requires at least 14 standard class sessions of attendance per week or the equivalent in laboratory or fieldwork, research, or other types of prescribed activity. For example, an eligible person pursuing a short, summer session requiring attendance at 14 standard class sessions per week will be considered to be in full-time training, although because of the very short duration of the course he may be registered for only 3 credit hours.

(2) Three-fourths time—less than 14 class sessions of attendance per week or equivalent but not lesss than 10.

(3) One-half time—less than 10 class sessions of attendance per week or equivalent but not less than 7.

(e) Where the course is acceptable for credit but credit may not be awarded to the veteran or eligible person because he has not met college entrance requirements or for some other valid reason, the course will be measured the same as if it were pursued for credit provided the eligible person performs all of the work prescribed for other students who are enrolled for credit.

(f) Where the school requires the veteran or eligible person to pursue noncredit deficiency courses in order to meet certain scholastic or entrance requirements, the school will certify the credit-hour equivalent of such noncredit deficiency courses in addition to the credit hours for which the veteran or eligible person is enrolled. The measurement criteria of § 21.4270 will be applied, with the following modifications:

(1) Full time—12 hours credit plus the noncredit deficiency courses.

(2) Three-fourths time—less than 12 hours credit but not less than 9 hours credit, plus the noncredit deficiency courses.

(3) One-half time—less than 9 hours credit but not less than 6 hours credit in addition to the noncredit deficiency courses.

(g) Courses for which credit is not given toward a standard college degree will be evaluated on a clock-hour basis. See § 21.4271(b).

§ 21.4273 Collegiate graduate.

(a) *In residence.* An accredited graduate or advanced professional course pursued in residence at an institution of higher learning will be assessed in accordance with § 21.4272 unless it is the established policy of the school to consider less than 14 semester hours or the equivalent as full-time enrollment, or the course includes research, thesis preparation, or a comparable prescribed activity beyond that normally required for the preparation of ordinary classroom assignments. In either case a responsible official of the school will certify that the veteran or eligible person is pursuing the course full, three-fourths, one-half or less than one-half time.

(b) *In absentia.* A responsible official of the school will certify a program of research pursued by a veteran or eligible person in absentia as full, three-fourths, one-half time or less than one-half time, and the activity will be assessed by the Veterans Administration accordingly when:

(1) The research activity is defined and organized so as to enable the certifying official to evaluate the time required for its successful pursuit, and

(2) The time certified for the research activity is independent of the time devoted to any employment situation in which the veteran or eligible person might be engaged.

(c) *Undergraduate or combination.* Undergraduate courses required by the school will be assessed in terms of credit hours, even though the veteran or eligible person is enrolled as a graduate student. If the veteran or eligible person is taking both graduate and undergraduate courses, the school will give the credit-hour equivalent of the graduate work so that this equivalent may be combined with the undergraduate credits to determine the extent of training.

(d) *Law.* A law course pursued in an accredited law school for the LL.B. degree where, as is usual, the units of credit are of greater than the standard units of credit for courses leading to undergraduate degrees in other schools will be assessed as in paragraph (a) of this section, except that an accredited 4-year night law course unless approved as a full-time course pursuant to the stand-

ards established by the American Bar Association will be considered part time and will be measured as not more than three-fourths time.

§ 21.4274 Professional; nonaccredited.

(a) A law course pursued in a nonaccredited school will be assessed on a clock-hour basis, except that if the school requires for admission to the law course completion of college work consisting of not less than 90 standard semester units of credit or the equivalent in quarter units of credit, and requires for the awarding of the law degree that its students pursue a daytime course of not less than 3 years duration if they devote substantially all of their working time to their course of studies, or if pursued in the evening the school requires not less than 4 school years of attendance, the course will be assessed on the basis of sessions of attendance per week.

(b) In no case will a nonaccredited night law course be measured at more than three-fourths time.

§ 21.4275 Professional; accredited.

Medical, osteopathic and dental internships and residencies will be recognized as full-time institutional courses when accredited and approved by the appropriate accrediting agency as leading to certification for a recognized professional objective.

(a) Medical internship courses will be accredited and approved by the Council on Medical Education and Hospitals of the American Medical Association and for such length as the council has approved for the particular internship course at the particular hospital.

(b) Osteopathic internship courses will be accredited and approved by the American Osteopathic Association and for such length as the association has approved for each particular internship at the particular hospital.

(c) Dental internship courses will be accredited and approved by the Council on Dental Education of the American Dental Association as an integral part of an approved course leading to certification by a Dental Specialty Board recognized by the American Dental Association.

(d) No other medical, dental, or osteopathic internship courses will be recognized, since they are not recognized by the profession as qualifying a person for the practice of the profession.

(e) Medical residency courses will be recognized when accredited and approved by the Council on Medical Education and Hospitals of the American Medical Association as standard residencies leading to a certification by a Specialty Board. For those residencies where there is no Specialty Board, there must be certification by a hospital approved by the Council on Medical Education and Hospitals of the American Medical Association. The length of a residency course is not to exceed the number of months prescribed for the residency training by the appropriate Specialty Board or by the Council on Medical Education and Hospitals of the American Medical Association.

(f) Osteopathic residency courses will be accredited and approved by the American Osteopathic Association for such length as the appropriate Specialty Board of the Association has approved for each particular residency course.

(g) Dental residency courses will be recognized when they are accredited and approved by the Council on Dental Education of the American Dental Association as standard residencies leading to certification by a Dental Specialty Board, and the length of the course is not in excess of the number of months prescribed for the residency training by the appropriate Specialty Board or the Council on Dental Education of the American Dental Association.

(h) No course of residency training will be approved to include a period of practice, following completion of a required residency, even though such practice is required or accepted by a Specialty Board to fulfill board requirements. Further, where a veteran or eligible person after completing an internship prerequisite to residency training has pursued any additional training, whether through internship, fellowship, or other graduate or postgraduate study that is creditable toward residency requirements, the residency course must be proportionately shortened.

(i) No other medical, dental, or osteopathic residency course will be recognized since they are not recognized by the accrediting agency.

(j) Registered nursing and registered professional nursing courses (Accredited or Accepted as Equivalent).

(1) Courses for the objective of registered nurse or registered professional nurse will be assessed as institutional training when they are provided in autonomous schools of nursing, hospital schools of nursing, or schools of nursing established in other schools or departments of colleges and universities, if they are accredited courses pursued in a school accredited by a nationally recognized accrediting agency. A nonaccredited course will be considered appropriate if it meets the requirements of the licensing body of the State in which the school is located.

(2) The hospital or fieldwork phase of a course leading to a degree of Bachelor of Science in nursing, or a comparable degree, will be assessed as an institutional course when the hospital or fieldwork phase is an integral part of the course, the completion thereof is a prerequisite to the granting of the degree, the student remains enrolled in the school during the entire period, and the training is under the direction and supervision of the school. Where measurement of the hospital training segment on a credit-hour basis would not reflect the full-time status of the student, enrollment certifications submitted by the school should include appropriate entries to show clock hours in lieu of credit hours during the hospital training periods.

(3) A veteran or eligible person may not enroll in any other course for the objective of registered or registered professional nurse.

(k) Practical nursing courses (accredited or accepted as equivalent).

(1) Courses offered by schools which lead to the objective of practical nurse, practical trained nurse, or licensed practical nurse will be assessed as institutional training including both the academic subjects and the clinical training if the clinical training is offered in an affiliated or cooperating hospital and the student is enrolled in and supervised by the school during the period of such clinical training. For the academic portion of the course, measurement will be semester hours of credit or clock hours of required attendance per week, whichever is appropriate. The clinical training will be measured in clock hours of required attendance per week.

(2) Enrollment in courses for the objective of nurse's aid will not be authorized.

(l) X-ray technician, medical technician, medical records librarian and physical therapist courses. X-ray technician, medical technician, medical records librarian, and physical therapist courses will be assessed as follows:

(1) Where such courses are offered in hospitals and the courses are accredited and approved by the Council on Medical Education and Hospitals of the American Medical Association, they will be considered full-time institutional training.

(2) Where such courses are offered in hospitals, clinics, or laboratories and are not accredited and approved by the Council on Medical Education and Hospitals of the American Medical Association, they will be considered on-job training and not permitted under chapter 34 or 35.

(3) Where such courses are offered by a school they will be measured in semester hours of credit or clock hours of required attendance per week, whichever is appropriate.

§ 21.4276 Special assistance; 38 U.S.C. chapter 35.

(a) *Need for special assistance.* The assistance of a vocational rehabilitation specialist or of a counselor with assigned vocational rehabilitation specialist duties will be provided in connection with a program of education when it is determined by the Vocational Rehabilitation Board, that although the eligible person is not in need of special restorative training, he will require assistance in order to pursue a program of education successfully because of the handicapping effects of a physical or mental condition, or because of personal adjustment problems. The determination as to need for such assistance will be made by the Vocational Rehabilitation Board upon the basis of information developed in the counseling process, including data and opinions obtained from medical and other specialists as appropriate in the case.

(b) *Factors.* A determination that an eligible person needs such assistance will be made when one or more of the following conditions is found to exist:

(1) The handicapping effects of a physical or mental condition are such that assistance will be required in order for the eligible person to enter and successfully pursue a program of education.

(2) The eligible person has a history of a behavioral pattern which if continued would interfere with or impede his entrance into a pursuit of a program of education.

(c) *Recommendations.* The Vocational Rehabilitation Board will prepare a report as to the need for assistance and the factors taken into account in arriving at the determination. Where an affirmative determination of need is found, the Board will include suggestions and recommendations relative to the nature of the assistance contemplated.

(d) *Duration.* When it is determined by the Vocational Rehabilitation Board that an eligible person needs assistance, the parent or guardian will be informed of the finding and of the underlying reasons. If the parent or guardian concurs in the finding, the assistance will be provided as is indicated until the progress and adjustment of the eligible person in his program of education are such that the assistance is no longer needed.

(e) *Nature of assistance.* Assistance by the vocational rehabilitation specialist will include:

(1) Assisting the eligible person and the school in the implementation of the planned program of education;

(2) Determining the progress of the eligible person through visits at the school as well as through review of records and, when indicated, taking action designed to solve problems which may interfere with satisfactory pursuit of the program of education;

(3) Making referral when indicated and coordinating action with responsible individuals and agencies in order to alleviate or prevent conditions arising which may negatively affect progress;

(4) Referring the case of an eligible person who is receiving assistance to the Vocational Rehabilitation Board when need for special restorative training appears to be for consideration, or the advice and assistance of the Board is needed to resolve difficulties;

(5) Assisting the parent or guardian in locating and arranging for the services of suitable instructors and equipment when the eligible person is homebound.

§ 21.4277 Discontinuance; unsatisfactory progress.

(a) *Satisfactory pursuit of program.* Entitlement to a program of education is subject to the requirement that the veteran or eligible person, having commenced the pursuit of such program, continues to maintain satisfactory conduct and progress in accordance with the regularly prescribed standards and practices of the institution in which he is enrolled.

(b) *Maintenance of satisfactory conduct and progress.* A program of education will be discontinued where it is established that by reason of the veteran's or eligible person's unsatisfactory conduct or progress he will no longer be retained as a student or would not be readmitted as a student by the school in which he is or was enrolled, unless it is found through further development that the action of the school is of a retaliatory nature (38 U.S.C. 1674 and 1724).

§ 21.4278 Reentrance after discontinuance.

(a) A veteran or eligible person may be reentered following discontinuance because of unsatisfactory conduct or progress only when the following conditions exist:

(1) The cause of the unsatisfactory conduct or progress has been removed, and

(2) It is deemed through counseling that the program which the veteran or eligible person now proposes to pursue is suitable to his aptitudes, interests and abilities.

(b) Reentrance may be for the same program, for a revised program or for an entirely different program depending on the cause of the discontinuance, the removal of that cause, and the determinations arrived at through further counseling (38 U.S.C. 1674 and 1724).

(72 Stat. 1114; 38 U.S.C. 210)

These VA regulations are effective March 3, 1966, except §§ 21.131, 21.136, and 21.224 which are effective April 8, 1966, and § 21.3023(c) which is effective June 1, 1966.

By direction of the Administrator.

Approved: April 8, 1966.

[SEAL] A. H. MONK,
Acting Deputy Administrator.

[F.R. Doc. 66-4908; Filed, May 5, 1966; 8:45 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

[Docket No. 1819; Amdt. 39-230]

PART 39—AIRWORTHINESS DIRECTIVES

Martin Models 202, 202A, and 404 Series Airplanes

Amendment 610 (28 F.R. 9593), AD 63-18-4, requires repetitive inspection of the engine mounts and repair or replacement of any parts found cracked on Martin Models 202, 202A, and 404 Series airplanes. Subsequent to the issuance of Amendment 610, the Agency has determined that due to additional cracks being found in service, it is necessary to supersede AD 63-18-4 with a new AD that requires a visual inspection for cracks at 350-hour intervals and an X-ray inspection for cracks and corrosion at 2,500-hour intervals.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (25 F.R. 6489), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

MARTIN. Applies to Models 202, 202A, and 404 Series airplanes.

Compliance required as indicated.

Numerous cracks have been discovered in Martin Models 202 (P/N A10100), 202A (P/N A16647-81), and 404 (P/N 404-5000004, and P/N 404-5000005) aircraft engine mounts. To preclude the possibility of engine loss due to this condition, accomplish the following:

(a) Within the next 100 hours' time in service after the effective date of this AD, unless already accomplished within the last 250 hours' time in service before the effective date of this AD, and thereafter at intervals not to exceed 350 hours' time in service from the last inspection, visually inspect the engine mount tubular members and welds for cracks, using a glass of at least 10-power or an FAA-approved equivalent inspection.

(b) Within the next 350 hours' time in service after the effective date of this AD, unless already accomplished within the last 2,150 hours' time in service before the effective date of this AD, and thereafter at intervals not to exceed 2,500 hours' time in service from the last inspection, inspect the engine mount tubular members and welds for external and internal cracks and corrosion, using X-ray or an FAA-approved equivalent inspection.

(c) If a crack or corrosion is detected during the inspections required by paragraphs (a) and (b), before further flight repair the defective part in accordance with an FAA-approved repair procedure, or replace the part with a part of the same part number, or an equivalent part approved by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

(d) Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Chief, Engineering and Manufacturing Branch, FAA Eastern Region, may adjust the repetitive inspection intervals specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

This supersedes Amendment 610 (28 F.R. 9593), AD 63-18-4.

This amendment becomes effective May 6, 1966.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423))

Issued in Washington, D.C., on April 29, 1966.

C. W. WALKER,
Acting Director,
Flight Standards Service.

[F.R. Doc. 66-4941; Filed, May 5, 1966; 8:46 a.m.]

[Docket No. 7175; Amdt. 39-231]

PART 39—AIRWORTHINESS DIRECTIVES

Vickers Viscount Models 744, 745D, and 810 Series Airplanes

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring dye penetrant and radiographic or ultrasonic inspection of the nacelle structure tubes and end fittings and replacement as necessary on Vickers Viscount Models 744,

745D, and 810 Series airplanes was published in 31 F.R. 3196.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (25 F.R. 6489), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

VICKERS. Applies to Viscount Models 744, 745D, and 810 Series airplanes.

Compliance required as indicated, unless already accomplished.

To prevent failures of tubes and end fittings of high time engine nacelle structures due to fatigue and corrosion, accomplish the following:

(a) For airplanes with 20,000 or more hours' time in service on the effective date of this AD, comply with paragraph (g) within the next 1,000 hours' time in service after the effective date of this AD.

(b) For airplanes with 19,000 or more but less than 20,000 hours' time in service on the effective date of this AD, comply with paragraph (g) before the accumulation of 21,000 hours' time in service.

(c) For airplanes with 17,000 or more but less than 19,000 hours' time in service on the effective date of this AD, comply with paragraph (g) within the next 2,000 hours' time in service after the effective date of this AD.

(d) For airplanes with less than 17,000 hours' time in service on the effective date of this AD, comply with paragraph (g) before the accumulation of 19,000 hours' time in service.

(e) For airplanes with 17,000 or more hours' time in service on the effective date of this AD, comply with paragraph (h) within the next 3,500 hours' time in service after the effective date of this AD.

(f) For airplanes with less than 17,000 hours' time in service on the effective date of this AD, comply with paragraph (h) before the accumulation of 20,500 hours' time in service.

(g) Inspect the end fittings for cracks using dye penetrant or an FAA-approved equivalent in accordance with Inspection "A", British Aircraft Corp. (BAC) Ltd. Preliminary Technical Leaflet (PTL) No. 258, Issue 2 (700 Series), or No. 122, Issue 2 (800/810 Series), or later ARB-approved issues.

(h) Inspect the nacelle structure tubes and end fittings for cracks using radiographic or ultrasonic methods or an FAA-approved equivalent in accordance with Inspection "B", BAC, Ltd., PTL No. 258, Issue 2 (700 Series), or No. 122, Issue 2 (800/810 Series), or later ARB-approved issues.

(i) Replace tubes and end fittings found cracked during the inspections required by paragraphs (g) and (h) before further flight.

This amendment becomes effective June 5, 1966.

(Sec. 313(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423))

Issued in Washington, D.C., April 29, 1966.

C. W. WALKER,
Acting Director,
Flight Standards Service.

[F.R. Doc. 66-4942; Filed, May 5, 1966; 8:46 a.m.]

[Airspace Docket No. 65-WE-43]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Federal Airways

On December 15, 1965, a notice of proposed rule making was published in the FEDERAL REGISTER (30 F.R. 15437) stating that the Federal Aviation Agency was considering amendments to Part 71 of the Federal Aviation Regulations that would raise the floors on segments of V-6, 19, 26, 86, 89, 100, 118, 138, 169, 207, and 524.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. Due consideration was given to all comments received. The Air Transport Association of America requested that cardinal altitudes be retained wherever possible. No other comments were received.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., June 23, 1966, as hereinafter set forth.

Section 71.123 (31 F.R. 2009) is amended as follows:

1. In V-6 "INT of Medicine Bow 106° and Sidney, Nebr., 293° radials; Sidney;" is deleted and "12 AGL INT Medicine Bow 106° and Sidney, Nebr., 293° radials; 12 AGL Sidney;" is substituted therefor.

2. In V-19 all between "Cheyenne, Wyo.;" and "INT of Billings 347°" is deleted and "12 AGL Casper, Wyo., including a 12 AGL E alternate from Cheyenne to Casper via INT Cheyenne 002° and Douglas, Wyo., 152° radials and Douglas; 5 miles 12 AGL, 45 miles 71 MSL, 12 AGL Crazy Woman, Wyo.; 12 AGL Sheridan, Wyo., including a 12 AGL E alternate; 21 miles 12 AGL, 35 miles 75 MSL, 12 AGL Billings, Mont., including an E alternate, 21 miles 12 AGL, 38 miles 75 MSL, 12 AGL;" is substituted therefor.

3. In V-26 all between "Casper, Wyo.;" and "Pierre, S. Dak.;" is deleted and "14 miles 12 AGL, 25 miles 75 MSL, 92 miles 90 MSL, 12 AGL Rapid City, S. Dak.; 12 AGL Philip, S. Dak.;" is substituted therefor.

4. In V-86 all after "Livingston;" is deleted and "Billings, Mont.; 32 miles 12 AGL, 35 miles 75 MSL, 12 AGL Sheridan, Wyo.; 20 miles 12 AGL, 45 miles 70 MSL, 72 miles 80 MSL, 12 AGL Rapid City, S. Dak." is substituted therefor.

5. In V-89 all after "Denver;" is deleted and "Cheyenne, Wyo., including an E alternate from Denver to Cheyenne via Gill, Colo., and INT Gill 003° and Cheyenne 131° radials; 12 AGL Chadron, including a 12 AGL E alternate from Cheyenne to Chadron via Scottsbluff, Nebr." is substituted therefor.

6. In V-100 all before "O'Neil, Nebr.;" is deleted and "Medicine Bow, Wyo., 59 miles 12 AGL, 49 miles 85 MSL, 12 AGL Chadron, Nebr.;" is substituted therefor.

7. V-118 is amended to read as follows:

V-118 From Medicine Bow, Wyo., 23 miles 85 MSL, 12 AGL Laramie, Wyo.; 12 AGL Cheyenne, Wyo.

8. In V-138 all between "Medicine Bow, Wyo.;" and "From Grand Island" is deleted and "12 AGL Cheyenne, Wyo., including a 12 AGL N alternate via INT Medicine Bow 106° and Cheyenne 330° radials; 12 AGL Sidney, Nebr." is substituted therefor.

9. In V-169 all between "Akron, Colo.;" and "Dupree, S. Dak.;" is deleted and "Sidney, Nebr., 12 AGL Scottsbluff, Nebr.; 12 AGL Chadron, Nebr.; 12 AGL Rapid City, S. Dak.;" is substituted therefor.

10. V-207 is amended to read as follows:

V-207 From Denver, Colo., via Gill, Colo., 12 AGL Scottsbluff, Nebr.

11. V-524 is amended to read as follows:

V-524 From Laramie, Wyo., 12 AGL INT Laramie 069° and Scottsbluff, Nebr., 254° radials; 12 AGL Scottsbluff; to North Platte, Nebr.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348))

Issued in Washington, D.C., on April 29, 1966.

H. B. HELSTROM,
Acting chief, Airspace and
Air Traffic Rules Division.

[F.R. Doc. 66-4943; Filed, May 5, 1966; 8:46 a.m.]

[Airspace Docket No. 65-EA-51]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Federal Airways

Correction

In F.R. Doc. 66-4689, appearing at page 6487 of the issue for Friday, April 29, 1966, the letters "ALG" in item 13 should read "AGL."

Proposed Rule Making

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 51]

CANNED VEGETABLES

Proposal To Amend Standards of Identity; Correction

In F.R. Doc. 66-4358 published in the FEDERAL REGISTER of April 21, 1966 (31 F.R. 6120), the figures in paragraph (2) that read "0.05" are corrected to read "0.5".

Dated: April 27, 1966.

J. K. KIRK,
Assistant Commissioner for Operations.

[F.R. Doc. 66-4938; Filed, May 5, 1966; 8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 16538]

TELEVISION BROADCAST STATIONS; TABLE OF ASSIGNMENTS

Order Extending Time for Filing Reply Comments

1. The date for filing reply comments in this proceeding is April 29, 1966. Petitioner herein, WCUE Radio, Inc., has filed a petition requesting that this be extended to May 14, 1966, so that it can study and respond to comments of Summit Radio Corp. and also review and formulate a full response to other comments filed in this proceeding.

2. *Accordingly, it is ordered,* This 29th day of April 1966, that the time for filing reply comments is extended from April 29, 1966, to May 16, 1966.

3. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281(d)(8) of the Commission's rules.

Released: April 29, 1966.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 66-4930; Filed, May 5, 1966; 8:45 a.m.]

FEDERAL MARITIME COMMISSION

[46 CFR Part 510]

[Docket No. 66-31]

INDEPENDENT OCEAN FREIGHT FORWARDERS, OCEAN FREIGHT BROKERS, AND OCEANGOING COMMON CARRIERS

Notice of Proposed Rulemaking

Notice is hereby given that pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 1003) and sections 43 and 44 of the Shipping Act, 1916 (46 U.S.C. 841a and 841b), the Federal Maritime Commission is considering amending paragraphs (a) of § 510.22; (a), (f), (j) of § 510.23; and (a) and (f) of § 510.24, Title 46 CFR. These proposed amendments are for the purpose of attaining more efficient and effective regulation over the practices of licensed independent ocean freight forwarders. A comprehensive review of actual operating experience pursuant to Federal Maritime Commission regulations prescribed in General Order 4, as amended, indicates that certain rule modifications and/or optional alternatives may be warranted at this time. Accordingly, the following proposed amendments will be considered.

Numerous changes are contemplated in paragraph (a) of § 510.22 *Oceangoing common carriers and persons shipping for own account.* As proposed to be amended paragraph (a) would read as follows:

§ 510.22 Oceangoing common carriers and persons shipping for own account.

(a) An oceangoing common carrier may perform freight forwarding services without a license only with respect to cargo carried under its own bill of lading, in which case the charge for each forwarding service the carrier is willing to perform shall be assessed in accordance with the carrier's published tariffs on file with the Commission. Any forwarding service on cargo carried under its own bill of lading which the carrier is willing to perform free of charge, including presentation of executed Shipper's Export Declarations to customs authorities shall be specified in its tariffs. No licensee may charge or collect compensation in the event he requests the carrier or its agent to perform any of the forwarding services set forth in § 510.2(c) unless no other licensee is willing and able to perform such services.[1]

* * * * *

Paragraph (a) of § 510.23 *Duties and obligations of licensees,* is proposed to be amended by adding at the end thereof the following new material: "No licensee may provide freight forwarding services through an unlicensed branch office or other separate establishment without written approval of the Federal Maritime Commission. Such approval may be granted only when it is found that qualified personnel competent to perform complete ocean freight forwarding services are employed in the branch office or other separate establishment. Applications for approval of branch offices or other separate establishment in existence on the date of adoption of this rule must be submitted within 3 months of such date."

As proposed to be amended paragraph (a) would read as follows:

§ 510.23 Duties and obligations of licensees.

(a) No licensee shall permit his license or name to be used by any person not employed by him for the performance of any freight forwarding service. No licensee may provide freight forwarding services through an unlicensed branch office or other separate establishment without written approval of the Federal Maritime Commission. Such approval may be granted only when it is found that qualified personnel competent to perform complete ocean freight forwarding services are employed in the branch office or other separate establishment. Applications for approval of branch offices or other separate establishment in existence on the date of adoption of this rule must be submitted within 3 months of such date.

Paragraph (f) of § 510.23 is proposed to be amended by the inclusion of a time limit within which a licensee would be required to pay over to carriers freight monies advanced by its principal. As proposed to be amended paragraph (f) would read as follows:

(f) Each licensee shall pay over to the oceangoing common carrier or its agent within five (5) days after the receipt thereof or within three (3) days after the departure of the vessel from each port of loading whichever is later, all sums advanced the licensee by its principal for freight and transportation charges, and shall disburse to other persons when due all sums advanced by its principal for payment of any charges, debts, or obligations in connection with the forwarding transaction, and shall promptly account to its principal for overpayment, adjustments of charges, reductions in rates, insurance refunds, insurance money paid to the forwarder as a result of claims, proceeds of c.o.d. shipments, drafts, letters of credit and any other sums due such principal.

Paragraph (j) of § 510.23 is proposed to be amended by adding at the end thereof the following new proviso: *"Pro-*

[1] The last sentence of this paragraph is currently the subject of a rulemaking proceeding in Docket No. 66-2.

vided, further, That a licensee who maintains and adheres to a uniform schedule of fees to be charged for arranging insurance and for performing other accessorial services (stated by dollar amount and/or percentage of markup) need not state separately the components of the charges for such insurance and for such other accessorial services. A licensee who elects to maintain such schedules must make the current schedule and every superseded schedule available upon request. A licensee shall not assess different fees than those specified in the effective schedules. Such schedules shall be filed with the Federal Maritime Commission and posted in a conspicuous place in the forwarder's office, and shall be mailed upon request."

As proposed to be amended paragraph (j) of § 510.23 would read as follows:

(j) Every licensee shall use invoices or other forms of billing which state separately as to each shipment: (1) The actual amount of ocean freight assessed by the oceangoing common carrier; (2) the actual amount of consular fees paid; (3) the insured value, insurance rate, and premium cost of insurance arranged; (4) the charge for each accessorial service performed in connection with the shipment. All other charges or fees assessed by the licensee for arranging the services enumerated in subparagraphs (1), (2), (3), and (4) of this paragraph shall be itemized. Licensees shall not be required to itemize the components of charges with respect to transactions made pursuant to § 510.25: *Provided, however,* That licensees who offer to the public at large to forward small shipments for uniform charges available to all and duly filed with the Federal Maritime Commission, shall not be required to itemize the components of such uniform charges on shipments as to which the charges shall have been stated to the shipper at time of shipment, and accepted by the shipper by payment; but if such licensees procure Marine Insurance to cover such shipments, they must state their total charge for such insurance, inclusive of premiums and placing fees, separately from the aforementioned uniform charge: *Provided, further,* That a licensee who maintains and adheres to a uniform schedule of fees to be charged for arranging insurance and for performing other accessorial services (stated by dollar amount and/or percentage of markup) need not state separately the components of the charges for such insurance and for such other accessorial services. A licensee who elects to maintain such schedules must make the current schedule and every superseded schedule available upon request. A licensee shall not assess different fees than those specified in the effective schedules. Such schedules shall be filed with the Federal Maritime Commission and posted in a conspicuous place in the forwarder's office, and shall be mailed upon request.

Paragraph (a) of § 510.24 *Compensation and freight forwarder certifications,* is proposed to be amended by deleting from the end thereof the language which reads: "unless such principal's name is disclosed on a 'line copy' of the ocean bill of lading which is maintained in files in the United States of the ocean carrier or its agent."

As proposed to be amended paragraph (a) would read as follows:

§ 510.24 Compensation and freight forwarder certifications.

(a) No oceangoing common carrier shall pay to a licensee, and no licensee shall charge or receive from any such carrier, either directly or indirectly, any compensation or payment of any kind whatsoever, whether called "brokerage," "commission," "fee," or by any other name, in connection with any cargo or shipment wherein the licensee's name appears on the ocean bill of lading as shipper or as agent for an undisclosed principal.

Paragraph (f) of § 510.24 is proposed to be amended by adding at the end thereof a new sentence reading as follows: "Every tariff filed pursuant to section 18(b)(1), Shipping Act, 1916, shall specify the rate or rates of compensation to be paid licensed forwarders certifying in accordance with § 510.24(e), and the conditions of payment."

As proposed to be amended paragraph (f) would read as follows:

(f) An oceangoing common carrier may compensate a licensee to the extent of the value rendered such carrier in connection with any shipment forwarded on behalf of others when, and only when, such carrier is in possession of a certification in the form prescribed in paragraph (e) of this section. Every tariff filed pursuant to section 18(b)(1), Shipping Act, 1916, shall specify the rate or rates of compensation to be paid licensed forwarders certifying in accordance with § 510.24(e), and the conditions of payment.

The Commission will receive comments on paragraph (g) of § 510.5, and paragraph (l) of § 510.21 which respectively provide:

§ 510.5 Requirements for licensing.

* * * * *

(g) (1) The purpose of this paragraph is to prescribe a temporary bonding rule and establish the form and amount of a surety bond to be filed with the Federal Maritime Commission by applicants for licenses as independent ocean freight forwarders, who on September 19, 1961, were not operating under a registration number issued by the Commission or who were so operating but failed to file an application for license in the prescribed form on or before January 17, 1962. This requirement is not applicable to other ocean freight forwarders.

(2) A rule making proceeding will be instituted at a later date for the promulgation of a bond in such form and amount as the Commission may require for industry-wide applicability. All applicants temporarily licensed upon the basis of the bond prescribed herein will be required to comply with any future bonding regulations adopted by the Commission.

(3) No license shall be issued to a person to whom this paragraph is applicable unless such person has filed with the Commission a surety bond in the amount of $10,000 on Form FMC–59, in the following form: [2]

* * * * *

§ 510.21 Definitions.

* * * * *

(l) The term "Beneficial interest" for the purpose of these rules includes, but is not limited to, any lien interest in; right to use, enjoy, profit, benefit, or receive any advantage, either proprietary or financial, from; the whole or any part of a shipment or cargo, arising by financing of the shipment or by operation of law or by agreement, express or implied: *Provided, however,* That any obligation arising in favor of a licensee by reason of advances of out-of-pocket expenses incurred in dispatching of shipments shall not be deemed a beneficial interest.

Interested persons may participate in this rulemaking proceeding by filing with the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 30 days of the publication of this notice in the FEDERAL REGISTER, an original and 15 copies of their views or arguments pertaining to the proposed amended rules. All suggestions for changes in the text as set out above should be accompanied by drafts of the language thought necessary to accomplish the desired change and should be supported by statements and arguments relating the proposed change to the purposes of section 44 of the Shipping Act, 1916 (46 U.S.C. 841b).

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 66–4998; Filed, May 5, 1966; 8:50 a.m.]

[2] The Commission will not receive comments on the contents of Form FMC–59.

Notices

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 244]

SUDAN AND VIET NAM

Validity of Foreign Passports

Sudan and Viet Nam are added to the list of countries which have entered into agreements with the Government of the United States whereby their passports are recognized as valid for the return of the bearer to the country of the foreign issuing authority for a period of at least six months beyond the expiration date specified in the passport.

This notice amends Public Notice 238 of November 17, 1964 (29 F.R. 16097).

PHILIP B. HEYMANN,
Acting Administrator, Bureau of Security and Consular Affairs.

APRIL 27, 1966.

[F.R. Doc. 66-4979; Filed, May 5, 1966; 8:49 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

COLORADO

Modification of Grazing Districts Nos. 2 and 7

Pursuant to the authority vested in the Secretary of the Interior by the Taylor Grazing Act of June 28, 1934 (48 Stat. 1269), as amended.

The east boundary of Grazing District No. 7, Bureau of Land Management, is adjusted so as to transfer administrative responsibility for all public land within the following described legal subdivisions from Grazing District No. 7 to Grazing District No. 2 which headquarters in Glenwood Springs, Colo.

All vacant, unappropriated public land in:

6TH PRINCIPAL MERIDIAN, COLORADO

T. 10 S., R. 84 W.,
Secs. 5 to 8, inclusive and secs. 17 and 18.
T. 10 S., R. 85 W.,
Secs. 1 to 6, inclusive and secs 11 to 14, inclusive.
T. 10 S., R. 86 W.,
Secs. 1 to 3, inclusive.
T. 9 S., R. 85 W.,
Secs. 3 to 10, inclusive; secs. 14 to 23, inclusive; secs. 26 to 28 inclusive, and secs. 30 to 35, inclusive.
T. 9 S., R. 86 W.,
Secs. 1 to 30, inclusive, and secs. 34 to 36, inclusive.
T. 9 S., R. 87 W.,
Secs. 1, 12, 13, 24 and 25.
T. 8 S., R. 86 W.,
Secs. 3 to 10, inclusive; secs. 15 to 22, inclusive, and secs. 25 to 36, inclusive.
T. 8 S., R. 87 W.,
Secs. 1 to 36, inclusive.
T. 8 S., R. 88 W.,
Secs. 1 to 36, inclusive.
T. 8 S., R. 89 W.,
Secs. 1, 2, and 11 to 14, inclusive; secs. 23 to 25, inclusive; and secs. 26, 35, and 36.
T. 7 S., R. 87 W.,
Secs. 1 to 11, inclusive; secs. 14 to 23, inclusive; and secs. 25 to 35, inclusive.
T. 7 S., R. 88 W.
T. 7 S., R. 89 W.,
Secs. 1 to 16, inclusive; secs. 22 to 27, inclusive; and secs. 34 to 36, inclusive.
T. 7 S., R. 90 W.,
Secs. 1 to 17, inclusive;
Sec. 18, E½NW¼, E½;
Sec. 19 E½;
Secs. 20 to 29;
Sec. 30, E½;
Sec. 31, NE¼, and E½SE¼;
Secs. 32 to 36, inclusive.
T. 7 S., R. 91 W.,
Sec. 1, E½, and E½W½;
Sec. 12, E½, and E½W½.
T. 6 S., R. 87 W.,
Secs. 3 to 10, inclusive, and secs. 14 to 36, inclusive.
T. 6 S., R. 88 W.,
Secs. 13 to 36, inclusive.
T. 6 S., R. 89 W.
T. 6 S., R. 90 W.
T. 6 S., R. 91 W.,
Secs. 1 to 3, inclusive;
Sec. 4, E½E½;
Sec. 9, E½E½;
Secs. 10 to 15, inclusive;
Sec. 16, E½E½;
Sec. 21, E½E½;
Secs. 22 to 24, inclusive;
Sec. 25, E½ and E½W½;
Sec. 36, E½W½.
T. 5 S., R. 88 W.,
Sec. 31.
T. 5 S., R. 89 W.,
Secs. 4 to 9, inclusive; secs. 16 to 21, inclusive; and secs. 25 to 36, inclusive.
T. 5 S., R. 90 W.,
Secs. 1 to 5, inclusive;
Sec. 6, E½;
Secs. 7 to 36, inclusive.
T. 5 S., R. 91 W.,
Sec. 24, E½;
Sec. 25, E½;
Sec. 36, E½.

The transfer of jurisdiction of Grazing District No. 7 (Grand Junction District) to Grazing District No. 2 (Glenwood Springs District) will not effect the status or use of the public lands in any way. Effective with the publication of this notice, the Glenwood Springs District will assume all responsibility for the administration of the area herein described.

JOHN O. CROW,
Acting Director.

APRIL 29, 1966.

[F.R. Doc. 66-4951; Filed, May 5, 1966; 8:47 a.m.]

[Bureau Order 701, Amdt. 2]

DISTRICT MANAGERS

Redelegation of Authority Regarding Lands and Resources

Order No. 701 of July 23, 1964 is amended, by adding a new section 3.1 to Part III, as follows:

PART III—REDELEGATION TO DISTRICT MANAGERS

SEC. 3.1 *Authority To Redelegate.* The district manager may redelegate to area managers or division chiefs authority vested in him by this part. Any order of delegation must specify the extent of, and limitations on the grant of authority, be approved by the State Director and published in the FEDERAL REGISTER. This amendment shall become effective upon publication in the FEDERAL REGISTER.

JOHN O. CROW,
Acting Director.

APRIL 15, 1966.

[F.R. Doc. 66-4978; Filed, May 5, 1966; 8:49 a.m.]

Geological Survey

[Wyoming 132]

WYOMING

Coal Land Classification Order

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and as delegated to me by Departmental Order 2563, May 2, 1950, under authority of Reorganization Plan No. 3 of 1950 (64 Stat. 1262), the following described lands, insofar as title thereto remains in the United States, are hereby classified as shown:

SIXTH PRINCIPAL MERIDIAN, WYOMING

COAL LAND

T. 18 N., R. 77 W.,
Secs. 1 to 4, inclusive;
Sec. 5, lot 1, S½NE¼, SE¼;
Sec. 8, NW¼NE¼;
Sec. 9, NE¼, NE¼NW¼, SE¼;
Secs. 10 to 15, inclusive;
Sec. 16, NE¼, N½NW¼, SE¼NW¼, NE¼SW¼, SE¼;
Sec. 21, NE¼, E½SE¼;
Secs. 22 to 27, inclusive;
Sec. 28, E½NE¼;
Secs. 34 to 36, inclusive.
T. 19 N., R. 77 W.,
Sec. 10, W½;
Sec. 15, NW¼; S½;
Sec. 16, NE¼, S½;
Secs. 21 and 22;
Sec. 23, W½;
Sec. 25, SW¼;
Secs. 26 to 28, inclusive;
Sec. 32, SE¼NE¼, E½SE¼;
Secs. 33 to 36, inclusive.

NONCOAL LANDS

T. 18 N., R. 77 W.,
Sec. 5, lots 2, 3, and 4, S½NW¼, SW¼;
Secs. 6 and 7;
Sec. 8, SW¼NE¼, W½, W½SE¼;
Sec. 16, SW¼NW¼, NW¼SW¼, S½SW¼;
Secs. 17 to 20, inclusive;
Sec. 21, W½, W½SE¼;
Sec. 28, W½NE¼, W½, SE¼;
Secs. 29 to 33, inclusive.
T. 19 N., R. 77 W.,
Secs. 1 to 3, inclusive;
Sec. 4 lot 1, SE¼NE¼, NE¼SE¼;
Sec. 29, NE¼, E½W½, SE¼;
Sec. 32, NE¼NE¼, W½NE¼, W½, W½SE¼.

The area described aggregates 32,734 acres, more or less, of which about 21,270 acres are classified as coal lands, and about 11,464 acres are classified as non-coal lands.

ARTHUR A. BAKER,
Acting Director.

APRIL 29, 1966.

[F.R. Doc. 66-4949; Filed, May 5, 1966; 8:46 a.m.]

Office of the Secretary

HOLLYWOOD INDIAN RESERVATION

Designation

Pursuant to Resolution No. C-23-66 of the Tribal Council of the Seminole Tribe of Florida, adopted January 14, 1966, and the petition of the Chairman of the Tribal Council in accordance therewith, and after finding that the same is in the public interest and in the interest of the Indians affected thereby, notice is hereby given that that part of the reservation for the Seminole Indians in southern Florida, sometimes known as the Broward County Reservation or as the Dania Reservation (Act of Oct. 4, 1961, 75 Stat. 804, amending the Act of Aug. 9, 1955, 69 Stat. 539, as amended, 25 U.S.C. sec. 415 (1964)), is hereby designated and shall for all purposes be known as the Hollywood Indian Reservation.

STEWART L. UDALL,
Secretary of the Interior.

MAY 2, 1966.

[F.R. Doc. 66-4953; Filed, May 5, 1966; 8:47 a.m.]

DEPARTMENT OF COMMERCE

Maritime Administration

AMERICAN PRESIDENT LINES, LTD.

Notice of Application

Notice is hereby given that American President Lines, Ltd., seeks to provide service between Hawaii and the Far East on up to 26 voyages per annum with ships operating on its transpacific freight service on trade route No. 29. The company presently is authorized to make up to 37 sailings on its transpacific freight service between California and the Far East, but ships operating on this service are not authorized to call at Hawaii. The company's application to provide service in the domestic trade between California and Hawaii is presently the subject of Docket S-191. The company's requests would enable it to make annually up to 26 calls at Hawaii in each direction with freight ships operating on its transpacific freight service.

Any person, firm or corporation having any interest in such application and desiring a hearing on issues pertinent to section 605(c) of the Merchant Marine Act, 1936, as amended, 46 U.S.C. 1175, should by the close of business on May 20, 1966, notify the Secretary, Maritime Subsidy Board in writing, in triplicate, and file petition for leave to intervene in accordance with the rules of practice and procedure of the Maritime Subsidy Board.

In the event a hearing is ordered to be held on the application under section 605(c), the purpose thereof will be to receive evidence relevant to (1) whether the application is one with respect to a vessel to be operated on a service, route or line served by citizens of the United States which would be in addition to the existing service, or services, and, if so, whether the service already provided by vessels of U.S. registry in such service, route or line is inadequate, and (2) whether in the accomplishment of the purposes and policy of the act additional vessels should be operated thereon.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Maritime Subsidy Board determines that petitions to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board will take such action as may be deemed appropriate.

Dated: May 3, 1966.

By order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary.

[F.R. Doc. 66-4988; Filed, May 5, 1966; 8:50 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. FDC-D-92; NDA No. 13-416]

RIKER LABORATORIES, INC.

Norgesic Tablets; Notice of Opportunity for Hearing

Notice is hereby given to Riker Laboratories, Inc., Northridge, Calif., that the Commissioner of Food and Drugs proposes to issue an order, under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of new-drug application No. 13-416 and all amendments and supplements thereto held by Riker Laboratories, Inc., for the drug "Norgesic Tablets (orphenadrine citrate, 25 milligrams; aspirin, 225 milligrams; phenacetin, 160 milligrams; caffeine, 30 milligrams)," on the ground that:

1. New information before the Food and Drug Administration with respect to such drug, evaluated together with the evidence available when the application was approved, show that there is a lack of substantial evidence that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof, in that: New evidence concerning two clinical investigations of Norgesic Tablets reported by Cass Research Associates, Inc., Cambridge, Mass., conducted under the sponsorship of and submitted by the applicant as evidence in said application of the effectiveness of the drug, and which were pertinent to the approval of said new-drug application, shows the presence of irregularities in the reports of these investigations such that the studies are not adequate as a basis on which it can fairly and responsibly be concluded by experts, qualified by scientific training and experience to evaluate the effectiveness of the drug involved, that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

2. The new-drug application contains untrue statements of material fact. Specifically, two clinical investigations reported by Cass Research Associates, Inc., identified by Project Code No. 62-12-A dated January 28, 1963, and Project Code No. 63-5-B dated September 3, 1963, and submitted by the applicant in said application as evidence of the effectiveness of Norgesic Tablets, contain untrue statements of material fact in that:

a. They contain the identification of a number of persons reported as being treated with the drug during the period of said investigations who in fact were not so treated. During all or part of the time pertinent to these investigations a significant number of these persons were not hospitalized at the institution were the investigations were allegedly conducted, as stated in the application. Some of the persons reported as being treated were actually deceased.

b. They contain the identification of clinical conditions for which a number of persons were being treated with the drug, which conditions are contrary to the records of the institution where the investigations were allegedly conducted.

c. They omit full information concerning other relevant treatments, evidenced by the records of the institution where the investigations were allegedly conducted, given concurrently to patients reportedly being treated with the subject drug.

d. They omit full information on all clinical conditions of the persons reported as being treated with the drug during these investigations.

e. They contain statements of adverse effects and useful results observed in a number of persons being treated with the drug, which observations for reasons specified in paragraphs a, b, c, and d above could not have been made.

In accordance with the provisions of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and the regulations appearing in Title 21, Code of Federal Regulations, Part 130, the Commissioner will give the applicant, and any interested person who would be adversely affected by an order withdrawing such approval, an opportunity for a hearing, at which time such persons may produce evidence and arguments to show why approval of new-drug application No. 13-416 should not be withdrawn.

Within 30 days from the date of publication of this notice in the FEDERAL

REGISTER, such persons are required to file with the Hearing Clerk of the Department of Health, Education, and Welfare, Office of the General Counsel, Food and Drug Division, Room 5440, 330 Independence Avenue SW., Washington, D.C., 20201, a written appearance electing whether:

1. To avail themselves of the opportunity for a hearing; or

2. Not to avail themselves of the opportunity for a hearing.

If such persons elect not to avail themselves of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing the approval of the new-drug application.

Failure of such persons to file such a written appearance of election within 30 days following the date of publication of this notice in the FEDERAL REGISTER will be construed as an election by such persons not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this notice will be open to the public, except that any portion of the hearing that concerns a method or process which the Commissioner finds is entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

If such persons elect to avail themselves of the opportunity for a hearing by filing a timely written appearance of election, a hearing examiner will be named by the Commissioner and he shall issue a written notice of the time and place for the hearing.

This notice is issued under the authority contained in the Federal Food, Drug, and Cosmetic Act (secs. 505, 701(a), 52 Stat. 1052, as amended, 1055; 21 U.S.C. 355, 371(a)), and delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120; 31 F.R. 3008).

Dated: April 28, 1966.

JAMES L. GODDARD,
Commissioner of Food and Drugs.

[F.R. Doc. 66-4939; Filed, May 5, 1966; 8:45 a.m.]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

ASSISTANT SECRETARY FOR METROPOLITAN DEVELOPMENT

Delegation of Authority Regarding Grants for Water and Sewer Facilities

The Assistant Secretary for Metropolitan Development is hereby authorized:

1. To execute the powers and functions vested in the Secretary of Housing and Urban Development under sections 702 and 705 of the Housing and Urban Development Act of 1965 (42 U.S.C. 3102 and 3105) with respect to grants for water and sewer facilities except the authority to sue and be sued pursuant to section 705(a) of the said 1965 Act and section 402(c)(3) of the Housing Act of 1950, as amended (12 U.S.C. 1749a(c)(3)).

2. To redelegate to one or more employees under his jurisdiction and to each Regional Administrator any of the authority delegated herein, and to authorize redelegation by the Regional Administrator.

(Secs. 702 and 705, 79 Stat. 490 and 492, 42 U.S.C. 3102 and 3105; sec. 5(a), 79 Stat. 669, 5 U.S.C. 624c(a); sec. 7(d), 79 Stat. 670, 5 U.S.C. 624d(d))

Effective date. This delegation of authority shall be effective as of May 6, 1966.

ROBERT C. WEAVER,
Secretary of Housing and Urban Development.

[F.R. Doc. 66-4976; Filed, May 5, 1966; 8:49 a.m.]

REGIONAL ADMINISTRATORS

Redelegation of Authority Regarding Grants for Water and Sewer Facilities

Each Regional Administrator in the Department of Housing and Urban Development in carrying out the program of grants for water and sewer facilities under sections 702 and 705 of the Housing and Urban Development Act of 1965 (42 U.S.C. 3102 and 3105) is hereby authorized:

1. To approve applications, authorize grants, and execute grant agreements, involving grants for water and/or sewer facilities.

2. To amend or modify any such grant agreement.

3. To redelegate to one or more employees under his jurisdiction the authority delegated herein except the authority to approve applications, authorize grants, and amend or modify the terms thereof.

4. In the case of the Regional Administrator, Region VI (San Francisco), to redelegate to the Director for Northwest Operations, Region VI, at Seattle, Wash., any of the authority redelegated herein.

(Secretary's delegation effective May 6, 1966, 31 F.R. 6796)

Effective date. This redelegation of authority shall be effective as of May 6, 1966.

CHARLES M. HAAR,
Assistant Secretary for Metropolitan Development.

[F.R. Doc. 66-4977; Filed, May 5, 1966; 8:49 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-34]

WESTINGHOUSE ELECTRIC CORP.

Notice of Issuance of Facility License Amendment

Please take notice that the Atomic Energy Commission has issued, effective as of the date of issuance, Amendment No. 14, set forth below, to Facility License No. CX-6. The license authorizes Westinghouse Electric Corp. to operate the Critical Reactor Experiment (CRX) Facility located at the Westinghouse Reactor Evaluation Center near Waltz Mill in Westmoreland County, Pa. The amendment revises the license in its entirety and incorporates technical specifications in the license in accordance with the application for license amendment dated March 1, 1965.

Within 15 days from the date of publication of this notice in the FEDERAL REGISTER, the licensee may file a request for a hearing, and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions to intervene shall be filed in accordance with the provisions of the Commission's rules of practice, 10 CFR Part 2. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

For further details with respect to this amendment, see (1) the application for license amendment and (2) a related safety evaluation prepared by the Research and Power Reactor Safety Branch of the Division of Reactor Licensing, both of which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of item (2) above may be obtained at the Commission's public document room, or upon request addressed to the Atomic Energy Commission, Washington, D.C., 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 29th day of April 1966.

For the Atomic Energy Commission.

R. L. DOAN,
Director,
Division of Reactor Licensing.

FACILITY LICENSE AMENDMENT

[License No. CX-6; Amdt. 14]

The Atomic Energy Commission having found that:

a. The application for license amendment, dated March 1, 1965, complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations set forth in Title 10, Chapter I, CFR;

b. There is reasonable assurance that (i) the activities authorized by this license, as amended, can be conducted at the designated location without endangering the health and safety of the public, and (ii) such activities will be conducted in compliance with the rules and regulations of the Commission;

c. Westinghouse Electric Corp. is technically and financially qualified to engage in the activities authorized by this license, as amended, in accordance with the rules and regulations of the Commission;

d. Westinghouse Electric Corp. has furnished proof of financial protection to satisfy the requirements of 10 CFR Part 140;

e. The issuance of this license amendment will not be inimical to the common defense and security or to the health and safety of the public; and

f. Prior public notice of proposed issuance of this amendment is not required since the

amendment does not involve significant hazards considerations different from those previously evaluated;

Facility License No. CX–6, as amended, is hereby amended in its entirety to read as follows:

1. This license applies to the Critical Reactor Experiment (CRX) Facility (hereinafter "the facility") which is owned by Westinghouse Electric Corp. (hereinafter "the licensee"), located at the Westinghouse Reactor Evaluation Center near Waltz Mill in Westmoreland County, Pa., and described in the application for license amendment dated October 6, 1959, and the amendments thereto dated January 13, 1960, January 15, 1960, January 18, 1963, August 19, 1963, December 5, 1963, August 25, 1964, November 20, 1964, January 15, 1965, February 15, 1965, and March 1, 1965 (hereinafter "the application").

2. Subject to the conditions and requirements incorporated herein, the Atomic Energy Commission (hereinafter "the Commission") hereby licenses Westinghouse Electric Corp.:

A. Pursuant to section 104c of the Atomic Energy Act of 1954, as amended (hereinafter "the Act"), and Title 10, CFR, Chapter I, Part 50, "Licensing of Production and Utilization Facilities," to possess, use and operate the facility at the designated location near Waltz Mill, in Westmoreland County, Pa.

B. Pursuant to the Act and Title 10, CFR, Chapter I, Part 70, "Special Nuclear Material," to receive, possess and use at any one time up to 1700 kilograms of contained uranium-235 in low enrichment (less than 7 percent) from and up to 35 kilograms of plutonium as fuel for operation of the facility.

C. Pursuant to the Act and Title 10, CFR, Chapter I, Parts 30 and 70, to possess but not to separate, such byproduct material as may be produced by operation of the facility.

3. This license shall be deemed to contain and is subject to the conditions specified in §§ 50.54 and 50.59 of Part 50, § 70.32 of Part 70 and § 30.34 of Part 30 of the Commission's regulations; is subject to all applicable provisions of the Act and rules, regulations and orders of the Commission now or hereafter in effect; and is subject to the additional conditions specified below:

A. *Maximum power level.* The licensee is authorized to operate the facility at power levels up to a maximum of 2 kilowatts thermal.

B. *Technical specifications.* The Technical Specifications contained in Appendix A to this license (hereinafter the "Technical Specifications") are hereby incorporated in this license. The licensee shall operate the facility only in accordance with the Technical Specifications. No changes shall be made in the Technical Specifications unless authorized by the Commission as provided in 10 CFR 50.59.

C. *Authorization of changes, tests and experiments.* The licensee may (1) make changes in the facility as described in the hazards summary report, (2) makes changes in the procedures as described in the hazards summary report, and (3) conduct tests or experiments not described in the hazards summary report only in accordance with the provisions of § 50.59 of the Commission's regulations.

D. *Reports.* In addition to reports otherwise required under this license and applicable regulations:

(1) The licensee shall inform the Commission of any incident or condition relating to the operation of the facility which prevented or could have prevented a nuclear system from performing its safety function as described in the Technical Specifications or in the hazards summary report. For each occurrence, the licensee shall promptly notify by telephone or telegraph the Director of the appropriate Atomic Energy Commission Regional Compliance Office listed in Appendix D of 10 CFR Part 20 and shall submit within ten (10) days a report in writing to the Director, Division of Reactor Licensing, with a copy to the Regional Compliance Office.

(2) The licensee shall report to the Commission in writing within 30 days of its observed occurrence any substantial variance disclosed by operation of the facility from performance specifications contained in the hazards summary report or the Technical Specifications.

(3) The licensee shall report to the Commission in writing within 30 days of its occurrence any significant change in transient or accident analysis, as described in the hazards summary report.

E. *Records.* In addition to those otherwise required under this license and applicable regulations, the licensee shall keep the following records:

(1) Facility operating records, including power levels.

(2) Records of in-pile irradiations.

(3) Records showing radioactivity released or discharged into the air or water beyond the effective control of the licensee as measured at the point of such release or discharge.

(4) Records of emergency facility scrams, including reasons for emergency shutdowns.

4. This license, as amended, is effective as of the date of issuance and shall expire at midnight, March 31, 1975, unless sooner terminated.

Date of issuance: April 29, 1966.

For the Atomic Energy Commission.

R. L. DOAN,
Director,
Division of Reactor Licensing.

Enclosure: Appendix A, Technical Specifications.[1]

[F.R. Doc. 66–4940; Filed, May 5, 1966; 8:46 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 14642, etc.]

PUERTO RICO-VIRGIN ISLANDS SERVICE CASE

Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in the above-entitled matter is assigned to be held on June 1, 1966, at 10 a.m., e.d.s.t., in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the Board.

Dated at Washington, D.C., May 2, 1966.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 66–4970; Filed, May 5, 1966; 8:48 a.m.]

[1] This item was not filed with the Office of the Federal Register, but is available for inspection in the Public Document Room of the Atomic Energy Commission.

FEDERAL AVIATION AGENCY

[OE Docket No. 66–CE–3]

MINNESOTA-IOWA TELEVISION CO.

Notice of Petition for and Grant of Discretionary Review

On March 11, 1966, the Agency's Central Regional Office issued the following Determination of No Hazard to Air Navigation (Aeronautical Study No. CE–OE–5601) at Kansas City, Mo.

The Federal Aviation Agency has circularized the following construction proposal for aeronautical comment and has conducted a study to determine its effect upon the safe and efficient utilization of navigable airspace.

Applicant: Minnesota-Iowa Television Co.
Structure: Television tower.
Location: Near Myrtle, Minn.
Height: 2860′ AMSL, 1570′ AGL.
Latitude: 43°37′41″.
Longitude: 93°09′13″.

In April 1964, the proponent submitted a proposal for a 3,300-foot AMSL (2,000-foot AGL) television tower to be located approximately 2 miles northwest of the site now under consideration. The proposal was circularized to all known interested persons and substantial aeronautical objections were received. The objections stated that the 2,000-foot AGL height would have an adverse effect to aviation since (1) It was located adjacent to a four-lane interstate highway used for low altitude navigational guidance; (2) The structure would have an adverse effect on instrument approach procedures into the Austin Municipal Airport; and (3) The structure would adversely affect instrument operations along the adjacent Federal Airways by creating the loss of a 3,000-foot cardinal altitude on two airway segments.

In consideration of the previous aeronautical objections, the proponent revised the site and height to that described above. Aeronautical study of the alternate proposal revealed that instrument approach procedures associated with the Austin Municipal Airport would be unaffected. The 3,000-foot cardinal altitude would be retained on adjacent airways V–13 and V–67W, although the minimum obstruction clearance altitudes would be raised from 2,800 feet and 2,600 feet respectively to 3,000 feet AMSL. Departure/climb restrictions would be established for aircraft departing IFR from the Austin Airport and climbing toward the tower. This is not considered a substantial adverse effect, since the tower would be in uncontrolled airspace and not aligned with airways serving the area. The site was found to be more than 2 statute miles south of the four-lane highway extending from Austin toward Albert Lea, thus providing an unobstructed area along the highway for aircraft that may use the highway as a reference for visual flight.

The revised proposal was circularized to all known interested persons. Most respondents recognized the efforts of the proponent to solve the aeronautical problem by revising the site and height. However, they felt that a tower 1,570 feet AGL would be a hazard to aircraft. The Minnesota Safety Council objected to the proposal and pointed out they consider any tower over 1,000 feet in height an aeronautical hazard regardless of where it is located. Mr. Milo Peterson, a pipeline patrol pilot, objected stating that such structures should not extend more than 1,000 feet AGL. The Air Transport Association ob-

jected on the basis that Part 77 criteria indicated that MEA's on V–13 and V–67W would be raised to 3,300 feet AMSL. In this regard, the Agency does not use § 77.23(a) (6) of Part 77 as a standard for determining MEA's along VOR airways. Other objections were general in nature and were made on the basis of height.

The State of Minnesota, Department of Aeronautics, conducted an on-site count of air traffic for the period of July 26, 1964, through August 22, 1964. The State report indicated a total of 450 aircraft flew in the vicinity of the tower site at altitudes varying from 1,400 feet AMSL to 10,000 feet or above. The survey counted 155 aircraft at 3,000 feet AMSL or below. In a letter of rebuttal referring to the survey, the tower proponent noted that of the 155 aircraft flying at 3,000 feet AMSL or below, 101 of them were at an altitude of 1,000 feet AGL or below. In addition, it was pointed out that techniques used in making the survey violated established survey procedures, since the surveyors were employed directly by the Minnesota Department of Aeronautics and knew the reason for the survey. Further, people interested in aviation in the Albert Lea area knew the details concerning the survey and thus were in a position to influence the results of the survey.

The Agency study recognized the pros and cons associated with the proposal and noted that the Mason City, Iowa, and Austin, Minn., VORs are in such proximity that radials from the ranges could be used by VFR pilots to circumnavigate the tower during periods of reduced ceilings and/or visibility. In addition, a study of the sectional aeronautical chart reveals the presence of prominent highways and railroads that would assist the VFR pilot to avoid the tower site.

Therefore, pursuant to the authority delegated to me, it is found that the structure would have no substantial adverse effect upon the safe and efficient utilization of navigable airspace and it is hereby determined that the structure would not be a hazard to air navigation, provided it is obstruction marked and lighted in accordance with FAA standards. This determination does not preempt or waive the regulations of any other governmental agency. This determination is effective and becomes final on April 20, 1966, unless a petition for review is filed under § 77.37. If a petition is filed, further notice will be given and the determination will not become final pending disposition of the petition. Petitions for discretionary review must be filed in triplicate with the Chief, Obstruction Evaluation Branch, Federal Aviation Agency, Washington, D.C., 20553, within 30 days after the date of issuance and must contain a full statement of the basis upon which it is made.

This determination expires on October 20, 1966, unless application is made to the FCC for a construction permit before that date, or the determination is otherwise extended, revised or terminated. If application is made to the FCC within the 6 months' time period, the determination expires on the date prescribed in the FCC construction permit for completion of construction or on the date the FCC denies the application.

Notice to this office is required at least 48 hours before the start of construction and again within 5 days after the construction reaches its greatest height.

Issued in Kansas City, Mo., on March 11, 1966.

EDWARD C. MARSH,
Director.

On April 6, 1966, the State of Minnesota Department of Aeronautics petitioned the Administrator for a discretionary review of the above determination.

Pursuant to the authority delegated to me by the Administrator, the petition by the State of Minnesota Department of Aeronautics for discretionary review under § 77.37 of Part 77 of the Federal Aviation Regulations is granted and such review will be on the basis of written materials in accordance with § 77.37(c) (1).

The petition as examined by the Agency set forth the following issues for consideration:

1. The determination is erroneous since the present marking and lighting standards are inadequate for warning pilots away from a tower of this height and this construction.

2. The determination is erroneous because it fails to take into account the experience and judgment of actual users of the airspace who operate in the area of the proposed construction.

3. The determination is erroneous since there is no indication that the general atmospheric and weather conditions of the area were given proper consideration.

4. The determination is erroneous because there is no indication that the altitudes generally used by pilots flying in the area were taken into consideration.

5. The determination is erroneous since it relies to some extent for the safety of the proposed antenna on the percentage of light aircraft that contain VOR equipment and that fly in the area of the proposed antenna.

6. The determination is erroneous since the traffic survey conducted by the petitioner was discounted and not given proper value in the determination. The petitioner further states that since the survey was conducted, there has been a substantial increase in general aviation flying and that further growth is forecast for the future.

Interested persons may, within 30 days of the issuance date of this notice, submit any relevant information in writing for consideration in this review to the Federal Aviation Agency, Air Traffic Service, Obstruction Evaluation Branch, 800 Independence Avenue SW., Washington, D.C., 20553. Submissions must be filed in triplicate and be relevant to the effect of the proposed structure on safe air navigation.

A copy of appropriate correspondence in this case is on file in OE Docket No. 66–CE–3, and may be examined by interested persons at the Federal Aviation Agency, Office of the General Counsel, Attention: Rules Dockets, 800 Independence Avenue SW., Washington, D.C., 20553.

Therefore, pursuant to the authority delegated to me by the Administrator (30 F.R. 13023), the determination issued by the Agency's Central Regional Office in Aeronautical Study No. CE–OE–5601 is not and will not be a final determination pending final disposition of this petition.

Issued in Washington, D.C., on April 28, 1966.

WILLIAM E. MORGAN,
Acting Director, Air Traffic Service.

[F.R. Doc. 66–4944; Filed, May 5, 1966; 8:46 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 16258; FCC 66M–605]

AMERICAN TELEPHONE & TELEGRAPH CO.

Order Regarding Filing of Summaries of Testimony

In the matter of American Telephone & Telegraph Co. and the Associated Bell System Cos., Docket No. 16258. Charges for interstate and foreign communication service.

The Telephone Committee having under consideration an informal request, filed April 28, 1966, in behalf of the Bell System Respondents, requesting deletion of the requirement for the prior submission of written summaries of the oral testimony to be given by certain of Respondents' witnesses (as set out in Paragraph 2 of our Order of April 21, 1966; FCC 66M–570; Mimeo. No. 82842), and

It appearing that there is no further need for this procedure because of the interval which will exist between the time of the presentation of Respondents' direct testimony and the time of commencement of cross-examination thereon; and

It further appearing that expeditious action on this request is required in order to facilitate the prompt filing of Respondents' written testimony;

It is ordered, This 28th day of April 1966, that our order of April 21, 1966 (identified above), is amended so as to delete the requirement for the filing of written summaries of the oral testimony to be presented by Respondents' witnesses.

Released: April 29, 1966.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 66–4931; Filed, May 5, 1966; 8:45 a.m.]

[Docket Nos. 16368, 16369; FCC 66R–170]

CENTRAL BROADCASTING CORP. AND SECOND THURSDAY CORP.

Order Enlarging Issues

In re applications of Central Broadcasting Corp., Madison, Tenn., Docket No. 16368, File No. BPH–3773; Second

Thursday Corp., Nashville, Tenn., Docket No. 16369, File No. BPH–3778; for construction permits.

The Review Board having before it a "Petition for Reconsideration," filed April 4, 1966, by Second Thursday Corp.[1] requesting that the Board reconsider its Memorandum Opinion and Order (FCC 66R–117) released March 28, 1966, in which issues as to Second Thursday's compliance with § 1.65 of the rules[2] were added;

It appearing that to the extent that petitioner requests reconsideration of the Board's prior Memorandum Opinion and Order, its request cannot be entertained (see §§ 1.102, 1.106 and 1.291(c)(3) of the Commission's rules);

It further appearing that to the extent that the petition requests enlargement of issues, it is untimely filed (see § 1.229 of the rules);

It further appearing that Central Broadcasting Corp., licensee of Station WENO (AM) Madison, Tenn., has failed to conform section II of its application to information contained in current Form 323 Ownership Reports on file with the Commission and that therefore issues concerning Central's compliance with Rule 1.65 should be added on the Board's own motion;

It is ordered, this 2d day of May 1966, That the Petition for Reconsideration, filed by Second Thursday Corp. on April 4, 1966, is dismissed; and

It is further ordered, That the following issues are added to this proceeding on the Board's own motion:

To determine whether Central Broadcasting Corp. failed to perform the responsibilities of continuing accuracy and completeness of information furnished in a pending application as required by § 1.65 of the Commission's rules by its failure to amend the Central Broadcasting broadcast application within 30 days to reflect changes in ownership;

To determine whether the facts adduced pursuant to the foregoing issues bear upon the comparative qualifications of Central Broadcasting Corp.

Released: May 2, 1966.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 66–4932; Filed, May 5, 1966; 8:45 a.m.]

[1] Also before the Board are comments, filed by the Broadcast Bureau on Apr. 13, 1966, wherein the Bureau recommends addition of the requested issues on the Board's own motion. No opposition has been filed by Central.

[2] Section 1.65 of the Commission's rules places a burden of continuing accuracy upon each applicant and requires that changes be reflected by amendments within 30 days unless good cause is shown. Reporting Changed Circumstances, FCC 64–1037, 3 R.R. 2d 1622. The requirements of Rule 1.65 are not met by filing information in the Form 323 Ownership Reports required by the Commission. Cleveland Broadcasting, Inc., 2 FCC 2d 717, released Mar. 2, 1966.

[Mexican Change List No. 234]

MEXICAN BROADCAST STATIONS

Changes, Proposed Changes, and Corrections

FEBRUARY 21, 1966.

Notifications under the provisions of Part III, section 2 of the North American Regional Broadcasting Agreement; list of changes, proposed changes and corrections in assignments of Mexican broadcast stations modifying the appendix containing assignments of Mexican broadcast stations (Mimeograph No. 4721–6) attached to the recommendations of the North American Regional Broadcasting Agreement Engineering Meeting, January 30, 1941.

Call letters	Location	Power kw	Antenna	Schedule	Class	Expected date of commencement of operation
New	Huatabampo, Sonora	*580 kilocycles* 1 kwD/0.5 kwN.	ND	U	III	8–21–66
XEIS (now in operation).	Cd. Guzman, Jalisco	*670 kilocycles* 1 kw	ND	D	II	2–21–66
XEORC (increase power).	Guasave, Sinaloa	*680 kilocycles* 1 kw	ND	D	II	4–21–66
XERPO (now in operation).	Oaxaca, Oaxaca	*710 kilocycles* 0.5 kwD/0.1 kwN.	ND	U	II	2–21–66
XEPQ (change frequency from 1250 kc/s).	Muzquiz, Coahuila	*710 kilocycles* 0.5 kwD/0.1 kwN.	ND	U	II	8–21–66
XEIP (delete assignment).	Mexico, D.F	*760 kilocycles* 10 kw	DA–N	U	II	2–21–66
New	Cozumel, Quintana Roo.	*810 kilocycles* 1 kwD/0.5 kwN.	DA–2	U	II	8–21–66
XEOE	Tapachula, Chiapas	*810 kilocycles* 1 kwD/0.150 kwN.	ND	U	II	2–21–66
XEZX (change in frequency from 1240 kc/s).	Tenosique, Tabasco	*860 kilocycles* 1 kwD/0.150 kwN.	ND	U	II	8–21–66
XELT (increase daytime power).	Guadalajara, Jalisco	*920 kilocycles* 0.5 kwD/0.250 kwN.	ND	U	IV	4–21–66
XEOP (now in operation).	Villafrontera, Coahuila	*920 kilocycles* 0.250 kwD/0.2 kwN.	ND	U	IV	2–21–66.
XEROO (now in operation).	Chetumal, Quintana Roo.	*960 kilocycles* 1 kwD/0.5 kwN.	ND	U	III	2–21–66.
XEOZ (change frequency from 1340 kc/s).	Jalapa, Veracruz	*960 kilocycles* 1 kwD/0.25 kwN.	ND	U	III–D IV–N	4–21–66.
XEACM (increase in hours of operation).	Macuspana, Tabasco	*1020 kilocycles* 1 kwD/0.150 kwN.	ND	U	II	2–21–66.
XEXF (increase power).	Romita, Guanajuato	*1140 kilocycles* 5 kw	ND	D	II	4–21–66.
XEGE (now in operation).	Oaxaca, Oaxaca	*1240 kilocycles* 0.5 kwD/0.25 kwN.	ND	U	IV	2–21–66.
XERRT (change frequency from 1190 kc/s).	Cd. Madero, Tamaulipas.	*1270 kilocycles* 0.250 kwD/0.200 kwN.	ND	U	IV	8–21–66.
XELBL (now in operation—change call letters from XEXV).	San Luis Rio Colorado, Sonora.	*1350 kilocycles* 0.5 kw	ND	D	III	2–21–66.
XEFS (delete assignment).	Cuautla, Morelos	*1400 kilocycles* 0.250 kw	ND	U	IV	2–21–66.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 66–4933; Filed, May 5, 1966; 8:45 a.m.]

[Docket No. 16575; FCC 66M–616]

MISSION CABLE TV, INC., AND TRANS-VIDEO CORP.

Order Changing Presiding Officer

In the matter of cease and desist order to be directed against Mission Cable TV, Inc., and Trans-Video Corp. owner and operator, respectively, of a community antenna television system at Poway, Calif.; Docket No. 16575.

It is ordered, This 29th day of April 1966, that Walther W. Guenther, in lieu of James D. Cunningham, shall serve as Presiding Officer in the above-entitled

proceeding; that, in accordance with previous scheduling, a hearing conference herein shall be convened May 9, 1966, and the formal hearing on May 17, 1966; and that all proceedings shall be held in the offices of the Commission, Washington, D.C.

Released: May 2, 1966.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 66-4934; Filed, May 5, 1966; 8:45 a.m.]

[FCC 66-393]

NEW YORK UNIVERSITY

Memorandum Opinion and Order Opening FM Channel to Noncommercial Applicants

In re application of New York University, New York, N.Y.; requests: 89.1 mc, No. 206; 7.6 kw(H); 6.4 kw(V); 220 ft. for construction permit.

1. The Commission has before it the above-captioned and described application for a new noncommercial educational FM broadcast station to be operated on Channel 206, the channel reserved for a United Nations station under § 73.501(a) (footnote 1) of the Commission's rules.

2. New York University has submitted an agreement with the United Nations permitting such use of the reserved channel. Although the United Nations disclaims any present intention of using the channel, it reserves the right to do so in the future, on either a part-time or exclusive basis. If the channel is to be used on a part-time basis, such use will be subject to negotiations and a separate written agreement between the parties which would be submitted for approval by the Commission. If the channel is to be used on a full-time basis, the United Nations has the prerogative of taking over the entire operation, subject to adequate compensation, one year's notice, and Commission approval.

3. The reservation of Channel 206 provides for a United Nations station operating with an effective radiated power of 20 kilowatts and antenna height above average terrain of 500 feet. The present allocation rules for noncommercial educational FM broadcast stations, section 1.573 (Note) (c), prohibit the acceptance or granting of any applications where interference within 1 mv/m contours is involved. A United Nations station operating with 20 kilowatts at 500 feet would involve 1 mv/m interference with a total of three stations on Channels 204 and 208; these three assignments were made, however, under the old FM rules where such interference was not considered objectionable. The New York University proposal will involve 1 mv/m interference with one of these three stations (WSOU, South Orange, N.J., 89.5 mc, No. 208, 2 kw; 370 ft.). The provision in the rules to permit United Nations to operate with 20 kilowatts at 500 feet on Channel 206 is to be retained in the rules; however, the Commission is of the opinion that should some other party operate a station on this channel its operation should conform to the present rules for noncommercial educational FM stations. Accordingly, the application of New York University should be amended to specify an operation involving no 1 mv/m interference with any other noncommercial educational FM broadcast stations.

4. No other noncommercial educational FM channels are available for assignment in the New York City area. In the past, parties other than New York University have expressed interest in the United Nations channel. Considering the number of institutions that might be interested in acquiring FM educational facilities, the Commission is of the opinion that the public interest would be better served if the channel were made available to all qualified applicants under the same conditions it would be made available to New York University.

5. *Accordingly, it is ordered,* This 27th day of April 1966, that the application of New York University is accepted subject to its being amended by June 16, 1966, to specify an operation involving no 1 mv/m interference with any other noncommercial educational FM broadcast stations, and further, that applications from other interested parties for operation on Channel 206 will be accepted until the same date, subject to their willingness to accept the same arrangements as agreed upon between the United Nations and New York University and with proposals that involve no 1 mv/m interference with other stations.

Released: May 2, 1966.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 66-4935; Filed, May 5, 1966; 8:45 a.m.]

[Docket No. 14368 etc.; FCC 66M-608]

SYRACUSE TELEVISION, INC., ET AL.

Order Continuing Hearing

In re applications of: Syracuse Television, Inc., Syracuse, N.Y., Docket No. 14368, File No. BPCT-2924; W. R. G. Baker Radio & Television Corp., Syracuse, N.Y., Docket No. 14369, File No. BPCT-2930; Onondaga Broadcasting, Inc., Syracuse, N.Y., Docket No. 14370, File No. BPCT-2931; WAGE, Inc., Syracuse, N.Y., Docket No. 14371, File No. BPCT-2932; Syracuse Civic Television Association, Inc., Syracuse, N.Y., Docket No. 14372, File No. BPCT-2933; Six Nations Television Corp., Syracuse, N.Y., Docket No. 14444, File No. BPCT-2957; Salt City Broadcasting Corp., Syracuse, N.Y., Docket No. 14445, File No. BPCT-2958; George P. Hollingbery, Syracuse, N.Y., Docket No. 14446, File No. BPCT-2968; for construction permits for new television broadcast stations.

The Hearing Examiner having under consideration a motion filed jointly, on April 29, 1966, by all the applicants in the above-entitled proceeding except one, in which the latter (and also the Commission's Broadcast Bureau) concurs, requesting that the hearing presently scheduled to be convened on May 2 be continued until such time as may be specified in a further order of the Examiner after the Commission shall have passed upon a petition filed by the seven joint petitioners for approval of a merger and dropout agreement;

It appearing that the joint petitioners have filed with the Commission a complex proposal for a merger of their interests and the dismissal of certain of the competing applications which, if approved by the Commission, may result in the termination of this proceeding, and that it would be in the public interest not to force the parties into a hearing during the pendency before the Commission of their petition;

It is ordered, This 29th day of April 1966, that the joint motion for continuance of the hearing is hereby granted to the extent that the hearing is postponed until Monday, October 3, 1966, at 10 a.m., at the Commission's offices, Washington, D.C., subject, however, to such further orders as may be necessary in the premises.[1]

Released: April 29, 1966.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 66-4936; Filed, May 5, 1966; 8:45 a.m.]

[Docket No. 16612; FCC 66M-615]

STAR STATIONS OF INDIANA, INC.

Order Scheduling Hearing

In re applications of Star Stations of Indiana, Inc., Docket No. 16612, File No. BR-1144, BRH-1267; for renewal of licenses of Stations WIFE AM-FM, Indianapolis, Ind.

It is ordered, This 29th day of April 1966, that Thomas H. Donahue will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence at 10 a.m. on July 12, 1966, in Indianapolis, Ind.: *And it is further ordered,* That a prehearing conference in the proceeding will be convened by the Presiding Officer at 9 a.m. on May 25, 1966, in Washington, D.C.

Released: May 2, 1966.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 66-4937; Filed, May 5, 1966; 8:45 a.m.]

[1] Commissioner Loevinger absent.

[1] In the event the Commission should take an action significantly before Oct. 3 which requires further hearings, the Examiner will issue an order, on his own motion, rescheduling the hearing to an earlier date. Similarly, if time should be needed beyond Oct. 3 the Examiner will issue the requisite order.

[Docket Nos. 16606, 16607; FCC 66-387]

KANSAS STATE NETWORK, INC., AND HIGHWOOD SERVICE, INC.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of: Kansas State Network, Inc., Topeka, Kans., Docket No. 16606, File No. BPCT-3537; Highwood Service Inc., Topeka, Kans., Docket No. 16607, File No. BPCT-3561; for construction permit for new television broadcast station.

At a session of the Federal Communications Commission, held at its offices in Washington, D.C., on the 27th day of April 1966.

1. The Commission has before it for consideration the above-captioned applications, each requesting a construction permit for a new television broadcast station to operate on Channel 29, Topeka, Kans. Since the operation proposed by both of the applicants would result in mutually destructive interference, they are mutually exclusive and a hearing will be required to determine which application should be granted.

2. With respect to the issues set forth below, the following considerations are relevant:

(a) Since Kansas State Network, Inc., presently serves most of the large Kansas television markets with its four VHF television stations,[1] a question arises as to whether a grant of its present application would result in a concentration of control which would be inconsistent with § 73.636 of the Commission's rules.[2] Accordingly, the Commission, on its own motion, has specified an issue with respect to concentration.

(b) Although the original applicant, Studio Broadcasting System, Incorporated, apparently was a Kansas corporation, the new applicant, Highwood Service, Inc., is a Michigan corporation and it has not submitted proof of authority to do business in Kansas. Moreover, even though Highwood proposes to operate the proposed station through its Studio Broadcasting System Division, it states that this is not a separate corporate entity. Therefore, an issue to determine whether Highwood Service, Inc., has, or can obtain, authority to do business in Kansas will be specified.

(c) The application of Highwood Service, Inc., indicates that $2,292,543 (i.e. $311,250—down payment to RCA; $241,025—first year's payments to RCA including interest; $221,000—land, building and professional fees; $30,000—furniture; $648,229—first year's bank loan payments, including interest; $307,528—estimated cost of operation; and $533,511—reduction of net current liabilities) will be needed for construction and first year's operating expenses. To meet the cash requirements, the applicant relies upon the availability of $1,700,000 bank loan and $300,000 in revenues. Although, the applicant has established that the bank loan will be available, it has not sufficiently justified the reasonableness of the $300,000 revenue estimate. However, even if the applicant's estimate of revenues is accepted, it does not appear that Highwood satisfies the financial standards of Ultravision Broadcasting Co., FCC 65-581, 5 R.R. 2d 343. Accordingly, financial issues have been specified.

(d) It appears that Highwood Service, Inc., proposes to locate its main studio outside of the corporate limits of the city of Topeka and therefore it requests a waiver of § 73.613 of the Commission's rules. In view of this, an issue is specified to determine whether circumstances exist that warrant a waiver of said section.

(e) Since the proposed television antenna structure of Highwood Service, Inc., is in the vicinity of Standard Broadcast Station WIBW, Topeka, Kans., any grant of Highwood's application will be made subject to the AM condition specified below.

(f) According to Kansas State Network, Inc.'s application, the geographic coordinates and elevation of the proposed antenna site were derived from a topographic map with a scale of 1:250,000. Information available from the United States Geological Survey indicates that there are larger scale maps available for the area under consideration. Since the applicant's map is drawn to a scale of 1:250,000, it does not lend itself to the same degree of accuracy that one drawn to the larger scale map would. Therefore, since the geographic coordinates and elevation of the proposed antenna site could not be checked, an issue to determine the accuracy of the geographic coordinates and elevation of the proposed antenna site has been specified.

(g) Finally, since FAA approval has not been obtained for Kansas State Network's antenna structure, an air menace issue has been specified.

(h) With respect to both applications it should be noted that offset designators have not been provided. These will be furnished in a subsequent order by the Commission, and therefore, a grant of either of these applications will be made subject to the condition that operation of the station will be in accordance with offset designators which will be specified subsequently.

3. Except as indicated by the issues set forth below, each of the applicants is qualified to construct, own and operate the proposed new television broadcast station. The applications are, however, mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference. The Commission is therefore unable to make the statutory finding that a grant of the applications would serve the public interest, convenience, and necessity, and is of the opinion that they must be designated for hearing in a consolidated proceeding on the issues set forth below.

Accordingly, it is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications of Kansas State Network, Inc., and Highwood Service, Inc., are designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine with respect to Kansas State Network, Inc.'s application:

(a) Whether a grant of Kansas State Network, Inc.'s application would be consistent with section 73.636 of the Commission's rules with respect to concentration of control.

(b) To determine the accuracy of geographic coordinates and elevation of the antenna site.

(c) To determine whether the antenna structure proposed by Kansas State Network would constitute a menace to air navigation.

2. To determine with respect to Highwood Service, Inc.'s application:

(a) Whether it is, or can be, authorized to do business in the State of Kansas.

(b) Whether its estimate of revenues is reasonable, and, if so, whether additional funds will be available to meet the cash required figure of $2,292,000.

(c) Whether, in view of the evidence adduced pursuant to (b), the applicant is financially qualified.

(d) Whether circumstances exist which would warrant a waiver of § 73.613 of the Commission's rules.

3. To determine which of the proposals would better serve the public interest.

4. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which, if either, of the applications should be granted.

It is further ordered, That any grant of Highwood Service, Inc.'s, application be made subject to the following condition:

That skeleton proof of performance shall be submitted, consisting of at least

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[1] Kansas State Network is the licensee of Television Translator Station K74CN, Salina, Kans., and of the following television broadcast stations: KARD-TV, Channel 3, Wichita, Kans.; KCKT, Channel 2, Great Bend, Kans.; KGLD-TV, Channel 11, Garden City, Kans.; and KOMC-TV, Channel 8, McCook, Nebr. The latter three stations are satellites of KARD-TV.

[2] Section 73.636 of the Commission's rules provides, in relevant part, that: "(a) No license for a television broadcast station shall be granted to any party (including all parties under common control) if: (2) Such party, or any stockholder, officer or director of such party, directly or indirectly owns, operates, controls, or has any interest in, or is an officer or director of any other television broadcast station if the grant of such license would result in a concentration of control of television broadcasting in a manner inconsistent with public interest, convenience, or necessity. In determining whether there is such a concentration of control, consideration will be given to the facts of each case with particular reference to such factors as the size, extent and location of area served, the number of people served, and the extent of other competitive service to the areas in question. The Commission, however, will in any event consider that there would be such a concentration of control contrary to the public interest, convenience or necessity for any party or any of its stockholders, officers or directors to have a direct or indirect interest in, or be stockholders, officers, or directors of, more than seven television broadcast stations, no more than five of which may be in the VHF band.

five field intensity measurements made between 2 and 10 miles distance on each radial measured in connection with the original proof of performance, to prove that the directional pattern of Station WIBW has not changed. Data submitted shall include a tabulation of all pertinent meter indications and the measured fields at the monitor locations.

It is further ordered, That a grant of either of the applications be made subject to the following condition:

That operation of the station be in accordance with offset designators to be specified in a subsequent order.

It is further ordered, That the Federal Aviation Agency is made a party to this proceeding with respect to the application of Kansas State Network, Inc.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall within twenty (20) days of the mailing of this order, file with Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594(a) of the Commission's rules, give notice of the hearing, either individually or, if feasible, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Released: April 29, 1966.

FEDERAL COMMUNICATIONS COMMISSION,[3]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 66-4981; Filed, May 5, 1966; 8:49 a.m.]

[Docket Nos. 16606, 16607; FCC 66M-619]

KANSAS STATE NETWORK, INC., AND HIGHWOOD SERVICE, INC.

Order Scheduling Hearing

In re applications of: Kansas State Network, Inc., Topeka, Kans., Docket No. 16606, File No. BPCT-3537; Highwood Service Inc., Topeka, Kans., Docket No. 16607, File No. BPCT-3561; for construction permit for new television broadcast station (Channel 29).

It is ordered, This 29th day of April 1966, that Forest L. McClenning shall serve as Presiding Officer in the above-entitled proceeding; that the hearings therein shall be convened on June 20, 1966, at 10 a.m.; and that a prehearing conference shall be held on May 25, 1966, commencing at 9 a.m.: *And, it is further ordered,* That all proceedings shall be held in the offices of the Commission, Washington, D.C.

Released: May 3, 1966.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 66-4982; Filed, May 5, 1966; 8:49 a.m.]

[Docket Nos. 16609-16611; FCC 66-392]

NORTHWEST BROADCASTERS, INC., ET AL.

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Northwest Broadcasters, Inc. (KBVU), Bellevue, Washington, Docket No. 16609, File No. BR-4369; has license 1540 kc, 1 kw DA-1, U Class II; for renewal of license of Station KBVU. F. Kemper Freeman, Elwell C. Case, and Mrs. Florance G. Hayes, doing business as Bellevue Broadcasters (KFKF), Bellevue, Wash., Docket No. 16610, File No. BP-17059; has 1330 kc, 5 kw, Day Class III, requests 1540 kc, 1 kw, DA-1, U Class II; for construction permit. Northwest Broadcasters, Inc. (KBVU), (assignor), Sunshine Broadcasting Co. (assignee), Docket No. 6611, File No. BAL-5521; for assignment of license of Station KBVU.

1. The Commission has before it for consideration the above-captioned applications and three petitions to deny (and pleadings responsive thereto) filed by three licensees of stations in Seattle, Wash.; namely, (1) Chem-Air, Inc. (KETO, AM and FM), (2) King Broadcasting Co. (KING, AM, FM, and TV), and (3) KIRO, Inc. (KIRO, AM and FM) all of which petitions are directed against the assignment application and one against the renewal application; and a petition to "Return or Dismiss" (and pleadings responsive thereto) filed by Northwest Broadcasters, Inc. (Northwest), against the application of Bellevue Broadcasters (KFKF) for the frequency presently licensed to Northwest.

2. Program test authority for Station KBVU was issued to the proposed assignor, Northwest, on January 3, 1964.[1] The station, for financial reasons, went off the air on July 6, 1965.[2] Also, on that date the application was filed to assign the station license to Sunshine Broadcasting Co. (Sunshine or assignee). Public notice of its acceptance for filing was issued on July 19, 1965. Thereafter, on August 18, November 1, and November 22,[3] the above-named licensees of broadcast stations in Seattle filed the three petitions to deny the assignment application, one petition being also directed against Northwest's renewal application. Responsive pleadings were also filed and on January 5, 1966, Bellevue Broadcasters (KFKF) filed its application for the frequency presently licensed to Northwest. The latter filing automatically requires an evidentiary hearing between the mutually exclusive applications and this fact, in our judgment, obviates the necessity of our passing upon the question of standing of the three who filed petitions to deny, or (with the exception noted below in para. 3) upon the merits of their pleadings, inasmuch as our action herein fundamentally gives the petitioners the relief they are seeking. We, therefore, are dismissing the three petitions to deny the assignment application as moot, being fully cognizant of each petitioner's right to petition for intervention under our Rule 1.223.

3. With respect, however, to the charges brought by Chem-Air, Inc., against KBVU's program performance during its period of operation, we have reviewed the allegations and the responses thereto and do not find that a substantial and material question of fact is presented or that a hearing is otherwise required. During all of Northwest's comparatively short period of time of operation it suffered financial loss. Although there appears to have been appreciable deviation in performance from the specific program representations made in its application for a construction permit in 1956, we do not believe such deviation was motivated by anything other than financial distress. While the licensee did not perform fully the programing representations made during the course of the comparative hearing in which it was involved, it did carry a number of the programs in the areas promised in its original application. The percentages, of course, were substantially different. The licensee has explained its failure to comply fully with its programing representations primarily on the ground that it suffered financial losses from the very beginning of its operation. We are satisfied with the licensee's explanation and in view of our action proposed herein we do not believe that any useful purpose will be served in exploring these matters further on a hearing record in connection with KBVU's application for renewal of license.

4. As to the petition of Northwest to "return or dismiss" the application of

[3] Commissioner Loevinger absent.

[1] The license was issued to Northwest on June 19, 1964.

[2] The station has been granted permission by the Commission to remain silent through July 1966. On Nov. 12, 1965, its renewal of license application was timely filed.

[3] Although timeliness of filing the petitions is not a determinative factor here because of our disposition of the applications and petitions, it should be noted that only one petition—that filed on August 18—was timely filed in conformity to the 30-day requirement of section 1.580(i) of our rules. See in re Miami Broadcasting Co., 1 R.R. 2d 43 (1963) and Valley Information Programs, Inc., 1 R.R. 2d 1077 (1964).

KFKF for a construction permit to operate on the frequency presently licensed to KBVU, it, in substance, stands or falls on whether a definite transmitter and antenna site can be said to be reasonably available to KFKF should it prevail in the comparative hearing designated herein. KFKF proposes to use the identical sites used by KBVU. Although Northwest has a 25-year lease on the property and an option to buy it from the owner, it seems fairly clear from the owner's stated position in the application that unless Northwest pays rent in arrears (approximately $2,700 as of February of 1966), continues payments currently becoming due or exercises its option to purchase the property, the owner intends to terminate the lease, repossess the property and lease it to whomever is awarded the authority to operate the station. Under the circumstances, we believe that KFKF has made a showing of reasonable availability and therefore we will deny Northwest's petition.

5. In our decision in In re Applications of Arthur A. Cirilli (WIGL) released February 23, 1966 (2 FCC 2d 692), which likewise involved applications for renewal, assignment and a new construction permit, we held that the public interest would be served by comparing the qualifications of the proposed assignee and the new permit applicant. We come to the same conclusion in the present case. The renewal applicant in this case although qualified in all other respects is not financially qualified to operate the station. It has been silent and its licensee has no plans to return it to the air. For many years, the Commission has under such circumstances of financial disqualification nevertheless granted innumerable renewal applications for the purpose of permitting a qualified buyer to purchase the licensee's assets and become the assignee of the license, when no mutually exclusive application for a construction permit for the facilities was involved. We do not believe that under these circumstances an assignment application properly filed under one section of the Communications Act is automatically nullified, because a construction permit application for the same facilities is subsequently filed under another section of the Act. Except as indicated by the issues specified below, Bellevue Broadcasters and Sunshine Broadcasting Co. are qualified. A hearing will be held to compare their qualifications. The renewal application will be retained in hearing for the purpose of enabling the Examiner to grant it should the assignee prevail in the hearing or to deny it should the applicant for a new construction permit prevail.

6. The Commission's "Three-year Rule" (§ 1.597 of the rules) is applicable to the subject assignment application because the assignor corporation did not receive program test authority until January of 1964. However, we are not including an issue on this subject because it is apparent that the financial record and condition of the licensee and of its stockholders place the case within the "unavailability of capital" exception in the rule itself.

7. The program proposals of Sunshine Broadcasting Co. constitute a specialized type of all-news format which is significantly different in character from the, comparably speaking, diversified format proposed by Bellevue Broadcasters. This raises the question of the extent to which such a specialized proposal reflects the needs and interests of the people of Bellevue. Also, such a program proposed together with evidence that Sunshine intends to apply for increase in power to 50 kw for KBVU raises the second question of whether Sunshine Broadcasting intends to serve Bellevue primarily or Seattle. Evidence on these questions and on the basis of the applicants respective proposals may be received by the Examiner together with such other evidence he deems relevant and material to these questions under the standard comparative issue.

8. On September 29, 1965 (FCC 65–878), we ordered that a hearing be held in the matter of liability of McLendon Pacific Corp. licensee of Station KABL, Oakland, Calif., for forfeiture, Docket No. 16,214, concerning the operation of Station KABL by the proposed assignee. No decision has been reached in that proceeding. However, when a decision is reached, the findings and conclusion in the KABL proceeding should be considered as part of the comparative consideration in this case.

9. *Accordingly, it is ordered,* That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications of Bellevue Broadcasters for a construction permit and of Sunshine Broadcasting Co. for assignment of license of Station KBVU are designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine which of the proposals would better serve the public interest;

2. To determine in the light of the evidence adduced pursuant to the foregoing issue, which, if either, of the applications should be granted.

It is further ordered, That, the petitions filed by Chem-Air, Inc., King Broadcasting Co., and KIRO, Inc., against the above-captioned assignment application are hereby dismissed as moot and the petition of Chem-Air, Inc., against the renewal application of Northwest Broadcasters, Inc. is hereby denied.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants shall, pursuant to § 1.221 (c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

It is further ordered, That, the applicants herein shall, pursuant to § 311 (a) (2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: April 27, 1966.

Released: May 3, 1966.

FEDERAL COMMUNICATIONS COMMISSION,[4]

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 66-4983; Filed, May 5, 1966; 8:50 a.m.]

FEDERAL MARITIME COMMISSION

[Docket No. 66-30]

[Independent Ocean Freight Forwarder License Application No. 654]

E & R FORWARDERS, INC.

Proceeding Opened

By letter dated March 14, 1966, E & R Forwarders, Inc., 150 Broadway, New York, N.Y., was notified of the Federal Maritime Commission's intent to deny its application for an indepednent ocean freight forwarder license. The ground for denial is that applicant's association with Romerovski Bros., Inc., Remor Waste Material Corp., and Romer Export Corp., shippers and sellers of merchandise to foreign countries, precludes it from qualifying as an independent ocean freight forwarder as defined in section 1, Shipping Act, 1916 (46 U.S.C. 801). Applicant has now requested the opportunity to show at a hearing that denial of the application would be unwarranted.

Therefore, it is ordered, Pursuant to sections 22 and 44 of the Shipping Act, 1916 (46 U.S.C. 831, 841b), that a proceeding is hereby instituted to determine whether applicant qualifies for a license pursuant to sections 1 and 44 of the Shipping Act, 1916 (46 U.S.C. 801, 841b).

It is further ordered, That E & R Forwarders, Inc., be made respondent in this proceeding and that the matter be assigned for hearing before an Examiner of the Commission's Office of Hearing Examiners at a date and place to be announced by the Chief Examiner.

It is further ordered, That notice of this order be published in the FEDERAL REGISTER and a copy thereof and notice of hearing be served upon respondent, E & R Forwarders, Inc.

It is further ordered, That any persons, other than respondent, who desire to become a party to this proceeding and to participate herein, shall file a petition to intervene with the Secretary, Federal Maritime Commission, Washington, D.C., 20573, with a copy to respondent, on or before May 10, 1966, and;

It is further ordered, That all future notices issued by or on behalf of the

[4] Commissioner Loevinger absent.

Commission in this proceeding, including notice of time and place of hearing or prehearing conference, shall be mailed directly to all parties of record.

[SEAL] THOMAS LISI,
Secretary.

[F.R. Doc. 66-4971; Filed, May 5, 1966; 8:48 a.m.]

[Independent Ocean Freight Forwarder License No. 337]

COSDEL INTERNATIONAL CO.

Revocation of License

Whereas, Cosdel International Co., 230 California Street, San Francisco, Calif., has ceased to operate as an independent ocean freight forwarder; and

Whereas, Cosdel International Co. has returned Independent Ocean Freight Forwarder License No. 337 to the Commission; and

Whereas, by letter dated April 25, 1966, Cosdel International Co. has requested the cancellation of its Independent Ocean Freight Forwarder License No. 337;

Now therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1, Section 6.03;

It is ordered, That the Independent Ocean Freight Forwarder License No. 337 of Cosdel International Co. be and is hereby revoked, effective this date.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served on the licensee.

JAMES E. MAZURE,
Director,
Bureau of Domestic Regulation.

[F.R. Doc. 66-4972; Filed, May 5, 1966; 8:49 a.m.]

[Independent Ocean Freight Forwarder License No. 313]

CRESCENT FORWARDING SERVICE

Revocation of License

Whereas, by Order To Show Cause served April 13, 1966, the Federal Maritime Commission ordered that James G. Marti doing business as Crescent Forwarding Service, 527 Canal Street, New Orleans, La., 70130, on or before April 21, 1966, either (1) submit a valid bond effective on or before April 28, 1966, or (2) show cause in writing or request a hearing to show cause why his license should not be suspended or revoked pursuant to section 44(d), Shipping Act, 1916; and

Whereas, James G. Marti doing business as Crescent Forwarding Service has failed within the time allotted to comply with the Commission's Order To Show Cause.

Now, therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in its Order To Show Cause served April 13, 1966.

It is ordered, That the independent ocean freight forwarder license of James G. Marti doing business as Crescent Forwarding Service be and is hereby revoked.

It is further ordered, That James G. Marti doing business as Crescent Forwarding Service return Independent Ocean Freight Forwarder License No. 313 to the Commission for cancellation.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served on licensee.

JAMES E. MAZURE,
Director,
Bureau of Domestic Regulation.

[F.R. Doc. 66-4973; Filed, May 5, 1966; 8:49 a.m.]

[Independent Ocean Freight Forwarder License No. 746]

F. V. VALDES & CO., INC.

Revocation of License

Whereas, by Order to Show Cause served April 13, 1966, the Federal Maritime Commission ordered that F. V. Valdes & Co., Inc., 607 Market Street, San Francisco, Calif., on or before April 20, 1966, either (1) submit a valid bond effective on or before April 26, 1966, or (2) show cause in writing or request a hearing to show cause why its license should not be suspended or revoked pursuant to section 44(d), Shipping Act, 1916; and

Whereas, F. V. Valdes & Co., Inc., has failed within the time allotted to comply with the Commission's Order to Show Cause.

Now, therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in its Order to Show Cause served April 13, 1966.

It is ordered, That the independent ocean freight forwarder license of F. V. Valdes & Co., Inc., be and is hereby revoked.

It is further ordered, That F. V. Valdes & Co., Inc., return Independent Ocean Freight Forwarder License No. 746 to the Commission for cancellation.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served on licensee.

JAMES E. MAZURE,
Director,
Bureau of Domestic Regulation.

[F.R. Doc. 66-4974; Filed, May 5, 1966; 8:49 a.m.]

[Fact Finding Investigation No. 6]

STEAMSHIP CONFERENCE

Effects on Foreign Commerce of United States

MAY 2, 1966.

A further hearing in this proceeding will commence at 9:30 a.m. on May 23, 1966, Room 420, 45 Broadway, New York, N.Y. The hearing will be open to the public.

RALPH P. DICKSON,
Investigative Officer.

[F.R. Doc. 66-4975; Filed, May 5, 1966; 8:49 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CP65-102, etc.]

COLUMBIA GULF TRANSMISSION CO., ET AL.

Order Permitting Intervention, Severing Proceedings, and Setting Dates for Filing of Evidence and Hearings

APRIL 29, 1966.

Columbia Gulf Transmission Co., Docket No. CP65-102; Atlantic Seaboard Corp., Docket No. CP65-122; Transcontinental Gas Pipe Line Corp., Docket No. CP65-181; Transcontinental Gas Pipe Line Corp., United Natural Gas Co., and North Penn Gas Co., Docket No. CP65-182; and United Fuel Gas Co., Docket No. CP65-198.

On March 25, 1966 the U.S. Department of Health, Education, and Welfare filed a motion for leave to intervene out of time and a petition to intervene in the above-entitled proceedings along with a proposed brief. Answers to the motion and petition to intervene were filed by Fuels Research Council, Inc., National Coal Association and United Mine Workers of America (coal interests) and by the staff of this Commission.

The Department states that its interests and the public would be served by its intervention to insure that its views are fully and accurately before the Commission. The Department does not request that the record be reopened but states that it seeks participation limited to the right to file briefs with the Presiding Examiner, to take exceptions to the Examiner's Decision, to file replies to exceptions, and to participate in oral argument, if any, before the Commission. Coal interests and the staff both oppose the motion for leave to intervene because it was filed out of time and allege that no justification has been shown for the Department's failure to intervene in a timely manner. The staff suggests, however, that the Department be permitted to appear as amicus curiae in this proceeding drawing a parallel to the Commission's action in permitting amicus curiae participation by the Department in Transwestern Pipeline Co., et al., Docket No. CP63-204, et al. (Order issued Mar. 4, 1966.)

Section 1.8(d) of the Commission's rules provides that petitions to intervene must be filed no later than the date fixed for the filings of petitions to intervene in an order or notice unless in extraordinary circumstances for good cause shown. On May 14, 1965 the Commission issued a notice of supplements and amendments to applications in these proceedings providing that petitions to intervene be filed on or before June 3, 1965. Hearings were held and the record was closed February 4, 1966. Initial briefs before the Presiding Examiner were filed March 18, 1966, and reply briefs were filed April 11, 1966. The Department has not alleged that it was not on notice of these proceedings in order to have filed a timely petition to intervene. Nonetheless, for the reasons stated

below, it appears appropriate to permit the Department's intervention provided that it present evidence to support its position.

The issue to which the Department addresses itself is the air pollution issue related to that portion of the application of Transcontinental Gas Pipe Line Corp. (Transco) in Docket No. CP65–181 in which Transco proposes to deliver to Consolidated Edison Co. of New York, Inc. (Con Ed), 55,000 Mcf per day of gas under Transco's CD–3 Rate Schedule in substitution for 55,000 Mcf per day of storage service presently being rendered under its GSS rate schedule. That service is presently being rendered under temporary authority issued March 1, 1966. In the order issuing such temporary authority the Commission observed that it was Transco's position that the proposed service to Con Ed was unrelated to the other issues in the consolidated proceedings.[1] Because of the fact that the proposed service to Con Ed is unrelated to the other issues, severance of that question would not delay a decision on the competitive question and other questions involved in the consolidated proceeding. Since the service to Con Ed will be rendered until March 31, 1967, under temporary authority there is no pressing need for an early decision on that aspect of the proceeding. Accordingly, any delay in an ultimate decision on that aspect caused by the further hearing prescribed herein will not affect deliveries to Con Ed and, because of the severance ordered herein, will not delay consideration of the other aspects of the proceeding.

Presentation of evidence by the Department may assist the Examiner and the Commission in evaluating the proposal of Transco to render additional service to Con Ed. The Department in its brief states:

> While we believe that, on the record of this proceeding, there would be a beneficial effect for air pollution control as a consequence of the proposed gas use, we are not persuaded * * * that such use would constitute the most effective use for air pollution control purposes (footnote omitted).
>
> * * * * *
>
> The proposed additional 55,000 Mcf/d could make a significant reduction in SO_2 pollution in the amount of 25,500 tons/year. We have reservations, however, that the proposed use of the gas, as outlined by Con Ed, in Units 1 and 2, is the most effective use of this fuel by Con Ed for alleviation of air pollution, already at an undesirable level in New York City. Consequently, although we in general favor any reasonable steps that may be taken to alleviate the air pollution problem in New York City, we would suggest that, insofar as the granting of this application turns on the air pollution problem, the proposed additional supply of gas under this application be approved only if suitable assurances are obtained that it will be used by Con Ed in the most productive way to alleviate the air pollution problem in New York City.

We desire that the Department present evidence to support its position that the use of natural gas would not only be beneficial for air pollution control but also that approval of the proposed service to Con Ed should be granted only if suitable assurances are obtained that the additional gas will be used by Con Ed in the way best designed to alleviate New York City's air pollution problem.

In order that a complete record will be before the Presiding Examiner and the Commission with regard to the Department's position that natural gas should be used in a manner other than that proposed by Con Ed, it is necessary that the Department's motion for leave to intervene out of time be granted, that its petition to intervene be granted, that the proceedings be reopened and further hearings be held so as to enable the Department to present evidence to support its position in this proceeding.

The Commission finds:

(1) Although the petition to intervene filed March 25, 1966 by the U.S. Department of Health, Education, and Welfare was not filed within the time required by § 1.8(d) of the Commission's rules of practice and procedure (18 CFR 1.8(d)), good cause exists to permit the late filing.

(2) It is desirable and in the public interest to allow the above-named petitioner to intervene in these proceedings in order that petitioner may establish the facts and the law from which the nature and validity of alleged rights and interests may be determined and show what further action may be appropriate under the circumstances in the administration of the Natural Gas Act.

The Commission orders:

(A) The above-named petitioner is hereby permitted to become an intervener in these proceedings subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervener shall be limited to matters affecting asserted rights and interests as specifically set forth in its petition to intervene: *And provided, further,* That the admission of such intervener shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding: *And also provided,* That petitioners shall file evidence as ordered herein.

(B) That portion of the application of Transcontinental Gas Pipe Line Corp., in Docket No. CP65–181 related to the proposed substitution of 55,000 Mcf per day of CD–3 service to Consolidated Edison Co. of New York, Inc., for a like amount of GSS service presently authorized is hereby denominated Phase II of such application.

(C) To the extent possible, the Presiding Examiner is directed to issue an initial decision on the remaining issues in this consolidated proceeding which are unrelated to those matters to be considered in the Phase II proceeding prior to an initial decision in the Phase II proceeding.

(D) The evidence heretofore submitted relating to the proposed substitution of service to Consolidated Edison Co. of New York, Inc., shall be considered part of the record in the Phase II proceeding.

(E) On or before May 16, 1966, the U.S. Department of Health, Education, and Welfare shall file and serve upon all parties direct evidence to support its position and contentions in this proceeding. Any other parties desiring to present direct evidence in this Phase II proceeding shall also file and serve evidence on or before that date. Presentation of answering evidence shall be at such time as may be specified by the Presiding Examiner.

(F) Pursuant to the authority conferred on the Federal Power Commission by the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held May 23, 1966, at 10 a.m., e.d.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C., respecting the matters set forth in the instant order or any further order issued in the instant proceedings prior to said date of hearing.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 66–4945; Filed, May 5, 1966; 8:46 a.m.]

[Project No. 2289]

ROCKY MOUNTAIN POWER CO.

Order Vacating Presiding Examiner's Ruling and Granting Motion To Strike

APRIL 29, 1966.

On April 14, 1966, Commission Staff Counsel filed a motion to reverse the ruling of the Presiding Examiner denying staff motion filed March 18, 1966, to strike certain material submitted as exhibits in this proceeding. The Commission's order of August 19, 1965, fixing hearing and prescribing procedure, provides in subparagraph 6 of paragraph B that "no exhibits, except those of which official notice may properly be taken shall contain narrative material other than brief explanatory notes". The filings submitted by Rocky Mountain Power Co. (Applicant) on March 1, 1966, contain narrative material submitted as part of its exhibits in violation of the Commission's procedural order. The procedural order also provides that all of the testimony except exhibits shall be in question and answer form.

The procedure prescribed by the Commission's order of August 19, 1965, is intended to eliminate any cause which might otherwise exist for a protracted hearing by requiring all parties to submit a full and complete direct case in writing as clearly as possible and in advance of the hearing in order to eliminate the need for recesses and extensive

[1] In addition to the service proposed to Con Ed, Transco proposes additional natural gas service in Docket No. CP65–181 to other existing customers and to two new customers, Commonwealth Natural Gas Co. and Washington Gas Light Co., both of whom presently purchase natural gas solely from Atlantic Seaboard Corp. Atlantic Seaboard proposes competitive service to those customers in Docket No. CP65–122, consolidated herein.

cross-examination. The situation presented by Staff's motion, and by the Interveners which have joined in that motion, shows the need for the procedure prescribed by the Commission.

The Applicant indicated at the prehearing conference (Tr. 60) and in its response filed April 25, 1966, that it is prepared and is willing to resubmit its direct case pursuant to the Commission's procedural order.

The Commission finds: It is appropriate and in the public interest in carrying out the provisions of the Federal Power Act that the aforesaid motion to strike be granted, and that the Applicant be granted a reasonable period to resubmit its direct case.

The Commission orders:

(A) The aforesaid motions to reverse ruling of presiding examiner and to strike certain material submitted as exhibits by the Applicant as part of the direct case, are granted.

(B) The applicant is given until May 23, 1966, to resubmit his direct case in accordance with the aforesaid procedure.

(C) The Interveners and Commission Staff are given until June 13, 1966, to file their direct cases in accordance with the aforesaid procedure.

(D) Motions to strike shall be filed with the Presiding Examiner by June 20, 1966, with replies to such motions to be filed by June 27, 1966.

(E) The hearing be held beginning on July 6, 1966.

By the Commission.[1]

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 66-4946; Filed, May 5, 1966; 8:46 a.m.]

[Docket No. CP66-332]

TEXAS GAS TRANSMISSION CORP.

Notice of Application

APRIL 29, 1966.

Take notice that on April 21, 1966, Texas Gas Transmission Corp. (Applicant), Post Office Box 1160, Owensboro, Ky., 42301, filed in Docket No. CP66-332 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities in Henderson County, Ky., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant seeks authority to construct and operate one side valve and a positive meter for the establishment of a new delivery point for Western Kentucky Gas Co. (Western), an existing customer of Applicant. Applicant states that natural gas to be delivered through the proposed delivery point is for resale by Western to the community of Anthoston, Henderson County, Ky. Annual and peak day deliveries associated with the service to Anthoston are estimated to be 8,233 and 102 Mcf of gas respectively. No increase in the contract demand of Western is proposed for this service.

The total estimated cost of Applicant's proposed facilities is $5,700, which will be financed with cash on hand.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (157.10) on or before May 26, 1966.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 66-4947; Filed, May 5, 1966; 8:46 a.m.]

[Docket No. CP66-331]

UNITED GAS PIPE LINE CO.

Notice of Application

APRIL 29, 1966.

Take notice that on April 20, 1966, United Gas Pipe Line Co. (Applicant), Post Office Box 1407, Shreveport, La., 71102, filed in Docket No. CP66-331 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities and the sale of natural gas to the city of New Summerfield, Cherokee County, Tex., to meet the requirements of said purchaser for resale and distribution through its proposed distribution system serving said city, and the rural customers located along New Summerfield's line lying in Cherokee County, and extending from Applicant's meter station to the city of New Summerfield, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes to construct and operate approximately 60 feet of 2-inch pipeline, a positive meter and regulator station and appurtenant facilities near Milepost 32.5 on its 8-inch Longview-Boggy Creek to Huntsville line, located in the Deson Gee Survey, Abstract 20, Cherokee County, Tex.

The total estimated volumes of natural gas involved to meet Applicant's annual and peak day requirements for the initial 3-year period of proposed operations are stated to be:

	First year	Second year	Third year
Annual (Mcf)	25,900	29,400	34,850
Peak day (Mcf)	350	395	450

The total estimated cost of Applicant's proposed facilities is $7,495, which cost will be financed out of current working funds.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (157.10) on or before May 26, 1966.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 66-4948; Filed, May 5, 1966; 8:46 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[811-1307, 811-1308]

PRESIDENTIAL BALANCED FUND, INC., AND PRESIDENTIAL STOCK FUND, INC.

Notice of Proposal To Terminate Registration

MAY 2, 1966.

Notice is hereby given that the Securities and Exchange Commission proposes on its own motion to declare by order, pursuant to section 8(f) of the Investment Company Act of 1940 ("Act"), that Presidential Balanced Fund, Inc., and Presidential Stock Fund, Inc., 200 Park Avenue, New York, N.Y., have each ceased to be an investment company.

Presidential Balanced Fund, Inc. and Presidential Stock Fund, Inc. each registered under section 8(a) of the Act as an open-end diversified management company by filing a Notification of Reg-

[1] Chairman White not participating.

istration on March 25, 1965. Neither company has filed a registration statement on Form N–8B–1 pursuant to the provisions of, and as required by, section 8(b) of the Act.

One of the two promoters of the companies has stated, in a letter to the Commission dated July 21, 1965, that neither company sold any of its securities to the public or ever owned any securities issued by other persons or any other assets, and that neither company intends to engage in any business or own any assets in the future, and that neither company is making or proposes to make a public offering of its shares.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, on its own motion, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, that upon the taking effect of such order, the registration of such company shall cease to be in effect, and that, if necessary for the protection of investors, such order may be made upon appropriate conditions.

Notice is further given that any interested person may, not later than May 23, 1966, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C., 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon each company at the address set forth above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations under the Act, an order disposing of the matter may be issued by the Commission upon the basis of information stated in this notice, unless an order for hearing upon this matter shall be issued upon request or upon the Commission's own motion.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 66–4954; Filed, May 5, 1966; 8:47 a.m.]

UNITED SECURITY LIFE INSURANCE CO.

Order Suspending Trading

MAY 2, 1966.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $1 par value, of United Security Life Insurance Company, Birmingham, Ala., otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period May 3, 1966, through May 12, 1966, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 66–4955; Filed, May 5, 1966; 8:47 a.m.]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority 30, Atlanta, Ga., Region; Rev. 1, Amdt. 1]

ATLANTA REGIONAL OFFICE

Delegation of Authority To Conduct Program Activities

Pursuant to the authority delegated to the Regional Director by Delegation of Authority No. 30, Southeastern Area, 30 F.R. 2884, as amended, 30 F.R. 8080 and 14061, Delegation of Authority No. 30, Atlanta, Ga. (Revision 1), 30 F.R. 14541 is amended by addition of the following to Item I.G:

I. * * *

G. *To Loan Specialists assigned to all financial assistance division programs in all offices of this region.* Final authority to approve the following actions concerning current direct or participation loans.

1. Use of the cash surrender value of life insurance to pay the premium on the policy.

2. Release of dividends of life insurance or consent to application against premiums.

3. Minor modifications in the authorization.

4. Extension of disbursement period.

5. Extension of initial principal payments.

6. Adjustment of interest payment dates.

7. Release of hazard insurance checks not in excess of $200 and endorse such checks on behalf of the agency where SBA is named as joint loss payee.

Effective date. April 1, 1966.

JOHN P. LATIMER,
Regional Director,
Atlanta Regional Office.

[F.R. Doc. 66–4956; Filed, May 5, 1966; 8:47 a.m.]

[Delegation of Authority 30, Birmingham, Ala., Region; Rev. 1, Amdt. 2]

BIRMINGHAM REGIONAL OFFICE

Delegation of Authority To Conduct Program Activities

Pursuant to the authority delegated to the Regional Director by Delegation of Authority No. 30, Southeastern Area, 30 F.R. 2884, as amended 30 F.R. 8080 and 14061, Delegation of Authority No. 30, Birmingham, Ala. (Revision 1), 30 F.R. 9846, as amended, 30 F.R. 14451 is further amended by addition of the following authority to Item I.G:

I. * * *

G. *To Loan Specialists assigned to all financial assistance division programs in all offices of this region.* Final authority to approve the following actions concerning current direct or participation loans.

1. Use of the cash surrender value of life insurance to pay the premium on the policy.

2. Release of dividends of life insurance or consent to application against premiums.

3. Minor modifications in the authorization.

4. Extension of disbursement period.

5. Extension of initial principal payments.

6. Adjustment of interest payment dates.

7. Release of hazard insurance checks not in excess of $200 and endorse such checks on behalf of the agency where SBA is named as joint loss payee.

Effective date. April 18, 1966.

PAUL R. BRUNSON,
Regional Director,
Birmingham Regional Office.

[F.R. Doc. 66–4957; Filed, May 5, 1966; 8:47 a.m.]

[Delegation of Authority 30, Charlotte, N.C., Region; Rev. 1, Amdt. 2]

CHARLOTTE REGIONAL OFFICE

Delegation of Authority To Conduct Program Activities

Pursuant to the authority delegated to the Regional Director by Delegation of Authority No. 30, Southeastern Area, 30 F.R. 2884, as amended, 30 F.R. 8080 and 14061, Delegation of Authority No. 30, Charlotte, N.C., 30 F.R. 5881 as amended, 30 F.R. 13554, and 30 F.R. 14452 is hereby further amended by addition of the following:

1. Item I.E. is revised to read as follows:

E. *Chief, Loan Administration Section.* 1. To approve the amendments and modifications of loan conditions for loans that have been fully disbursed.

2. Item I.C.12—Only the authority for servicing, administration and collection, including subitems a. and b.

3. Items I.A. (Size Determinations for Financial Assistance only.)

4. Items I.B. (Eligibility Determinations for Financial Assistance only.)

2. By adding the following authority to Item I.F.:

F. *Chief, Loan Liquidation Section.* Item I.C.12—Only the authority for liquidation, including collateral purchased, and subitems a. and b.

3. By adding the following authority to Item I.G.:

G. *To Loan Specialists assigned to all financial division programs in all Offices of this region.* Final authority to ap-

prove the following actions concerning current direct or participation loans.

1. Use of the cash surrender value of life insurance to pay the premium on the policy.
2. Release of dividends of life insurance or consent to application against premiums.
3. Minor modifications in the authorization.
4. Extension of disbursement period.
5. Extension of initial principal payments.
6. Adjustment of interest payment dates.
7. Release of hazard insurance checks not in excess of $200 and endorse such checks on behalf of the agency where SBA is named as joint loss payee.

Effective date. April 21, 1966.

FRED A. DOW,
Regional Director,
Charlotte Regional Office.

[F.R. Doc. 66-4958; Filed, May 5, 1966; 8:47 a.m.]

[Delegation of Authority 30, Columbia, S.C., Region; Rev. 1, Amdt. 2]

COLUMBIA REGIONAL OFFICE

Delegation of Authority To Conduct Program Activities

Pursuant to the authority delegated to the Regional Director by Delegation of Authority No. 30, Southeastern Area, F.R. 2884, as amended, 30 F.R. 8080 and 14061, Delegation of Authority No. 30, Columbia, S.C., Revision 1, 30 F.R. 13553, as amended, 30 F.R. 14452, is further amended by addition of the following authority to Item I.G.:

I. * * *

G. *To Loan Specialists assigned to all financial assistance division programs in all offices of this region.* Final authority to approve the following actions concerning current direct or participation loans:

1. Use of the cash surrender value of life insurance to pay the premium on the policy.
2. Release of dividends of life insurance or consent to application against premiums.
3. Minor modifications in the authorization.
4. Extension of disbursement period.
5. Extension of initial principal payments.
6. Adjustment of interest payment dates.
7. Release of hazard insurance checks not in excess of $200 and endorse such checks on behalf of the agency where SBA is named as joint loss payee.

Effective date. April 19, 1966.

H. M. MCKENZIE,
Regional Director,
Columbia Regional Office.

[F.R. Doc. 66-4959; Filed, May 5, 1966; 8:47 a.m.]

[Delegation of Authority 30, Jackson, Miss., Region; Rev. 1, Amdt. 1]

JACKSON REGIONAL OFFICE

Delegation of Authority To Conduct Program Activities

Pursuant to the authority delegated to the Regional Director by Delegation of Authority No. 30, Southeastern Area, 30 F.R. 2884, as amended 30 F.R. 8080 and 14061, Delegation of Authority No. 30, Jackson, Miss., Revision 1, 30 F.R. 14699 is amended by addition of the following to Item I.G.:

I. * * *

G. *To Loan Specialists assigned to all financial assistance division programs in all offices of this region.* Final authority to approve the following actions concerning current direct or participation loans.

1. Use of the cash surrender value of life insurance to pay the premium on the policy.
2. Release of dividends of life insurance or consent to application against premiums.
3. Minor modifications in the authorization.
4. Extension of disbursement period.
5. Extension of initial principal payments.
6. Adjustment of interest payment dates.
7. Release of hazard insurance checks not in excess of $200 and endorse such checks on behalf of the agency where SBA is named as joint loss payee.

Effective date. April 26, 1966.

GEORGE A. FEILD,
Regional Director,
Jackson Regional Office.

[F.R. Doc. 66-4960; Filed, May 5, 1966; 8:47 a.m.]

[Delegation of Authority 30, Jacksonville, Fla., Region; Rev. 1, Amdt. 2]

JACKSONVILLE REGIONAL OFFICE

Delegation of Authority To Conduct Program Activities

Pursuant to the authority delegated to the Regional Director by Delegation of Authority No. 30, Southeastern Area, 30 F.R. 2884, as amended 30 F.R. 8080 and 14061, Delegation of Authority No. 30, Jacksonville, Fla., Revision 1, 30 F.R. 13555, as amended 30 F.R. 14451, is further amended by addition of the following authority to Item I.G.:

I. * * *

G. *To Loan Specialists assigned to all financial assistance division programs in all offices of this region.* Final authority to approve the following actions concerning current direct or participation loans:

1. Use of the cash surrender value of life insurance to pay the premium on the policy.
2. Release of dividends of life insurance or consent to application against premiums.
3. Minor modifications in the authorization.
4. Extension of disbursement period.
5. Extension of initial principal payments.
6. Adjustment of interest payment dates.
7. Release of hazard insurance checks not in excess of $200 and endorse such checks on behalf of the agency where SBA is named as joint loss payee.

Effective date. April 27, 1966.

K. H. TURNER,
Regional Director,
Jacksonville Regional Office.

[F.R. Doc. 66-4961; Filed, May 5, 1966; 8:47 a.m.]

[Delegation of Authority 30, Louisville, Ky., Region; Rev. 1, Amdt. 1]

LOUISVILLE REGIONAL OFFICE

Delegation of Authority To Conduct Program Activities

Pursuant to the authority delegated to the Regional Director by Delegation of Authority No. 30, Southeastern Area, 30 F.R. 2884, as amended, 30 F.R. 8080 and 14061, Delegation of Authority No. 30, Louisville, Ky., 30 F.R. 5878, Revision 1, 30 F.R. 14451, is further amended by addition of the following authority to Item I.G.:

I. * * *

G. *To Loan Specialists assigned to all financial assistance division programs in all offices of this region.* Final authority to approve the following actions concerning current direct or participation loans.

1. Use of the cash surrender value of life insurance to pay the premium on the policy.
2. Release of dividends of life insurance or consent to application against premiums.
3. Minor modifications in the authorization.
4. Extension of disbursement period.
5. Extension of initial principal payments.
6. Adjustment of interest payment dates.
7. Release of hazard insurance checks not in excess of $200 and endorse such checks on behalf of the agency where SBA is named as joint loss payee.

Effective date. April 18, 1966.

R. B. BLANKENSHIP,
Regional Director,
Louisville Regional Office.

[F.R. Doc. 66-4962; Filed, May 5, 1966; 8:48 a.m.]

[Delegation of Authority 30, Miami, Fla. Region; Rev. 1, Amdt. 1]

MIAMI REGIONAL OFFICE

Delegation of Authority To Conduct Program Activities

Pursuant to the authority delegated to the Regional Director by Delegation of Authority No. 30, Southeastern Area, 30 F.R. 2884, as amended, 30 F.R. 8080 and 14061, Delegation of Authority No. 30,

Miami, 30 F.R. 5876 as revised 30 F.R. 14698, is hereby amended by addition of the following to Item I.G.:

I. * * *

G. *To Loan Specialists assigned to all financial assistance division programs in all offices of this region.* Final authority to approve the following actions concerning current direct or participation loans.

1. Use of the cash surrender value of life insurance to pay the premium on the policy.
2. Release of dividends of life insurance or consent to application against premiums.
3. Minor modifications in the authorization.
4. Extension of disbursement period.
5. Extension of initial principal payments.
6. Adjustment of interest payment dates.
7. Release of hazard insurance checks not in excess of $200 and endorse such checks on behalf of the agency where SBA is named as joint loss payee.

Effective date. April 25, 1966.

THOMAS A. BUTLER,
Regional Director,
Miami Regional Office.

[F.R. Doc. 66-4963; Filed, May 5, 1966; 8:48 a.m.]

[Delegation of Authority 30, Nashville, Tenn., Region; Rev. 1, Amdt. 2]

NASHVILLE REGIONAL OFFICE

Delegation of Authority To Conduct Program Activities

Pursuant to the authority delegated to the Regional Director by Delegation of Authority No. 30, Southeastern Area, 30 F.R. 2884, as amended, 30 F.R. 8080 and 14061, Delegation of Authority No. 30, Nashville, Tenn., Revision 1, 30 F.R. 13556, as amended 30 F.R. 14453, is further amended by addition of the following to Item I.G:

I. * * *

G. *To Loan Specialists assigned to all financial assistance division programs in all offices of this region.* Final authority to approve the following actions concerning current direct or participation loans:

1. Use of the cash surrender value of life insurance to pay the premium on the policy.
2. Release of dividends of life insurance or consent to application against premiums.
3. Minor modifications in the authorization.
4. Extension of disbursement period.
5. Extension of initial principal payments.
6. Adjustment of interest payment dates.
7. Release of hazard insurance checks not in excess of $200 and endorse such checks on behalf of the agency where SBA is named as joint loss payee.

Effective date. April 20, 1966.

SAM JENNINGS,
Regional Director,
Nashville Regional Office.

[F.R. Doc. 66-4964; Filed, May 5, 1966; 8:48 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATION FOR RELIEF

MAY 3, 1966.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 40460—*Paper and paper articles to points in Wyoming.* Filed by Southwestern Freight Bureau, agent (No. B-8845), for interested rail carriers. Rates on paper and paper articles, in carloads, from points in southwestern territory, to specified points in Wyoming.

Grounds for relief—Market competition.

Tariff—Supplement 38 to Southwestern Freight Bureau, agent, tariff ICC 4623.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 66-4965; Filed, May 5, 1966; 8:48 a.m.]

[Notice 177]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 3, 1966.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules in Ex Parte No. MC 67 (49 CFR Part 240), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protest must certify that such service has been made. The protest must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined, at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTER CARRIERS OF PROPERTY

No. MC 108449 (Sub-No. 232 TA), filed April 28, 1966. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minn. Applicant's representative: W. A. Myllenbeck (same address as above.) Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Tanners processing oil,* in bulk, in tank vehicles, from Milwaukee, Wis., to Red Wing, Minn., for 150 days. Supporting shipper: Mobil Oil Co., a division of Socony Mobil Oil Co., Inc., 150 East 42d Street, New York, N.Y., 10017. Send protests to: A. E. Rathert, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, Minn., 55401.

No. MC 115524 (Sub-No. 8 TA), filed April 29, 1966. Applicant: WILLIAM P. BURSCH, doing business as BURSCH TRUCKING, 4130 Edith NE., Albuquerque, N. Mex., 87107. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Lumber, including molding,* from points in Sandoval, Carton, Socorro, Rio Arriba, Santa Fe, Taos, and Colfax Counties, to points in Texas, Arkansas, Missouri, Oklahoma, Kansas, Colorado, and Arizona, from points in Las Animas, Rio Grande, Conejos, Archuleta, La Plata, Costilla, and Montezuma Counties, and Navajo and Coconino Counties, Ariz., to points in New Mexico, Arkansas, Missouri, Oklahoma, Kansas, and Texas, from points in Jasper, Bowie, and Harris Counties, to points in New Mexico, for 180 days. Supporting shipper: Duke City Lumber Co., 1224 Bellamah NW, Albuquerque, N. Mex., 87104. Send protests to: Jerry R. Murphy, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 109 U.S. Courthouse, Albuquerque, N. Mex., 87101.

No. MC 126622 (Sub-No. 1 TA), filed April 29, 1966. Applicant: PIERRE LAROCHELLE, Woburn, Frontenac County, Quebec, Canada. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Wood chips,* in bulk, and *lumber,* from ports of entry on the international boundary between Canada and the United States to points in Maine, Massachusetts, Vermont, New Hampshire, and New York, with ports of entry at or near Jackman and Coburn Gore, Maine; Pittsburg, N.H.; Norton, North Troy, and Highgate Springs and Rouses Point, Vt., for 180 days. Supporting shipper: Georges Lemire, Sherbrooke, Quebec; J. A. Fontaine, Woburn, Frontenac County, Quebec. Send protests to: Ross J. Seymour, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 14 Parkhurst Street, Lebanon, N.H., 03766.

No. MC 123415 (Sub-No. 7 TA), filed April 29, 1966. Applicant: JAMES STUFFO, INC., Box 1061, Merchantville, N.J. Applicant's representative: Raymond A. Thistle, Jr., Suite 1408-09, 1500 Walnut Street, Philadelphia, Pa. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Aluminum extrusions,* from plantsite of Aluminum Shapes, Inc., at Delair, N.J., to points in Pennsylvania, for 150 days. Supporting shipper: Aluminum Shapes, Inc., 9000 River Road, Delair, N.J. Send protests to: Raymond T. Jones, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commis-

sion, 410 Post Office Building, Trenton, N.J., 08608.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 66-4966; Filed, May 5, 1966; 8:48 a.m.]

[Notice 1341]

MOTOR CARRIER TRANSFER PROCEEDINGS

MAY 3, 1966.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-68634. By order of April 28, 1966, the Transfer Board approved the transfer to Presti Produce, Inc., Hammonton, N.J., of certificate in Nos. MC-77123 and MC-77123 (Sub-No. 2), issued December 4, 1941, and October 24, 1950, respectively, to Nathan C. Presti, Hammonton, N.J., authorizing the transportation of: Agricultural commodities, from Hammonton, N.J., and points and places within 20 miles of Hammonton, N.J., to New York, N.Y., fertilizer from Philadelphia, Pa., to specified points and places in New Jersey, New York, and Pennsylvania, oyster shells, from Port Norris, N.J., to Lebanon, Pa., lumber, from Philadelphia, Pa., to Hammonton, N.J., oysters, between Port Norris, N.J., on the one hand, and, on the other, South Norwalk, Conn., Warren, R.I., Chester and Nanticoke, Md., and Greenport, New Suffolk, and Oyster Bay, N.Y., animal feed, from Wilmington, Del., to Absecon and Hammonton, N.J., and lime, from Cedar Hollow and Plymouth Meeting, Pa., to points and places in Atlantic County, N.J. Mark A. DeMarco, 241 Bellvue Avenue, Hammonton, N.J., attorney for applicants.

No. MC-FC-68644. By order of April 29, 1966, the Transfer Board approved the transfer to Transportation Unlimited, Inc., Las Vegas, Nev., of the operating rights in certificate No. MC-89687, issued April 16, 1963, to Paul G. Ford, doing business as Riddle Scenic Tours, Los Angeles, Calif., authorizing the transportation of: Passengers, and express and newspapers, in limousines or sedans with a seating capacity of not more than seven persons, including the driver, between Las Vegas, Nev., and Furnace Creek Inn, Calif., serving no intermediate points, over specified routes, and passengers and their baggage, in special operations consisting of sightseeing or pleasure tours, beginning at Bakersfield, Baker, and Barstow, Calif., and at Las Vegas and Beatty, Nev., and extending to entrances of the Death Valley National Monument, California-Nevada, and ending at Bakersfield, Lone Pine, Trona, Mojave, Baker, and Barstow, Calif., and Las Vegas and Beatty, Nev., over specified routes. Bertram S. Silver, Silver, Rosen & Kerr, 140 Montgomery Street, San Francisco, Calif., 94104, attorney for applicants. R. Y. Schureman, Russell & Schureman, 1010 Wilshire Boulevard, Los Angeles, Calif., 90017, attorney for applicants.

No. MC-FC-68645. By order of April 29, 1966, the Transfer Board approved the transfer to Harry A. Tulley, doing business as Tulley Trucking Co., Vernon, Calif., of the operating rights listed under the heading "Part II" in certificate of registration No. MC-52744 (Sub-No. 3), issued April 10, 1964, to Chas. J. Worth Drayage Co., a corporation, San Francisco, Calif., corresponding to the grant of intrastate authority to transferor in certificate of public convenience and necessity granted in decision No. 53653, dated August 20, 1956, as amended, and transferred to applicant in decision No. 61561, dated February 21, 1961; and in decision No. 60378, dated July 5, 1960, as amended, by the Public Utilities Commission of the State of California, authorizing the transportation of general commodities between all points and places in the Los Angeles territory. Marshall G. Berol, Berol, Loughran & Geernaert, 100 Bush Street, San Francisco, Calif., 94104, attorney for applicants.

No. MC-FC-68651. By order of April 29, 1966, the Transfer Board approved the transfer to Raymond D. Good, doing business as La Cygne Truck Line, Post Office Box 265, La Cygne, Kans., of certificates Nos. MC-106271 (Sub-No. 1), MC-106271 (Sub-No. 4), and MC-106271 (Sub-No. 6), issued January 12, 1950, October 6, 1959, and October 12, 1960, respectively, to Francis D. Good, Rural Route 1, Drexel, Mo., authorizing the transportation of: General commodities, except commodities in bulk, household goods, and other specified commodities, between Kansas City, Mo., and La Cygne, Kans., serving intermediate specified points on specified highways and specified off-route points and places; household goods, as defined by the Commission, between La Cygne, Kans., and points and places in Kansas and Missouri within 15 miles of La Cygne, on the one hand, and, on the other, points and places in Missouri; livestock, between La Cygne, Kans., and points and places in Kansas and Missouri within 15 miles of La Cygne, on the one hand, and, on the other, Kansas City, Mo., and Kansas City, Kans., gravel, sand, dirt and limestone, in bulk, from La Cygne, Kans., and points in Kansas within 20 miles thereof, to points in Bates and Cass Counties, Mo.; gravel, sand, dirt, lime, and rock, in bulk, in dump trucks and lime truck equipment, from points in Bates and Cass Counties, Mo., to La Cygne, Kans., and points within 20 miles thereof.

No. MC-FC-68655. By order of April 29, 1966, the Transfer Board approved the transfer to William N. Wilcoxson, doing business as Bill Wilcoxson, Lamoni, Iowa, of certificate in No. MC-105194, issued June 30, 1945, to Lamoni Sale Corp., Lamoni, Iowa, authorizing the transportation of: Livestock between points and places within 30 miles of and including Lamoni, Iowa, and between Lamoni, Iowa and points and places within 20 miles of Lamoni, on the one hand, and, on the other, Kansas City, Kans., St. Joseph, Mo., and Ottumwa and Des Moines, Iowa, and feed (animal and poultry), farm machinery, and implements and parts thereof, and building material from Kansas City, Kans., St. Joseph, Mo., and Ottumwa and Des Moines, Iowa, to Lamoni, Iowa, and points and places within 20 miles of Lamoni. William A. Landau, 1307 East Walnut, Des Moines, Iowa, attorney for applicants.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 66-4967; Filed, May 5, 1966; 8:48 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—MAY

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during May.