

# Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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## MERIT SYSTEMS PROTECTION BOARD

### 5 CFR Part 1201

#### Practices and Procedures

**AGENCY:** Merit Systems Protection Board.

**ACTION:** Interim rule; request for comment.

**SUMMARY:** The Merit Systems Protection Board (MSPB or the Board) is issuing interim regulations to implement procedures under which a case may be suspended for up to 60 days to permit the parties to pursue discovery or settlement.

**DATES:** *Effective date:* January 28, 2002. *Comment date:* Submit comments on or before March 29, 2002.

**ADDRESSES:** Send or deliver comments to Robert E. Taylor, Clerk of the Board, U.S. Merit Systems Protection Board, 1615 M Street, NW., Washington, DC 20419; fax: (202) 653-7130; or email: [mspb@mspb.gov](mailto:mspb@mspb.gov).

**FOR FURTHER INFORMATION CONTACT:** Robert E. Taylor, Clerk of the Board, (202) 653-7200; fax: (202) 653-7130; or email: [mspb@mspb.gov](mailto:mspb@mspb.gov).

**SUPPLEMENTARY INFORMATION:** This interim regulation amends the Board's rules of practice and procedure at 5 CFR part 1201 by adding a new section 1201.28, "Case Suspension Procedures."

In November 1999, the Merit Systems Protection Board (MSPB) established a pilot project to allow employee-appellants and agencies up to 60 days additional time to pursue discovery and settlement efforts in pending initial appeals. The pilot program was initiated, in part, in response to concerns raised by Board practitioners that the 120-day time limit for adjudicating appeals prevented the parties from conducting the discovery they believed necessary to prevail on appeal. The pilot simplified the process

for obtaining a suspension of case processing to accommodate parties before the Board.

Under the pilot, the presiding judge was authorized to grant a 30-day suspension of case processing to parties who mutually requested the additional time. A second 30-day suspension was granted if the parties agreed that further time was necessary. Parties were not required to provide evidence and argument to support a joint request for additional time, so long as the request was made early in the proceedings.

The Board believes that the pilot has been successful in addressing the concerns regarding adequate time to conduct discovery and in facilitating settlement of complex cases. As of November 13, 2001, the Board's administrative Judges had granted 712 case suspension requests. In those 712 suspensions, the administrative judges had granted an additional 30-day case suspension in 240 appeals.

The Board is publishing this rule as an interim rule pursuant to 5 U.S.C. 1204(h).

#### List of Subjects in 5 CFR Part 1201

Administrative practice and procedure, Civil rights, Government employees.

Accordingly, the Board amends 5 CFR part 1201 as follows:

#### PART 1201—[AMENDED]

1. The authority citation for part 1201 continues to read as follows:

**Authority:** 5 U.S.C. 1204 and 7701, unless otherwise noted.

2. Amend 5 CFR part 1201—Practices and Procedures, Subpart B—Procedures for Appellate Cases, to add a new §1201.28 immediately after §1201.27.

#### § 1201.28 Case suspension procedures.

(a) *Joint requests.* The parties may submit a joint request for additional time to pursue discovery or settlement. Upon receipt of such request, the judge will suspend processing of the case for a period up to 30 days. The judge will grant an extension of the suspension period for up to an additional 30 days upon a joint request from the parties for additional time.

(b) *Unilateral requests.* Either party may submit a unilateral request for additional time to pursue discovery as provided in this subpart. Unilateral requests for additional time may be granted at the discretion of the judge.

(c) *Time for filing requests.* The parties must file a joint request that the adjudication of the appeal be suspended within 45 days of the date of the acknowledgment order (or within 7 days of the appellant's receipt of the agency file, whichever date is later). A request for an additional 30-day suspension period must be made on or before the fifth day before the end of the first 30-day suspension period.

(d) *Untimely requests.* The judge may consider requests for initial suspensions that are filed after the time limit set forth in paragraph (c) of this section. Such requests for additional time may be granted at the discretion of the judge.

(e) *Early termination of suspension period.* The suspension period may be terminated prior to the end of the agreed upon period if the parties request the judge's assistance relative to discovery or settlement during the suspension period and the judge's involvement pursuant to that request is likely to be extensive.

Dated: January 22, 2002.

**Robert E. Taylor,**

*Clerk of the Board.*

[FR Doc. 02-1958 Filed 1-25-02; 8:45 am]

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[TD 8973]

RIN 1545-AW09

#### Allocation of Loss With Respect to Stock and Other Personal Property; Correction

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correction to final regulations.

**SUMMARY:** This document contains corrections to final regulations (TD 8973) which were published in the **Federal Register** on Friday, December 28, 2001 (66 FR 67081). The final regulations relate to the allocation of loss recognized on the disposition of stock and other personal property under sections 861 and 865.

**DATES:** This correction is effective January 8, 2002.

**FOR FURTHER INFORMATION CONTACT:** David A. Juster (202) 622-3850 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

The final regulations that are subject to these corrections are under sections 861 and 865 of the Internal Revenue Code.

**Need for Correction**

As published, final regulations (TD8973) contains errors that may prove to be misleading and are in need of clarification.

**Correction of Publication**

Accordingly, the publication of final regulations (TD 8973), which was the subject of FR Doc. 01-31819, is corrected as follows:

**§ 1.861-8T [Corrected]**

1. On page 67083, column 3, § 1.861-8T, line 3 of the paragraph heading, the language "for other sources and activities (temporary)." is corrected to read "from other sources and activities (temporary)."

**§ 1.865-2 [Corrected]**

2. On page 67086, column 2, § 1.865-2(a)(4)(iv), *Example 3.* (i), line 10, the language "country X for \$1,000. On January 2, 2002, R" is corrected to read "Country X for \$1,000. On January 2, 2002, R".

**LaNita VanDyke,**

*Acting Chief, Regulations Unit, Associate Chief Counsel, (Income Tax & Accounting).*

[FR Doc. 02-2046 Filed 1-25-02; 8:45 am]

**BILLING CODE 4830-01-P**

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**DEPARTMENT OF TRANSPORTATION**

**Coast Guard**

**33 CFR Part 165**

[CGD05-01-046]

RIN 2115-AE84

**Regulated Navigation Area;  
Chesapeake Bay Entrance and  
Hampton Roads, VA and Adjacent  
Waters**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Direct final rule.

**SUMMARY:** The Coast Guard is amending the regulations for the Chesapeake Bay entrance and Hampton Roads, VA and adjacent waters—regulated navigation area (Lower Chesapeake Bay RNA). This change to the Lower Chesapeake Bay RNA excludes public vessels, owned,

leased, or operated by the U.S. Government, from its navigational charts and publications carriage requirements. This amendment brings carrying requirements for public vessels operating in the Lower Chesapeake Bay RNA in alignment with the requirements for all other U.S. waters.

**DATES:** This rule is effective April 29, 2002, unless an adverse comment, or notice of intent to submit an adverse comment reaches the Commander, Fifth Coast Guard District (Aow), on or before March 29, 2002. If an adverse comment, or notice of intent to submit an adverse comment is received, the Coast Guard will withdraw this direct final rule and publish a timely notice of withdrawal in the **Federal Register**.

**ADDRESSES:** Comments should be submitted to the address in this paragraph. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD05-01-046 and are available for inspection or copying at Commander (Aoww), Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, VA, 23704-5004, between 8:30 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LTjg Anne Grabins, Fifth Coast Guard District Aids to Navigation Office, (757) 398-6559.

**SUPPLEMENTARY INFORMATION:**

**Request for Comments**

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking [CGD05-01-046] and the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing to the address under **ADDRESSES**. You may submit your comments and material by mail, hand delivery or fax to the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail and would like to know they were received, please enclose a stamped, self-addressed postcard or envelope.

**Regulatory Information**

The Coast Guard is publishing a direct final rule, the procedures for which appear in 33 CFR 1.05-55, because it anticipates no adverse comment. If no

adverse comment or written notice of intent to submit an adverse comment is received within the specified comment period, this rule will become effective as stated in the **DATES** section. In that case, approximately 30 days before the effective date, the Coast Guard will publish a document in the **Federal Register** stating that no adverse comment was received and confirming that this rule will become effective as scheduled. However, if the Coast Guard receives a written adverse comment or written notice of intent to submit an adverse comment, it will publish a document in the **Federal Register** announcing withdrawal of all or part of this direct final rule.

If an adverse comment applies to only part of this rule and it is possible to remove that part without defeating the purpose of this rule, the Coast Guard may adopt as final those parts of this rule on which no adverse comment was received. The part of this rule that was the subject of an adverse comment will be withdrawn. If the Coast Guard decides to proceed with a rulemaking following receipt of an adverse comment, the Coast Guard will publish a separate Notice of Proposed Rulemaking (NPRM) and provide a new opportunity for comment.

A comment is considered "adverse" if the comment explains why this rule would be inappropriate, including a challenge to the rule's underlying premise or approach, or why it would be ineffective or unacceptable without a change.

**Background and Purpose**

On May 2, 2001, in Volume 66 of **Federal Register** Number 85, pages 21862-21865, the Coast Guard published a direct final rule that changed 33 CFR part 164, section 164.01 (a) and (c), a change that exempts public vessels equipped with electronic charting and navigation systems from paper chart carriage requirements. This geographically broad rule, which became effective July 31, 2001 (66 FR 42573, August 15, 2001), applies to public vessels operating in the navigable waters of the United States.

A separate part of the CFR, however, still requires public vessels operating in the Lower Chesapeake Bay RNA to carry paper charts, 33 CFR 165.501(d)(7). We are amending the Chesapeake Bay RNA regulation to bring its navigation requirements for public vessels operating in this area in alignment with the requirements for all other U.S. waters.

This rule excludes public vessels from the corrected paper chart requirements contained in 33 CFR 165.501(d)(7),