

comment, this rule is being published as a proposed rule.

PBGC has determined that these proposed changes do not modify the information collection requirements under Administrative Appeals (OMB control number 1212-0061, expires 1/31/10).

#### List of Subjects in 29 CFR Part 4003

Administrative practice and procedure, Organization and functions (Government agencies), Pension insurance, Pensions.

For the reasons given above, PBGC proposes to amend 29 CFR part 4003 as follows:

#### PART 4003—RULES FOR ADMINISTRATIVE REVIEW OF AGENCY DECISIONS

1. The authority citation for part 4003 continues to read as follows:

**Authority:** 29 U.S.C. 1302(b)(3).

2. In § 4003.1:

a. Paragraph (b)(6) is amended by removing the words “or section 4022A(a)”.

b. Paragraph (b)(7) is amended by removing the words “(c), section 4022A(b) through (e), or” and adding in their place the words “(c) or”.

3. In § 4003.2:

a. The definition of *Appeals Board* is amended by removing the word “Executive”.

b. The definition of *Director* is amended by removing the word “Executive” where it appears twice in the definition.

4. In § 4003.4, paragraph (b) is amended by removing the word “Executive”.

5. Section 4003.33 is amended by removing the word “Executive”.

6. In § 4033.35, paragraph (a)(2) is amended by removing the word “Executive” where it appears twice in the paragraph.

7. Section 4003.53 is amended by removing the words “Appeals Board, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026” and adding in their place the words “Appeals Board”.

8. In § 4003.54, paragraphs (a)(3) and (a)(4) are revised to read as follows:

#### § 4003.54 Contents of appeal.

(a) \* \* \*

(3) Specifically explain why PBGC’s determination is wrong and the result the appellant is seeking;

(4) Describe the relevant information the appellant believes is known by PBGC, and summarize any other information the appellant believes is relevant. It is important to include

copies of any documentation that support the appellant’s claim or the appellant’s assertions about this information;

\* \* \* \* \*

9. In § 4003.58:

a. The existing text of the section is redesignated as paragraph (a).

b. A new paragraph (b) is added to read as follows:

#### § 4003.58 Powers of the Appeals Board.

\* \* \* \* \*

(b) The Appeals Board may refer certain appeals to another PBGC department or to Appeals Board staff to provide a response to the appellant. The response from another PBGC department or Board staff shall be in writing and address the matters raised in the appeal. The response may be in the form of an explanation or corrected benefit determination. In either case, the appellant will have 45 calendar-days from the date of the response to file a written request for review by the Appeals Board. If a written request for review is not filed with the Appeals Board within the 45-calendar-day period the determination shall become effective pursuant to § 4003.22(a).

(1) Appeals that may be referred to another PBGC department or to the Board staff include those that—

(i) Request an explanation of the initial determination being appealed;

(ii) Dispute specific data used in the determination, such as date of hire, date of retirement, date of termination of employment, length of service, compensation, marital status and form of benefit elected; or

(iii) Request an explanation of the limits on benefits payable by PBGC under part 4022, subpart B, such as the maximum guaranteeable benefit and phase-in of the PBGC guarantee.

(2) An explanation or corrected benefit determination issued under this subsection is not considered a decision of the Appeals Board. If an appellant aggrieved by PBGC’s initial determination is issued an explanation or corrected benefit determination under this section, the appellant has not exhausted his or her administrative remedies until the appellant has filed a timely request with the Appeals Board for review and the Appeals Board has issued a decision granting or denying the relief requested. See § 4003.7 of this part.

10. In § 4003.60:

a. The section heading is amended by removing the word “Executive”.

b. The text of the section is amended by removing the word “Executive” wherever it appears.

Issued in Washington, DC, this 12th day of October 2007.

**Charles E. F. Millard,**

*Interim Director, Pension Benefit Guaranty Corporation.*

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**BILLING CODE 7709-01-P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### 32 CFR Part 217

[DOD-2007-OS-0001; 0790-AI19]

#### Service Academies

**AGENCY:** Department of Defense.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of Defense proposes to revise and update policy guidance and oversight of the Military Service Academies. This proposed rule implements 10 U.S.C. 403, 603, and 903 for the establishment and operation of the United States Military Academy, the United States Naval Academy, and the United States Air Force Academy.

**DATES:** Comments must be received by December 17, 2007.

**ADDRESSES:** You may submit comments, identified by docket number and or RIN number and title, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- Mail: Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301-1160.

**Instructions:** All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at <http://regulations.gov> as they are received without change, including any personal identifiers or contact information.

#### FOR FURTHER INFORMATION CONTACT:

Brenda Leong, Office of the Under Secretary of Defense (Personnel and Readiness), 4000 Defense Pentagon, Washington, DC 20301-4000 (telephone: (703) 695-5529).

**SUPPLEMENTARY INFORMATION:** In accordance with the guidance in the

Deputy Secretary of Defense memorandum, “DoD Directives Review—Phase II,” July 2005, this document proposes to revise the existing part and incorporates two other

DoD documents, DoD Directive 1332.23 and DoD Instruction 1025.4. It is the single DoD document that provides policy, assigns responsibilities, and prescribes procedures for operations and oversight of the Service academies.

#### **Executive Order 12866, "Regulatory Planning and Review"**

It has been determined that 32 CFR part 217 is not a significant regulatory action. The proposed rule does not:

- (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy; a section of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities;
- (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency;
- (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or
- (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

#### **Unfunded Mandates Reform Act (Sec. 202, Pub. L. 104-4)**

It has been certified that this proposed rule does not contain a Federal mandate that may result in the expenditure by State, local and tribal governments, in aggregate, or by the private sector, of \$100 million or more in any one year.

#### **Public Law 96-354, "Regulatory Flexibility Act" (5 U.S.C. 601)**

It has been certified that this proposed rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. This proposed rule establishes procedures to establish and operate three Military Service Academies in implementation of 10 U.S.C. 403, 603, and 903.

#### **Public Law 96-511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)**

It has been certified that this proposed rule does impose reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995. The reporting and recordkeeping requirements have been submitted to OMB for review.

#### **Executive Order 13132, "Federalism"**

It has been certified that this proposed rule does not have federalism implications, as set forth in Executive

Order 13132. This proposed rule does not have substantial direct effects on:

- (1) The States;
- (2) The relationship between the National Government and the States; or
- (3) The distribution of power and responsibilities among the various levels of Government.

#### **List of Subjects in 32 CFR Part 217**

Colleges and universities, Education. Accordingly, 32 CFR part 217 is proposed to be added to read as follows:

#### **PART 217—SERVICE ACADEMIES**

- |  |                           |
|--|---------------------------|
| Sec.   |                           |
| 217.1  | Purpose.                  |
| 217.2  | Applicability.            |
| 217.3  | Definitions.              |
| 217.4  | Policy.                   |
| 217.5  | Responsibilities.         |
| 217.6  | Procedures.               |
| 217.7  | Information requirements. |
| Appendix A to Part 217—Applicant Briefing Item on Separation Policy                                |                           |
| Appendix B to Part 217—Academy Assessment Report and Preparatory School Assessment Report (Format) |                           |
| Appendix C to Part 217—Service Academy Resources Summary Report (Sample)                           |                           |
| Appendix D to Part 217—Calculation for Cost per Graduate (CPG)                                     |                           |

**Authority:** 10 U.S.C. 403, 603, and 903.

#### **§217.1 Purpose.**

This part establishes policy, assigns responsibilities, and prescribes procedures for DoD oversight of the Service academies.

#### **§217.2. Applicability.**

This part applies to the Office of the Secretary of Defense, the Military Departments, Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Inspector General of the Department of Defense, the Defense Agencies, and the DoD Field Activities, all other organizational entities in the Department (hereafter referred to collectively as the "DoD Components"), and cadets and midshipmen of the Service academies.

#### **§217.3 Definitions.**

**Academic year.** Timeframe that begins the first day of the fall semester and ends on the last day of the spring semester.

**Academy(ies).** Refers to the U.S. Military, the U.S. Naval, or the U.S. Air Force Academy.

**Academy preparatory schools.** (1) Postsecondary educational institutions operated by each of the Military Departments to provide enhanced opportunities for selected candidates to be appointed to the academies. The schools provide an avenue for effective transition to the academy environment.

They prepare selected candidates for admission who are judged to need additional preparation in academics, physical fitness, or character development. Each school's programs of instruction shall focus on academic preparation and on those areas of personal and physical preparation that reflect the mission of both the academy and the Service concerned.

(2) Faculty members shall:

(i) Possess academic expertise and teaching prowess.

(ii) Exemplify high standards of conduct and performance.

(iii) Be expected to participate in the full spectrum of the school's programs, to include providing leadership, exemplary conduct and moral behavior for cadets and midshipmen to emulate, as well as involvement in the development of curricular and extracurricular activities. Curriculum design shall recognize academic preparation as the priority purpose; associated programs shall capitalize on economies and efficiencies.

(3) Preparatory school programs shall provide tailored individual instruction to strengthen candidate abilities and to correct deficiencies in academic areas emphasized by the academies.

Additionally, preparatory school programs shall provide supplementary instruction in military orientation, physical development, athletics, leadership, character development and other specific areas of interest determined by the Secretary of the Military Department concerned.

**Active duty lists.** A list of officers serving on active duty. Officers are listed by the Armed Force of which they are members in order of seniority. (See title 10, United States Code (U.S.C.), Section 620 for additional information.)

**Agreement.** Under this part, the agreement signed by a cadet and/or midshipman under 10 U.S.C. 2005, 4348(a), 6959(a), or 9348(a).

**Appointment.** Applicants who are selected for admission to the academies are appointed by the President as cadets or midshipmen. (See definition "Nomination"). Those who complete the course of instruction at an academy may be appointed as a commissioned officer in the Armed Forces.

**Boards of visitors.** 10 U.S.C. Chapters 403, 603, and 903 define the composition and purpose of those boards. Annually, those boards visit the academies and provide a report to the President of their views and recommendations about the academies.

**Cadets and midshipmen.** U.S. citizens or foreign students approved by Under Secretary of Defense for Personnel and Readiness (USD(P&R)), appointed to one

of the Service academies, and took the oath as cadets or midshipmen.

*Cadets and midshipmen from foreign countries.* (1) Foreign students may receive instruction at an academy; the number may not exceed the limits in 10 U.S.C. Chapters 403, 603, and 903. Such instruction shall be on a reimbursable basis. The Under Secretary of Defense for Policy (USD(P)) shall designate the countries from which candidates may be selected and may waive reimbursement, either wholly or partially.

(2) Not more than three foreign students from a single country may be enrolled at a single academy without approval. Requests for such approval shall be submitted by the Secretary concerned, endorsed by the USD(P), and approved by the USD(P&R). The enrollment restriction does not apply to students participating in exchange programs of up to 2 semesters duration.

*Cost of education.* Costs attributable directly to educating a person at a Service academy under regulations prescribed by the Secretary of the Military Department concerned and approved by the Office of the USD(P&R) and the Office of the Under Secretary of Defense (Comptroller/Chief Financial Officer (USD(C/CFO))). Such costs include a reasonable charge for the provided education, books, supplies, room, board, transportation, and other miscellaneous items furnished at Government expense. Excluded are the costs for cadet or midshipman pay and allowances, under 37 U.S.C. 203, for uniforms, military training, and support for nonacademic military operations.

*Development of Cadets and Midshipmen.* (1) Development of cadets and midshipmen are prescribed in 10 U.S.C. Chapters 403, 603, and 903 and this part.

(2) The normal course of instruction at an academy is 4 years with selected, promising cadets or midshipmen pursuing longer terms when required to meet academy educational or graduation requirements. The Secretaries of the Military Departments shall arrange the course of instruction so cadets or midshipmen are not required to attend classes on Sunday.

(3) Each academy shall provide for development of military and leadership skills and physical fitness in addition to academic preparation. A broad program of physical fitness and conditioning, as well as intramural and intercollegiate athletic programs, shall be provided as an integral part of individual development.

(4) The practice of hazing is prohibited by law, 10 U.S.C. 4352, 6964, and 9352.

(5) An important component in the growth of cadets or midshipmen is the leadership development system. Its purpose is to motivate graduates to seek leadership responsibilities and enable them to think clearly, decide wisely, and act decisively under pressure and in a variety of leadership situations. Leadership development systems shall be based on the following:

(i) Positive leadership, equal opportunity, and respect for one another's value, beliefs, and personal dignity.

(ii) Leaders work to eliminate dysfunctional stress. The Secretaries of the Military Departments concerned and Superintendents have wide latitude in determining knowledge requirements and procedures for the development and indoctrination of cadets and midshipmen. Memorization of trivia, such as complete menus for meals, is generally inappropriate. Establishment of such requirements shall be closely monitored.

(iii) Bearing, fitness, and posture are important to effective leadership, and contribute to overall well-being. Exaggerated forms of posture, speech, or movement (such as "hugging walls") generally do not constitute proper military bearing. Establishment of such requirements shall be closely monitored and used only with the knowledge and approval of the Academy Superintendents.

(iv) Leadership development systems must provide for role models; opportunities to learn, practice, and receive feedback; and access to support. Direct support to leadership development shall be provided by concurrent and relevant coursework, athletic competition, and hands-on experience to create interplay between learning the theory of leadership in the classroom, while learning the practice of leadership outside the classroom.

(6) The highest ethical and moral standards are expected of the officer corps. The honor systems of the academies shall support that expectation by enforcing adherence to standards of behavior embodied in the honor codes or concepts of the academies. Violations of honor standards may constitute a basis for disenrollment.

(7) The sustainment of high performance standards ensures cadets and midshipmen who are unwilling or unable to successfully complete the program of instruction at the academy are identified expeditiously. Cadets or midshipmen who are identified as "deficient" in conduct, studies, or physical fitness, and recommended for disenrollment from any academy may

not, unless recommended by an academic or academy board, be returned or reappointed to an academy. Those cadets or midshipmen selected for return shall be reappointed consistent with the criteria prescribed by the board.

*Disenrollment.* The voluntary or involuntary termination of a cadet or midshipman status from one of the Service academies.

*Graduation and commission.* (1) Cadets and midshipmen who complete all requirements prescribed by the Secretary of the Military Department for graduation and appointment may be awarded a bachelor of science degree and are eligible to be commissioned, in accordance with 10 U.S.C. Chapters 33, 403, 603, and 903.

(2) Graduation leave shall be administered in accordance with 10 U.S.C. 702.

(3) Officers appointed from cadet or midshipman status shall not be voluntarily released from active duty, principally to pursue the benefits of another career, during the initial 2 years of active commissioned service, unless approved by the USD(P&R).

*Hazing.* Any unauthorized assumption of authority by a cadet or midshipman whereby another cadet or midshipman suffers or is exposed to any cruelty, indignity, humiliation, oppression, or the deprivation or abridgment of any right. The Secretaries of the Military Departments or the Superintendents of the academies may issue regulations that augment this definition to amplify or clarify local guidelines.

*Honor code (Concept).* A prescribed standard of ethical behavior applicable to cadets or midshipmen as determined by the Secretary of the Military Department concerned.

*Inter-service appointment.* To be considered qualified for inter-Service appointment, applicants must meet all graduation requirements and all requirements for commissioning in the gaining Service; both the gaining and the losing Secretary of the Military Department concerned, or their designees, must concur in the appointment. Disagreements shall be resolved by USD(P&R). In accordance with 10 U.S.C. Chapter 33, not more than 12.5 percent of a graduating class from any academy may be commissioned in Armed Forces not under the jurisdiction of the Military Department administering that academy.

*Management of cadets and midshipmen.* (1) Cadet and midshipman pay is prescribed by 37 U.S.C. 203(c).

(2) Cadet and midshipman disenrollment shall be managed in accordance with the procedures in this part. Individuals failing to complete the required course of Academy instruction (including disenrollment for academics, conduct, honor code violations or for physical deficiency) shall be disenrolled and must either serve an appropriate active duty period, or if ordered by the Secretary of the Military Department concerned, must reimburse the United States under 10 U.S.C. 2005 for education costs commensurate with time spent at the Academy. Individuals failing to complete the required active duty period or who are ordered by the Secretary of the Military Department concerned to reimburse the United States under 10 U.S.C. 2005 usually shall be required to reimburse the Government for education costs commensurate with time remaining on the active duty obligation when discharged. There may be circumstances that support the need to refrain from taking such an action. Such circumstances may include but not limited to a cadet's or midshipman's death, illness, injury, or other impairment which is not the result of the cadet's or midshipman's misconduct; or needs of the Service. The Secretaries of the Military Departments shall carefully review the circumstances involving a statutory repayment provision to determine whether such a decision is consistent with existing statutory requirements, personnel policies or management objectives, equity and good conscience, and the best interest of the United States.

(i) A cadet or midshipman who enters a Service academy from civilian status and who disenrolls during the first 2 years and prior to the start of the third academic year shall have no active duty obligation. A cadet or midshipman who disenrolls after the start of the third academic year and who is not suited for enlisted Military Service, shall be discharged in accordance with the current Military Service regulations that implement this part. All others shall be transfer to the active component in an enlisted status and ordered to active duty, or ordered to remit monetary recoupment commensurate with their attendance at the Academy, in accordance with the procedures in this part.

(ii) A cadet or midshipman who enters a Service academy from the Regular or Reserve component of any Military Service and who disenrolls shall incur a Military Service commitment in accordance with the procedures in this part.

(iii) A cadet or midshipman who enters a Service academy by way of its Preparatory School from civilian status and who disenrolls shall be managed by the policy as set forth in paragraph (f)(2)(i) of this section.

(3) As part of the annual assessment report as prescribed by this part, the Secretaries of the Military Departments concerned shall report the disposition of disenrolled cadets and midshipmen (i.e., specifying whether those disenrolled were ordered to active duty or were required to reimburse costs of education instead of active duty service).

(4) Cadets and midshipmen must complete all academy requirements to receive a commission and a degree. Cadets and midshipmen who become medically disqualified for appointment as a commissioned officer during their senior year, who otherwise would be qualified to complete the course of instruction and to be appointed as a commissioned officer, and who are capable of completing the academic course of instruction with their peers, shall be permitted to complete the academic course of instruction with award of an academic credential determined by the Secretary of the Military Department concerned.

(5) As set forth in 10 U.S.C. 1217, when the Secretary of the Military Department concerned determines a cadet or midshipman medically disqualified for appointment as a commissioned officer due to injury, illness, or disease aggravated or incurred in the line of duty while entitled to cadet or midshipman pay, the Secretary may retire the member with retired pay in accordance with 10 U.S.C. Chapter 61.

*Nomination.* The recommendation of candidates for vacancies at the academies, as set forth in 10 U.S.C. Chapters 403, 603, and 903, by one holding authority, including the President, the Vice President, the Members of Congress and the Delegates, certain Government officials of U.S. Possessions, the Secretaries of the Military Departments, and the Superintendents of the academies.

*Nomination and appointment of cadets and midshipmen.* (1) Nomination, appointment, admission, authorized strength and allocation of strength among nominating authorities for cadets and midshipmen is prescribed in 10 U.S.C. Chapters 403, 603, and 903 and this part.

(2) Cadets and midshipmen shall be appointed by the President. An appointment is conditional until the cadet or midshipman is admitted.

(3) Appointments shall be offered on a competitive basis to nominated candidates having the strongest potential for success as cadets or midshipmen, and ultimately as commissioned officers. The nominating sources shall be notified of candidates selected for appointment.

(4) Those selected for appointment must have demonstrated the following, through evaluations prescribed by the Secretary of the Military Department concerned:

(i) High standards of moral character, personal conduct, and integrity.

(ii) The potential to successfully complete the program of instruction.

(iii) An acceptable level of physical fitness.

(iv) Medical qualification for such appointment through examination procedures defined in DoD Directive 5154.25 and physical standards defined in DoD Directive 6130.3.

(5) The following specific eligibility criteria also shall guide selection:

(i) *Age.* Applicants must be at least 17 years of age and not have passed their 23rd birthday on July 1 of the year of entry into an academy.

(ii) *Citizenship.* Except foreigners admitted to the academies under 10 U.S.C. Chapters 403, 603, and 903 and this part, those appointed must be citizens or nationals of the United States.

(iii) *Domicile.* If nominated by an authority designated in the "Congressional" and "U.S. Possession" categories, defined in 10 U.S.C. Chapters 403, 603, and 903, applicants must be domiciled in the constituency of such authorities.

(iv) *Marital status.* Those appointed as cadets or midshipmen shall not be married and shall not have dependents.

(6) Any appointment as a cadet or midshipman shall be terminated when it is determined that the individual is Human Immunodeficiency Virus (HIV) positive or dependent on drugs or alcohol. Similarly, appointments shall be terminated for persons who refuse to consent to testing and evaluation for these conditions. Testing and a briefing about separation policies shall be conducted in accordance with procedures outlined in this part.

(7) The academies shall work to ensure timely disposition of appointments for medical evaluations of applicants. Issues relating to the administrative management of those evaluations that are not resolved to the satisfaction of the academies and the activity performing the evaluation shall be forwarded to the Office of the USD(P&R) for resolution.

(8) U.S. appointees must take and subscribe to an oath prescribed by the Secretary of the Military Department to be admitted to an academy. If a U.S. candidate for admission refuses to take and subscribe to the prescribed oath, the appointment is terminated.

*Review and oversight.* (1) Boards of Visitors of the academies are established and procedures prescribed by 10 U.S.C. Chapters 403, 603, and 903 to inquire into the efficiency and effectiveness of academy operations. The Board of Visitors shall submit written reports in accordance these chapters and a copy shall be forwarded to the USD(P&R) within 60 days of completion of the report.

(2) Oversight by the Inspector General of the Department of Defense (IG, DoD) shall be provided, in accordance with DoD Directive 5106.1 and Appendix 3 of title 5, Inspector General Act of 1978, as amended. When required, the Office of the USD(P&R) shall recommend to the IG, DoD, any areas of academy operations that merit specific review during the subsequent fiscal year.

(3) Annual conferences of the Superintendents shall be hosted by the academies on a rotating basis, and shall include the Commandants, the Deans, the Directors of admissions, the Directors of athletics, and others designated by the Superintendents. Conferees shall discuss matters of collective interest and shall identify plans to address areas requiring corrective action. The host Superintendent shall expeditiously provide a summary of issues and actions to the USD(P&R) following the conference.

*Superintendent, dean, commandant, permanent professors, and director of admission.*

(1) Positions established in the organization of each of the academies with duties as set forth in 10 U.S.C. Chapters 403, 603, and 903 and this part.

(2) There shall be at each academy a Superintendent, a Dean of the faculty, a Commandant, an athletic director, and a director of admissions. The Secretaries of the Military Departments may employ as many civilian faculty members as considered necessary.

(3) Positions of dean, director of admissions, and permanent professors held by military personnel shall be appointed by the President by and with the advice and consent of the Senate; the Superintendent and the Commandant shall be detailed to those positions by the President.

(4) The immediate governance of the academies is by their Superintendents, who also shall serve as the commanding

officers of the academies and their military posts.

(5) The Superintendents shall be responsible for the day-to-day operation of the academies, and the welfare of cadets or midshipmen, and staff.

(6) The Deans of the faculties of the academies shall direct and manage the development and execution of an undergraduate curriculum that recognizes the requirement for graduates to understand technology, while gaining a sound historical perspective and an understanding of different cultures. The curricula shall be broadly based in the physical and social sciences, the study of languages and cultures in areas that the Department of Defense is engaged, and the arts and humanities.

(7) The Commandants shall direct and manage military education and training programs and exercise command over cadets or midshipmen, as determined by the Superintendents.

(8) The Directors of athletics shall direct and manage the intercollegiate athletic programs and other physical fitness programs, as determined by the Superintendents. Intercollegiate athletic programs shall be in full compliance with all applicable National Collegiate Athletics Associations rules and requirements.

(9) The academic faculties shall consist of civilian and military members in proportions determined by the Secretary of the Military Department concerned. Faculty members shall possess a mix of operational experience, academic expertise and teaching prowess. They shall exemplify the highest standards of ethical and moral conduct and performance established by the Secretaries of the Military Departments concerned, and the Superintendents concerned, consistent with this part. They shall participate in the full spectrum of academy programs and activities and the development of curricula. They shall actively participate in the professional, moral, and ethical development of cadets and midshipmen as role models, mentors, and through the enforcement of standards of behavior and conduct.

(10) Military personnel shall conduct themselves in accordance with the requirement of exemplary conduct as specified in 10 U.S.C. 3583, 5947 and 8583.

(11) The Superintendent shall ensure non-instructional staff consists of the minimum number of people consistent with effective achievement of the objectives of the academy and its military post.

(12) Compensation and benefits for civilian faculties shall be sufficiently competitive to achieve academic

excellence at pay levels determined by the Secretary of the Military Department concerned (5 U.S.C. 5102(c)(10)).

(13) Additional guidance about organization of the academies is in 10 U.S.C. Chapters 403, 603, and 903.

#### **§ 217.4 Policy.**

As directed by 10 U.S.C. chapters 403, 603, and 903, the Secretaries of the Military Departments will establish and maintain a Service-specific military academy consistent with this part. The purpose of such academies is to provide an annual cohort of newly commissioned officers to each Service who has been immersed in the history, traditions, and professional values of the U.S. Armed Forces. The accession of those officers generates a core group of future officers who will exert positive peer influence to convey these traditions and values, sustaining professional attitudes, values, and beliefs essential to the long-term readiness and success of the Armed Forces. The Secretaries of the Military Departments will publish regulations for the establishment and operations of such academies.

#### **§ 217.5 Responsibilities.**

(a) The USD(P&R) shall:

(1) Serve as the DoD focal point for matters affecting the academies and resolve matters of conflict that may arise among the Military Departments.

(2) Assess operations of the academies based on reports prescribed in § 217.6(e) through (g) of this part and the annual reports of the Boards of Visitors of the academies.

(3) Establish policy and guidance to provide for oversight and management of the academies.

(4) Establish overall DoD policy and provide guidance for the conduct and administration of a uniform Service academy disenrollment policy.

(5) Monitor academy operations to ensure cost-effective employment of resources in the accomplishment of the academy missions, including systematic collection of information to predict and evaluate performance, attrition, and costs.

(6) Resolve disagreements between the gaining and losing Military Department arising under § 217.4(h) of this part.

(7) Approve/disapprove requests to exceed the foreign student limitation provision in § 217.4(d) of this part.

(8) During their initial 2 years of active commissioned service, approve the voluntary release from active duty of any officer appointed from cadet or midshipman status if that release is principally to pursue the benefits of another career.

(b) The USD(P) shall:

(1) Oversee the management of admission vacancies for foreign students.

(2) Designate countries from which foreign students may be selected.

(3) Issue implementing guidance as necessary, including waiver of tuition/fees reimbursement either wholly or partially.

(c) The USD(C/CFO) shall establish and publish the tuition rate for foreign students.

(d) The Director, Defense Finance and Accounting Service (DFAS), under the C/CFO, shall, with the coordination of the Superintendents, bill and collect reimbursements due to the Services academies for foreign students, except when those reimbursements have been waived by the USD(P). Questions on enrollment or reimbursement shall be identified to the USD(P&R) for resolution with the USD(P).

(e) The IG, DoD shall evaluate programs, as set forth in DoD Directive 5106.1 and Appendix 3 of title 5, Inspector General Act of 1978, as amended.

(f) The Assistant Secretary of Defense for Health Affairs, under the USD(P&R) shall accomplish the medical evaluation of applicants to the academies, through the DoD Medical Examination Review Board, as set forth in DoD Directive 5154.25.

(g) The Secretaries of the Military Departments shall:

(1) Comply with policies in 10 U.S.C. Chapters 33, 61, 403, 603, and 903 and Sections 702 and 2005 and this part.

(2) Ensure appropriate oversight and management of the academies, and

(3) Establish Service policy and publish regulations that implement policy, guidance and oversight of the academies.

(4) Prescribe a written agreement when providing a Service academy appointment to candidates who agree to conditions in § 217.6(c)(2) of this part and are otherwise qualified.

(5) Prescribe regulations on the following:

(i) A breach of a cadet's and/or midshipman's "agreement to serve" for the purpose of ordering that individual to active duty.

(ii) Procedures for determining whether such a breach has occurred.

(iii) Standards for determining the period of time for which a person may be ordered to serve on active duty under § 217.6 of this part. (See 10 U.S.C. 4348(c), 6959(c), and 9348(c)).

(6) Work with DFAS to establish and maintain jointly developed, uniform accounting procedures for determining the cost of education at their respective

Service academies. These procedures shall be consistent with DoD 7000.14-R, Volume 11A, Chapter 6 and DoD Directive 5010.40. A standard method for computing reimbursement of the cost of education shall be in these procedures, and accounts receivable shall be recorded under the following:

(i) When a cadet or midshipman disenrolls or is disenrolled from a Service academy, establish an accounts receivable for the cost of education.

(ii) Reduce the accounts receivable proportionately to the period of active duty served by the disenrolled cadets or midshipmen.

(7) Prescribe the repayment procedures of an individual's outstanding debt so that the total amount due based on 37 U.S.C. 303a, monthly repayment schedules, repayment method, and other information clearly shall be explained in writing to the debtor.

(8) Ensure proper credit management and debt collection procedures are followed under DoD 7000.14-R, Volume 5, Chapters 28-32; and Volume 7A, Chapters 38 and 50 to include prescribing repayment procedures of an individual's outstanding Service academy financial obligation.

(9) Develop an organizational capability to collect, maintain, and submit information on resources in support of a Service academy, the Academy Preparatory School, and any other associated training programs.

#### § 217.6 Procedures.

(a) *HIV, drug, and alcohol testing.* Within 72 hours of reception, new cadets or midshipmen shall undergo HIV, drug, and alcohol testing (by practicable scientific means), and shall be evaluated for drug and alcohol dependence. For such individuals, any appointment as a cadet or midshipman shall be terminated when it is determined the individual is HIV positive or dependent on drugs or alcohol. Similarly, appointments shall be terminated for persons who refuse to consent to such testing and evaluation. Also within 72 hours of reception, new cadets or midshipmen shall be briefed about separation policies for these conditions, per appendix A to this part.

(b) *Cadets or midshipmen from foreign countries.* (1) By the end of May of each year, the USD(C/CFO) shall establish the tuition rate for the succeeding school year and publish that rate to the Secretaries of the Military Departments, to the USD(P), and to the USD(P&R).

(2) By the end of June of each year, the USD(P) shall publish a listing of countries eligible to send students to the

academies during the subsequent academic year, specifying reimbursement requirements. That listing shall be provided to the Secretaries of the Military Departments, to the USD(P&R), and to the cognizant U.S. Defense Attaché Offices (USDAOs) or the American Embassies, if no servicing USDAO exists.

(3) By the end of August of each year, the Superintendents shall extend application invitations, through applicable USDAOs (or the American Embassies), to each eligible country. Those invitations shall describe admissions procedures and define the country's official sponsorship responsibilities.

(4) The Superintendents shall manage the selection and notification of candidates and shall, with the assistance of the applicable USDAO or American Embassy, obtain written acknowledgment from the sending government of sponsorship responsibilities, and their agreement to reimburse tuition costs, when applicable.

(c) *Disenrollment of cadets and midshipmen—*(1) *Ordering disenrolled academy cadets and midshipmen to active enlisted service—*(i) A cadet or midshipman entering a Service academy directly from civilian status assumes a Military Service obligation (MSO) of 8 years, under 10 U.S.C. 651 and DoD Instruction 1304.25. If an appointment is terminated before graduation due to a cadet's or midshipman's breaching his or her agreement, or if a cadet or midshipman refuses to accept a commission following graduation, the MSO shall be equivalent to the period for which the member is ordered to serve on active duty or in the Reserve component in an applicable enlisted status. He or she may be ordered to active duty for a period not to exceed 4 years under 10 U.S.C. 4348(b), 6959(b), or 9343(b). The following policies apply to cadets or midshipmen disenrolled from a Service academy who entered the Service academy directly from civilian status:

(A) *Fourth and third classmen (first and second years).* A fourth or third classman disenrolling shall have no active duty obligation.

(B) *Second classmen (third year).* A second classman resigning before the start of the second class academic year or disenrolling for cause resulting from actions that occurred only before the start of the second class academic year shall be discharged as if he or she were a third classman.

(C) *Second or first classmen (third and fourth or subsequent years).* Any second or first classman who is

disenrolled and who, for reasons of demonstrated unsuitability, unfitness, or physical disqualification, is not suited for enlisted Military Service, shall be discharged in accordance with the current Military Service regulations that implement this part, to include monetary recoupment. Other second or first class cadets and midshipmen disenrolling after the beginning of the second class academic year, but before completing the course of instruction, may be transferred to the active component in an enlisted status and ordered to active duty for not less than 2 years, but not more than 4 years, under 10 U.S.C. 4348(b), 6959(b), or 9348(b).

(D) Any first classman completing the course of instruction and declining to accept an appointment as a commissioned officer may be transferred to the respective active component in an enlisted status and ordered to active duty for 4 years or transferred to a Reserve component under 10 U.S.C. 4348(b), 6959(b), and 9348(b) and in accordance with DoD Directive 1235.10.

(ii) The disposition of cadets and midshipmen entering a Service academy from the Regular or Reserve component of any Military Service (except those who enter a Service academy by way of its Preparatory School from civilian status) and then not completing the program shall be determined under 10 U.S.C. 516, as follows:

(A) *Fourth and third classmen (first and second years)*. If disenrolled during the fourth or third class year, the cadet's or midshipman's Military Service commitment shall be equal to the time not served on the original enlistment contract, with all service as a cadet or midshipman counted as service under that contract. Those individuals with less than 1 year remaining in the original enlistment contract may be discharged on approval of the disenrollment by the Military Department concerned.

(B) *Second classmen (third year)*. If disenrolled before the beginning of the second class academic year, the cadet's or midshipman's Military Service commitment shall be the same as in paragraph (c) (1) (ii) (A) of this section.

(C) *Second or first classmen (third and fourth or subsequent years)*. If upper division class members (first and second classmen) are disenrolled for issues occurring after the beginning of the second class academic year, their Military Service commitment shall be the same as in paragraphs (c)(1)(i)(C) and (c)(1)(i)(D) of this section or shall be equal to the time not served on the original enlistment contract (with all

service as a cadet or midshipman counted as service under that contract), whichever period is longer.

(D) A cadet or midshipman who entered into a Service academy from the Regular or Reserve component of the Military Service (other than those entering strictly from an enlisted contract arising from a Preparatory School) who is subsequently disenrolled from a Service academy and who, because of demonstrated unsuitability, unfitness, or physical disqualification, is not suited for enlisted Military Service shall be discharged under applicable regulations implementing DoD Directive 1332.14 or other Military Department regulations that specifically address disenrolling of cadets or midshipmen.

(E) Whether transferred to the Reserve component or reverted back to active duty status, the disenrolled cadets and midshipmen shall retain their prior enlisted grade.

(iii) The disposition of cadets and midshipmen entering a Service academy by way of its Preparatory School from civilian status and then not completing the program shall be managed under paragraph (c)(1)(1) of this section.

(iv) A cadet or midshipman tendering a resignation shall be required to state a reason for this action. A resignation may be accepted when in the interest of the Military Service. Accepting the resignation shall not in and of itself constitute a determination of the member's qualification for enlisted Military Service.

(v) Persons medically disqualified from further Military Service, or deceased, shall be separated and shall not be obligated further for Military Service or for reimbursing education costs (absent evidence of fraud, concealment, gross negligence, intentional misconduct, or misrepresentation).

(2) *Active duty commitment and reimbursement agreement for service academy students*. Cadets or midshipmen who are not ordered to active duty due to their misconduct or unsuitability, or because their petition for relief from an active duty obligation was approved by the Secretary of the Military Department concerned shall normally be required to reimburse the Government for the cost of their education.

(i) As a condition for providing education at a Service academy, the Secretary of the Military Department concerned shall require each cadet or midshipman enter into a written agreement in which he or she agrees to the following:

(A) To complete the educational requirements for graduation specified in the agreement and to serve on active duty for a period specified in the agreement if called to active duty or, at the option of the Secretary of the Military Department concerned, to reimburse the United States, as prescribed in paragraph (c)(2)(i)(C) of this section.

(B) If such cadet or midshipman fails to complete the educational requirements specified in the agreement, such person, if so ordered by the Secretary of the Military Department concerned, shall serve on active duty for a period specified in the agreement.

(C) If such person, at the discretion of the Secretary concerned or because of misconduct, voluntarily fails to complete the period of active duty specified in the agreement, he or she shall reimburse the United States in accordance with the requirements of 10 U.S.C. 2005 and 37 U.S.C. 303a.

(D) To such other terms and conditions as the Secretary concerned may prescribe to protect U.S. interests.

(ii) The obligation to reimburse the United States is a debt to the United States. A discharge in bankruptcy under 11 U.S.C. 523 shall not release a person from an obligation to reimburse the United States under the terms of an agreement prescribed in this part if the discharge order is entered less than 5 years after the date of the termination of the agreement or contract on which the debt is based, or in the absence of such agreement or contract, the date of the termination of the service on which the debt is based.

(3) *Agreements*. The agreement signed by cadets and midshipmen entering as fourth classmen shall contain the active duty, monetary recoupment, and discharge provisions in this part.

(4) *Change in status notification*. When a cadet or midshipman is disenrolled from a Service academy and discharged from the Service concerned, the Selective Service System shall be notified of the individual's status change.

(d) *Inter-service commissioning*. (1) Once all requirements for inter-Service appointments have been met, endorsements from the losing academy shall contain the applicants' current academic transcripts, order of merit standing and, if applicable, results of the gaining Service's testing for flight training or other qualification. Applications supported by the losing Military Department shall be forwarded to the gaining Military Department no later than November of the calendar year before graduation. The gaining Secretary of the Military Department

concerned, or designee, shall act on applications no later than the following January and shall immediately notify the losing Secretary of the Military Department concerned, or designee, of decisions. Affected cadets or midshipmen shall be expeditiously notified of the disposition of applications.

(2) Those selected for transfer shall be integrated within active duty lists (see § 217.3 of this part) of the gaining Military Service. When seniority on that list relies on academy class standing, they shall be initially integrated immediately following the cadet or midshipman holding equal numerical class standing at the academy of the gaining Military Department.

(e) *Academy assessment report.*

Annually by November 30, using data as of September 30, the Secretaries of the Military Departments shall report to the USD(P&R) on the following, in the format specified in appendix B to this part:

(1) An assessment on the quality of oversight and management provided at the Service academy.

(2) The current and anticipated recruiting and admissions posture compared with that of the previous 5 years, with an assessment of the following:

(i) The number of applicants, nominees, and those selected.

(ii) Their quality (using ranking parameters employed by the academy, such as academic or athletic accomplishments and standard test scores).

(iii) Discussion of changes to entrance standards made in the past year, or planned.

(iv) Summary of admissions trends with demographic composition to include gender, ethnicity, and enlisted personnel.

(3) Attrition patterns for the previous 5 years by type of separation (e.g., medical, moral, physical, and academic), with an appraisal of whether attrition could be reduced without adverse impact on the quality of graduates. Define separations by class for each year and the associated active service obligations or reimbursements. A significant change in the attrition pattern should be assessed.

(4) Graduation rates for the previous 5 years with demographic composition of student classes including a discussion/assessment of performance in academics, in athletic programs, in professional military training, and in officer development programs.

(5) Significant changes to curricula implemented or planned in the past year, along with an appraisal of faculty

manning and qualifications, including military and/or civilian mix.

(6) The institutional environment affecting cadets or midshipmen, including specific comments about the health of the leadership development and honor systems.

(7) The disposition of requests for inter-Service commissions that were submitted during the previous year. For cases where such requests were denied by the losing Service, the rationale supporting such decision(s) shall be provided.

(8) The adequacy of compensation and benefits for cadets or midshipmen and civilian faculty.

(9) Adequacy of resources and facilities, along with a discussion of major construction or maintenance starts that are being executed or are planned.

(10) Significant incidents of indiscipline during the reporting period, including violations of regulations or the Uniform Code of Military Justice (UCMJ) (10 U.S.C. Chapter 47), along with disposition and planned actions to reduce such indiscipline.

(11) Additional topics as desired by the Secretaries of the Military Departments.

(f) *Preparatory school assessment report.* Annually by November 30, using data as of September 30, the Secretaries shall report to the USD(P&R) the following, in the format specified in appendix B to this part:

(1) A 5-year summary of admissions trends with a demographic composition to include gender, race, former enlisted status, and recruited athletes.

(2) Attrition patterns for the previous 5 years with an assessment of the following:

(i) Type of separation (e.g., medical, moral, physical, or academic), with an appraisal of whether attrition could be reduced.

(ii) Comparison of attrition patterns while at the Service academy for Preparatory School graduates as compared to direct appointments to the Service academies.

(iii) Any significant change in the pattern.

(3) Academy admission rates for the past 5 preparatory school graduating classes with an assessment of the following:

(i) An appraisal of whether those rates can or should be adjusted.

(ii) Discussion of academic remediation effected by the preparatory school experience, as indicated by initial and subsequent evaluations of students.

(iii) The ratio, by demographic composition to include gender, race,

former enlisted status, and recruited athletes, of Preparatory School students entering the Service academy to the students that entered the Preparatory School.

(4) Academy graduation rate of Preparatory School graduates and those appointed directly to the Service academies for the previous 5 years. Standards for admission of Preparatory School graduates to a Service academy shall be set at a sufficiently rigorous level to reasonably predict that Preparatory School graduates academy graduate rates will not significantly lag the graduate rate of those appointed directly to the Service academies. However, nothing in this part shall be read or applied to lower otherwise universally applicable graduation and commissioning requirements for Preparatory School graduates.

(5) Significant changes to curricula implemented or planned in the past year, along with an appraisal of faculty manning and qualifications, including military and/or civilian mix.

(6) The adequacy of compensation and benefits for those enrolled and civilian faculty.

(7) Adequacy of resources and facilities, along with a discussion of major basing, construction, or maintenance starts that are being executed or are planned.

(8) Significant incidents of indiscipline during the reporting period, including violations of regulations or the UCMJ (10 U.S.C. Chapter 47), along with disposition and planned actions to reduce indiscipline of an unusual nature, pattern, or frequency.

(9) Additional topics as desired by the Secretaries of the Military Departments.

(g) *Service academy resources report (SARR) and cost per graduate (CPG) computation.* The Secretaries of the Military Departments shall submit to the USD(P&R) annually for the prior fiscal year, no later than January 30, individual reports on the resources for their Service Academy (including the Academy Preparatory School) to include associated training programs. The completion instructions for this report are at appendix C to this part. The CPG computation is used to determine the costs for each member of a graduating class. Instructions for calculating the CPG are at appendix D to this part.

**§ 217.7 Information requirements.**

(a) The reporting requirements in § 217.6(e) and (f) of this part have been assigned Reports Control Symbol DD-P&R(A)1934 in accordance with DoD 8910.1-M.

(b) The reporting requirements in § 217.6(g) of this part has been assigned

DD–P&R(A)1912 in accordance with DoD 8910.1–M.

(c) The reports submitted by the Boards of Visitors and the summary of issues and actions provided by the Superintendents are exempt from licensing in accordance with the provisions of paragraph C4.4.3. of DoD 8910.1–M.

#### Appendix A to Part 217—Applicant Briefing Item on Separation Policy

1. *Individual responsibility.* As military members, individuals occupy a unique position in society. The individual represents the military establishment. That special status brings with it the responsibility to uphold and maintain the dignity and high standards of the U.S. Armed Forces at all times and in all places. The Armed Forces must also be ready at all times for worldwide deployment. That fact carries with it the requirement for military units and their members to possess high standards of morality, good order and discipline, and cohesion. As a result, military laws, rules, customs, and traditions include restrictions on his or her personal behavior that may be different from civilian life. Members of the Armed Forces may be involuntarily separated before their enlistment or term of service ends for various reasons established by law and military regulations. The below circumstances may be grounds for involuntary separation:

a. *Infractions.* The individual establishes a pattern of disciplinary infractions, discreditable involvement with civil or military authorities, or cause dissent or disrupt or degrade the mission of his or her unit. That may also include conduct of any nature that would bring discredit on the Armed Forces in the view of the civilian community.

b. *Dependency.* The term “dependent” includes spouses; natural, adoptive or stepchildren; or any other person for which an individual has a legally recognized obligation to provide support. Because the individual has a legal dependent, the individual is unable to perform his or her duties satisfactorily or the individual is unavailable for worldwide assignment or deployment.

c. *Weight control.* The individual fails to meet the weight control standards.

d. *Homosexuality.* Although the individual has not and will not be asked whether he or she is a “heterosexual,” “homosexual,” or “bisexual,” the individual should be aware that homosexual acts, or statements that demonstrate a propensity or intent to engage in homosexual acts, and homosexual marriages or attempted marriages are grounds for discharge from the Armed Forces. That means if the individual does one of the following, he or she could be involuntarily separated before his or her term of service ends:

(1) *Homosexual acts.* The individual engages in, attempts to engage in, or solicits another to engage in homosexual act or acts. A “homosexual act” means touching a person of the same sex or allowing such a person to touch the individual for the

purpose of satisfying sexual desires (for example, hand-holding, kissing, or other physical contact of a sexual nature).

(2) *Homosexual statements.* The individual makes a statement that demonstrates a propensity or intent to engage in homosexual acts. That may include a statement by the individual that he or she is a homosexual or bisexual, or words to that effect. It also may include behavior that a reasonable person would believe was intended to convey the statement that the individual is a homosexual or bisexual.

(3) *Homosexual marriage.* The individual marries or attempts to marry a person of the same sex.

2. *Statements and acts to end military service.* The individual will not necessarily be discharged if those actions and statements listed in paragraphs 1.a. through 1.d. of this appendix, are said or done solely to end his or her Military Service. However, he or she may be disciplined.

3. *Hazing, harassment or violence not tolerated.* The practice of hazing is prohibited by law (10 U.S.C. 4352, 6964, and 9352). A cadet or midshipman dismissed from an academy for hazing may not be reappointed as a cadet or midshipman at an academy. The Armed Forces do not tolerate harassment or violence against any Service member for any reason. Cadets and midshipmen must treat all Service members, at all times, with dignity and respect. Failure to do so may result in the individual being disciplined or involuntarily separated before his or her term of service ends.

#### Appendix B to Part 217—Academy Assessment Report and Preparatory School Assessment Report (Format)

1. *Introduction.* Cite this part as the reference. Include mission and goals of both the academy and Preparatory School. Provide a written statement about the adequacy and quality of oversight and management.

2. *Academy assessment report.*

a. Provide charts and graphs as necessary to support the written explanation on the following:

(1) The current and anticipated recruiting and admissions posture in contrast with that of the previous 5 years.

(2) Attrition patterns for the previous 5 years.

(3) Graduation rates for the previous 5 years.

(4) Provide a written statement on the following:

(a) The significant changes to curricula implemented or planned during the previous year.

(b) The institutional environment affecting cadets or midshipmen.

(c) The disposition of requests for inter-Service commission that were submitted during the previous year.

(d) The adequacy of compensation and benefits for cadets or midshipmen and civilian faculty.

(e) The adequacy of resources and facilities.

(f) Significant incidents of indiscipline during the reporting period.

(g) Additional topics as desired by the Secretaries of the Military Departments.

3. *Preparatory school assessment report.*

a. Provide charts and graphs as necessary to support the written explanation of the following:

(1) The 5-year summary of admissions trends.

(2) The attrition patterns for the previous 5 years.

(3) The academy admission rates for the past 5 preparatory school graduating classes.

(4) The academy graduation rate of Preparatory School graduates and those appointed directly to the Service academies for the previous 5 years.

b. Provide a written statement on the following:

(1) Significant changes to curricula implemented in the past year.

(2) The adequacy of compensation and benefits for those enrolled and civilian faculty.

(3) The adequacy of resources and facilities.

(4) Significant incidents of indiscipline during the reporting period.

(5) Additional topics as desired by the Secretaries of the Military Departments.

#### Appendix C to Part 217—Service Academy Resources Summary Report (Sample)

Each Military Department shall submit for its Service Academy (including the Academy Preparatory School), individual reports on its resources for the prior fiscal year to include associated training programs.

1. *Instructional activities.* Funding for each of the seven cost categories defined as academy-related activities.

a. *Academics (Dean and department).* Costs of the faculty, course curricula, and administrative costs of the academic departments. The academic program provides students with a required core curriculum and an opportunity to choose a variety of majors.

b. *Audiovisual.* Costs for the integrated visual information, visual information support systems and instructional technology systems in support of academic departments and other command activities.

c. *Academic computing center.* Costs for providing information technology and maintenance services to the academic departments and other mission areas. The specific information technology systems covered are hardware, operations, applications and networks.

d. *Faculty training.* The academy’s share of the cost for military personnel obtaining the required advanced degrees for assignment to the academy. This category also includes the cost of current military personnel obtaining degrees for appointment to permanent positions and those personnel, both military and civilian, on sabbatical leave for professional development purposes.

e. *Military training.* Costs of those activities that contribute to the academy’s program of providing military education and training to the cadets/midshipmen. This military training encompasses the use of the classroom, the field, and the military chain of command in the delivery of the program.

f. *Physical education.* Costs of those activities that directly contribute to the

academy's physical development program. These programs include intramural, curriculum and intercollegiate activities.

g. *Library.* Costs to administer and operate the library that serves as the cadets/midshipmen primary on-post facility for both academic research and recreational reading.

2. *Student-related activities.* Funding for each of the four cost categories defined as student-related activities.

a. *Cadet/midshipmen mess.* Cost for the operation of the cadet/midshipmen dining facility. This operation includes the ordering, storing, preparing, and serving of three meals per day to the cadets/midshipmen.

b. *Student services.* The student services costs promote the quality of life and well being of the cadets/midshipmen. The activities found under this category relate to the Chaplain, counseling and cultural programs.

c. *Registrar.* Costs associated with the recruitment and the institutional research efforts of the academy and prep school. Also included are the costs of counseling and administration of the cadet/midshipmen academic program.

d. *Student pay and allowances.* Total cost to the government for cadet/midshipmen pay and fringe benefits.

3. *Institutional support.* Funding for each of the 27 cost categories defined as institutional support activities.

a. *Medical.* Costs involved with the local delivery of medical, dental, and veterinary services for the benefit of cadets and active duty military personnel assigned to the academy.

b. *Band.* Cost of providing musical support for official ceremonies of the academy and support for cadet/midshipmen educational and training activities.

c. *Reproduction.* Costs for the academy's liaison with the Document Automation Production Service and costs for photocopier service, to include the costs to provide service to the academy for requisitioning, storing, and distributing DoD, service specific, and academy publications/forms.

d. *Administrative data processing.* Costs for those activities that provide information technology support to the academy's base operation areas. Included is the operation and equipment to support the academy's administrative systems, applications and networks.

e. *Civilian personnel.* Costs to provide centralized personnel services for the academy's civilian employees, which include the operating costs of the various employee training and development programs and include the academy's costs for Civilian Illness and Injury Compensation.

f. *Personnel administration.* Costs to provide centralized personnel services for the academy's cadet/midshipmen and active duty military personnel. Also included are

costs for those administrative functions typical to a military installation, e.g., issuing installation regulations.

g. *Special services.* Costs for the operation of the installation's Morale, Welfare, and Recreational programs.

h. *Other personnel services.* Costs for those personnel and administrative services that, among others, focus on programs dealing with the family and installation safety.

i. *Utility services.* The academy's cost for purchased utilities (natural gas, electricity) and the operating costs of the various utility generating and or operating plants (steam, water treatment, sewage disposal).

j. *Custodial services.* Labor, both in-house and contracted out, and supply costs for janitorial services at the academy, including procurement oversight of contractor operations.

k. *Fire protection.* Cost of the operation of the academy's fire prevention and protection program that also includes the controlling of hazardous material incidents.

l. *Maintenance and engineering.* The administrative and direct cost to plan, design, construct, repair and maintain all real property facilities to include utility distribution systems, roads and grounds. However, individual project costs, over the current statutory limitation on use of Operation and Maintenance funds for construction (currently \$750K), in the Sustainment, Restoration, and Modernization program will be excluded because costs above this threshold are considered investment costs as opposed to operating costs.

m. *Communications.* This category includes the cost to provide an extensive voice communication capability at the academy. In addition to purchased services, this category includes the cost to manage, repair and maintain the entire communication system that delivers this service.

n. *Transportation and equipment maintenance.* Cost of the academy's transportation system that includes General Services Administration vehicle lease charges, repair parts for tactical vehicles, and the in-house and/or contracted out vehicle operations and maintenance costs. Also included are the costs of the local transportation office, which deals primarily, but not exclusively, with the movement of household goods. Contracted work may include the repair and maintenance of firearms, office equipment, etc.

o. *Commissary and food services.* Costs, excluding food, to operate the enlisted personnel dining facilities as well as the academy's share of the operating costs of the Defense Commissary Agency.

p. *Supply and services operation.* Costs associated with the procurement, receiving, storage, issuing, material management,

property accountability, and disposal of the installation's expendable/non-expendable supplies and equipment, including the costs associated with the laundry and dry cleaning operations to include surveillance of contractor operations.

q. *Logistic activities.* The administration and management costs to supervise the transportation and supply functions of the installation and to administer and operate the installation's memorial affairs program is included as part of this definition.

r. *Comptroller.* The cost of the academy's resource management function. Included are financial and accounting operations, program and budget formulation and execution, manpower and equipment management, commercial activities, and the academy's internal review program.

s. *Security.* Cost of providing security, maintaining discipline, enforcing laws and regulations on the installation, including the costs associated with terrorism counteraction activities, installation evacuation plans, and liaison with DoD intelligence agencies.

t. *Preparatory school.* Cost to operate the academy's Preparatory School including candidate pay.

u. *Civilian permanent change of station costs.* Costs authorized under the Joint Travel Regulations for hiring or transferring civilian personnel.

v. *Military support unit.* Military units that provide general support to the installation. Also included are the costs to purchase furniture and to provide administrative support for the unaccompanied personnel housing program.

w. *Museum.* The cost of keeping and exhibiting the collection of historical equipment, accouterments, arms, clothing, and works of art, etc. that relate to the profession of arms, in general, and the academy specifically.

x. *Public affairs.* The cost of providing a centralized office that functions as the academy's focal point in communicating with the general public and civilian organizations such as television, radio and the print media.

y. *Command and staff.* The administrative costs identified as command and staff elements under the Superintendent.

z. *All other functions.* Those costs of the academy operation not identified elsewhere.

aa. *Other Installation Annexes.* That portion of the medical and base operation costs of any annex, subpost, and/or installation that support academy operations.

### **Attachment to Appendix C to Part 217—Service Academy Resources Summary Report, June 2005**

BILLING CODE 5001-06-P

SERVICE ACADEMY RESOURCES SUMMARY REPORT (Dollars in Thousands)						REPORT CONTROL SYMBOL DD-P&R(A)1912		
SERVICE ACADEMY				FISCAL YEAR		DATE PREPARED (YYYYMMDD)		
COST CATEGORY	OPERATIONS AND MAINTENANCE APPROPRIATION			MILITARY PERSONNEL APPRO- PRIATION	TOTAL DOLLARS	PERSONNEL STRENGTH		
	LABOR	OTHER	TOTAL			MILITARY	CIVILIAN	OTHER
<b>INSTRUCTIONAL ACTIVITIES</b>								
ACADEMICS (Dean and Staff)	12,406.0	4,343.0	16,749.0	37,006.0	53,755.0	383	204	587
AUDIO VISUAL	2,382.0	1,092.0	3,474.0	236.0	3,710.0	2	42	44
ACADEMIC COMPUTING CENTER	4,146.0	4,065.0	8,211.0	1,069.0	9,280.0	15	67	82
FACULTY TRAINING	0.0	952.0	952.0	5,289.0	6,241.0	17	0	17
MILITARY TRAINING	2,118.0	6,915.0	9,033.0	12,304.0	21,337.0	123	45	168
PHYSICAL EDUCATION	4,024.0	4,214.0	8,238.0	2,047.0	10,285.0	22	69	91
LIBRARY	1,946.0	847.0	2,793.0	0.0	2,793.0	0	40	40
<b>SUB-TOTAL - INSTRUCTIONAL SUPPORT</b>	<b>21,022.0</b>	<b>22,428.0</b>	<b>49,450.0</b>	<b>57,951.0</b>	<b>107,401.0</b>	<b>562</b>	<b>467</b>	<b>1,029</b>
<b>STUDENT RELATED ACTIVITIES</b>								
CADETS/MIDSHIPMEN MESS	4,805.0	4,547.0	9,352.0	89.0	9,441.0	1	120	121
STUDENT SERVICES	3,258.0	409.0	3,667.0	399.0	4,066.0	4	116	120
REGISTRAR	2,548.0	1,759.0	4,307.0	1,741.0	6,048.0	19	48	67
STUDENT PAY AND ALLOWANCES	0.0	0.0	0.0	37,401.0	37,401.0	0	0	0
<b>SUB-TOTAL - STUDENT RELATED ACTIVITIES</b>	<b>10,611.0</b>	<b>6,715.0</b>	<b>17,326.0</b>	<b>39,630.0</b>	<b>56,956.0</b>	<b>24</b>	<b>284</b>	<b>308</b>
<b>INSTITUTIONAL SUPPORT</b>								
MEDICAL	4,503.0	4,823.0	9,326.0	6,267.0	15,593.0	207	223	430
BAND	0.0	61.0	61.0	965.0	1,026.0	74	0	74
REPRODUCTION	185.0	374.0	559.0	0.0	559.0	0	4	4
ADMIN DATA PROCESSING	596.0	352.0	948.0	111.0	1,059.0	2	10	12
CIVILIAN PERSONNEL	925.0	105.0	1,030.0	0.0	1,030.0	0	13	13
MILITARY PERSONNEL ADMIN	1,244.0	75.0	1,319.0	976.0	2,295.0	15	31	46
SPECIAL SERVICES	1,127.0	256.0	1,383.0	0.0	1,383.0	0	22	22
OTHER SPECIAL SERVICES	5,339.0	1,624.0	6,963.0	2,087.0	9,050.0	26	103	129
UTILITY SERVICES	2,916.0	9,922.0	12,838.0	0.0	12,838.0	0	47	47
CUSTODIAL SERVICES	2,956.0	699.0	3,655.0	0.0	3,655.0	0	139	139
FIRE PROTECTION	2,532.0	273.0	2,805.0	0.0	2,805.0	0	34	34
MAINTENANCE & ENGR	18,149.0	21,557.0	39,706.0	1,514.0	41,220.0	36	316	352
COMMUNICATIONS	397.0	1,468.0	1,865.0	0.0	1,865.0	0	7	7
TRANS & EQUIP MAINT	1,553.0	6,809.0	8,362.0	0.0	8,362.0	0	36	36
COMMISSARY & FOOD SERVICES	365.0	592.0	957.0	0.0	957.0	0	34	34
SUPPLY & SERVICES OPERATIONS	2,385.0	278.0	2,663.0	264.0	2,927.0	3	56	59
LOGISTICS ACTIVITIES	1,572.0	203.0	1,775.0	51.0	1,826.0	1	30	31
COMPROLLER	2,733.0	2,558.0	5,291.0	0.0	5,291.0	0	40	40
SECURITY	582.0	258.0	840.0	4,074.0	4,914.0	101	11	112
PREP SCHOOL	1,564.0	362.0	1,926.0	4,382.0	6,308.0	3	23	59
CIVILIAN PCS	142.0	55.0	197.0	0.0	197.0	0	0	0
MILITARY SUPPORT UNIT	106.0	421.0	527.0	1,885.0	2,412.0	31	3	34
MUSEUM	698.0	38.0	736.0	0.0	736.0	0	14	14
PUBLIC AFFAIRS	981.0	213.0	1,194.0	299.0	1,493.0	4	19	23
COMMAND AND STAFF	1,435.0	1,539.0	2,974.0	2,276.0	5,250.0	23	28	51
ALL OTHER FUNCTIONS	0.0	0.0	0.0	0.0	0.0	0	0	0
OTHER INSTALLATION ANNEXES	0.0	0.0	0.0	0.0	0.0	0	0	0
<b>SUB-TOTAL - INSTITUTIONAL SUPPORT</b>	<b>42,653.0</b>	<b>54,915.0</b>	<b>109,900.0</b>	<b>25,151.0</b>	<b>135,051.0</b>	<b>559</b>	<b>1,243</b>	<b>1,802</b>
<b>GRAND TOTAL</b>	<b>80,286.0</b>	<b>84,058.0</b>	<b>176,676.0</b>	<b>122,732.0</b>	<b>299,408.0</b>	<b>1,145</b>	<b>1,994</b>	<b>3,139</b>

DD FORM 2721, JUN 2005

PREVIOUS EDITION IS OBSOLETE.

**Appendix D to Part 217—Calculation for Cost per Graduate (CPG)**

The CPG computation is used to determine the cost of each member of a graduating class. It is calculated by using the share of the total resources for a class for each of its 4 years

and the number of graduates in that class. To determine the share of the total resources or class cost for a class in each of its 4 years, the grand total resources from the Service Academy Resources Report for that class is multiplied by their percentage of the total corps or wing of cadets or brigade of

midshipmen for each of its 4 years. The total of the 4 years of cost shares is divided by the number of graduates in the class, which results in the Cost Per Graduate. The following table is an example of this calculation:

EXAMPLE OF COST PER GRADUATE CALCULATION

Service Academy			
FY	Total costs	Percent of corps	Class costs
Year 1 .....	\$284,388,109	28.03	\$79,713,987
Year 2 .....	297,647,585	26.24	78,102,726
Year 3 .....	296,556,044	24.78	73,486,588
Year 4 .....	301,058,452	21.67	65,239,367
Total Costs .....			296,542,668
Graduates .....			950
Cost per Graduate .....			312,150

Dated: October 5, 2007.

**L.M. Bynum,**  
Alternate OSD Federal Register Liaison  
Officer, DoD.

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**DEPARTMENT OF HOMELAND SECURITY**

**33 CFR Part 175**

[Docket No. USCG-2001-10163]

RIN 1625-AA31

**Federal Requirements for Propeller Injury Avoidance Measures**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking; withdrawal.

**SUMMARY:** The Coast Guard is withdrawing its notice of proposed rulemaking that would require owners of non-planing recreational houseboats with propeller-driven propulsion located aft of the transom to either install a propeller guard or use a combination of other devices to avoid propeller injuries. The rulemaking is being withdrawn after reconsideration of which vessels would be subject to the proposed rule, the nature of the safety measures to be required, and the costs that would likely result.

**DATES:** The notice of proposed rulemaking published at 66 FR 63645, December 10, 2001, is withdrawn on October 18, 2007.

**FOR FURTHER INFORMATION CONTACT:** Jeff Ludwig, Project Manager, Office of Boating Safety, U.S. Coast Guard, by telephone at 202-372-1061 or by e-mail at *Jeffrey.A.Ludwig@uscg.mil*.

**SUPPLEMENTARY INFORMATION:**

**Background**

On December 10, 2001, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled "Federal Requirements For Propeller Injury Avoidance Measures" in the **Federal Register** (66 FR 63645). The NPRM described a proposed Coast Guard requirement that owners of non-planing recreational houseboats with propeller-driven propulsion located aft of the transom install one of two propulsion unit measures or employ three combined measures. This proposal responded to recommendations made by the National Boating Safety Advisory Council (NBSAC). The NPRM was based on an expectation that a significant reduction in the number of boaters who are seriously or fatally injured when struck by a non-planing recreational houseboat with propeller-driven propulsion would occur.

**Discussion of Comments**

The Coast Guard received approximately 190 comments regarding the NPRM. Comments were received from those who have been injured by boat propellers; the relatives and friends of those injured or killed in such accidents; health care providers; boating safety and environmental advocacy groups; businesses and business associations; state and federal government agencies; and members of the general public.

Many commenters supported the proposed rule in order to better protect the boating public from propeller injuries. Some of those also advocated reducing the phase-in period to one year, and some advocated inclusion of pontoon houseboats under the

requirements of the proposed rule. Among those who generally supported the proposed rule, some preferred using propeller guards over swim ladder interlock systems because they expected propeller guards to better protect swimmers. A few commenters also suggested increased costs could be passed on from manufacturers and rental companies to consumers.

Some commenters opposed the proposed rule because they perceived the number of casualties as insufficient to justify the proposed rule and argued the costs of implementation would be significantly higher than estimated in the NPRM. Many of these commenters also expressed concerns about the high maintenance costs associated with propeller guards, the increased danger of collisions when swim ladder interlock systems disable propellers, and the lack of practical benefit to be gained from clear view devices because of the length of many houseboats. A few suggested the proposed rule would be unenforceable or otherwise ineffective and advocated improved boater education.

Some commenters requested a more precise definition of houseboat, particularly whether monohulls and pontoon designs would be subject to the same requirements, and more detailed guidance on acceptable propeller guards and swim ladder interlock systems. One commenter suggested the proposed rule would effect a shift of liability from boat operators to boat manufacturers.

**Withdrawal**

The Coast Guard is withdrawing the NPRM published on December 10, 2001, after reconsideration of the the costs that would likely result, the characteristics of the safety measures to