were received, all of which offered no objection to the proposed change.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising § 117.810(f)(9) to read as follows:

§ 117.810 Navigable waters in the State of Washington; bridges where constant attendance of draw tenders is not required.

* * * * *

(f) * * *

(9) Deep River, Wash., mile 3.5, state highway bridge one mile south of the town of Deep River. The draw shall open on signal if at least four hours notice is given.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4)).

Effective date. This revision shall become effective on December 31, 1975.

Dated: November 17, 1975.

R. I. PRICE,
Rear Admiral, U.S. Coast Guard Chief, Office of Marine Environment and Systems.

[FR Doc.75-31496 Filed 11-20-75;8:45 am]

Title 35—Panama Canal

CHAPTER I—CANAL ZONE REGULATIONS

PART 135—RULES FOR MEASUREMENT OF VESSELS

Revision

On July 31, 1975, the Panama Canal Company published in the FEDERAL REGISTER (40 FR 32140) a notice of proposed changes in the rules for measurement of vessels for the Panama Canal. A correction of a typographical error in the notice of July 31, 1975, was published in the FEDERAL REGISTER on August 18, 1975, (40 FR 34619).

In the notice of July 31, 1975, interested persons were invited to submit written data, views or arguments not later than September 2, 1975. Written comments were received from 29 interested parties. All the written comments received, except one, opposed the proposed changes in the measurement rules.

At the public hearing held on October 6, 1975, pursuant to the notice published in the FEDERAL REGISTER on July 31, 1975, thirteen interested parties submitted supplementary data, views and arguments in opposition to the proposed amendments of the measurement rules.

Following the hearing on October 6, 1975, six of the parties furnished further supplementary data requested at the hearing.

Opposition to the proposed amendments of the rules in the written comments and at the hearing was primarily addressed to the cumulative effect of tolls increases for use of the Canal resulting from the rules amendments with special emphasis on the effect on operations of containerships and forest product carriers principally caused by the proposed new rule 35 CFR 135.113 providing for the addition to net tonnage of space occupied by deck cargo. Opponents of the rules contended that the increases in tolls charges would cause ocean freight increases that would lead to diversion of cargo movements from routes now using the Canal to other routes, including rail transportation across the United States, with resulting economic loss to the Panama Canal Company, the ports now used as terminals for shipments through the Canal, labor organizations and stevedores in the affected ports, and shipping companies in the intercoastal trade, trade with Hawaii and Puerto Rico, and foreign commerce now using the Canal.

Opponents of the rules changes also argued that the proposed rules changes as a group, and the proposed new rule on deck cargo in particular, are arbitrary and capricious, discriminatory, unnecessary, inflationary, inconsistent with the measurement system adopted in the International Convention on Tonnage Measurement of 1969, and undesirable in view of pending treaty negotiations and possible effect on tolls policies of other canals.

Three of the parties asserted that the proposed rules changes constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, and a fourth party contended that the environmental assessment accompanying the proposal is insufficient.

On November 17, 1975, the panel appointed by the Board of Directors of the Panama Canal Company to conduct the hearing submitted a complete report to the Board analyzing the objections to the proposed amendments of the rules. The panel found that the proposed rules are in accordance with the standard prescribed by 2 C.Z. Code 412, and that no sufficient reasons had been shown which would warrant disapproval of the proposed rules. Accordingly, the panel recommended such approval.

After consideration of all relevant matter presented, the Board of Directors found that the proposed amendments of the rules will not significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, and adopted the proposed amendment of 35 CFR Part 135 as set forth below.

The amendments of the rules will become effective upon approval by the President of the United States but not earlier than January 30, 1976, the end of the statutory notice period prescribed by section 411 of Title 2 of the Canal Zone Code (76A Stat. 27).

Adopted by the Board of Directors of the Panama Canal Company on the 17th day of November 1975.

THOMAS M. CONSTANT,
Secretary.

§ 135.82 [Amended]

1. In § 135.82 the references to § 135.86 are amended to read § 135.85.

§ 135.83 [Amended]

2. In the last line of § 135.83 the reference to § 135.86 is amended to read § 135.85.

3. Section 135.85 is revised to read as follows:

§ 135.85 Certain spaces between inner and outer plating of double bottom.

Space or spaces between the inner and outer plating of the double bottom of a vessel shall be exempted from measurement, except when used, designated or intended for carrying cargo or fuel; but the tonnage of such spaces within the double bottom as are or may be used for carrying cargo or fuel shall be determined and included in the gross tonnage. The tonnage of double bottom tanks available for cargo or fuel may be obtained by multiplying the liquid-capacity weight by the proper conversion factor to get tons of 100 cubic feet.

§ 135.86 [Revoked]

4. Section 135.86 is revoked.

5. Following § 135.112 a new § 135.113, preceded by the undesignated center heading "DECK CARGO," is added, reading as follows:

DECK CARGO

§ 135.113 Deck cargo.

If any ship carries stores, timber, livestock, containers, or other cargo in any space upon an open deck not permanently covered or in spaces exempted under paragraphs (a) and (b) of § 135.82, all tolls and other charges payable on the vessel's net tonnage shall be payable upon the vessel's net tonnage (as defined below in §§ 135.271-287 and §§ 135.321-327) increased by the tonnage of the space occupied at the time at which the tolls or other charges become payable by the goods carried upon deck and not permanently covered or closed-in. The deck space occupied by the goods thus carried shall be determined at the time of the application of the vessel for passage through the canal and shall be deemed to be the space limited by the area occupied by the goods and by straight lines enclosing a rectangular space sufficient to include the goods. The tonnage of the space occupied by the goods shall be ascertained by multiplying together the length, breadth and depth of said rectangular space or spaces and dividing the product by 100 or 2.83, according as the measurements are taken in feet or meters. Nothing in this section shall in any manner affect the provisions of §§ 135.41-42; 135.61-63; or 135.81-88.

§ 135.142 [Amended]

6. In § 135.142 the reference to §§ 135.171-135.182 is amended to read §§ 135.171-135.183.

§ 135.175 [Amended]

7. In § 135.175 the last sentence is amended by adding the words "or fuel" between the words "cargo" and "the tonnage."

8. Following § 135.182 a new § 135.183 is added, reading as follows:

§ 135.183 Hatchways.

The cubical contents of hatchways shall be obtained by multiplying the length and breadth together and the product by the mean depth taken from the top of beam to the underside of the hatch cover.

§ 135.211 [Amended]

9. In § 135.211 the reference in the fourth line to § 135.182 is amended to read § 135.183.

§ 135.271 [Amended]

10. In § 135.271 the reference in the second line to § 135.286 is amended to read § 135.285.

§ 135.273 [Amended]

11. In § 135.273 the reference in the last line to § 135.286 is amended to read § 135.285.

12. In § 135.274, paragraph (c) is amended to read as follows:

§ 135.274 Spaces for stowage of stores or cargo, not deducted.

* * * * *

(c) On supply ships, stores, supplies of all kinds, distilling machinery and distilled water, machines, tools and material for repair work, mines and mining materials, torpedoes, arms, and ammunition.

13. Section 135.281 is revised to read as follows:

§ 135.281 Spaces used for boatswain's stores, deducted.

Spaces used exclusively for boatswain's stores, including paint and lamp rooms, shall be deducted. The deduction of spaces under this section shall be reasonable in extent.

14. Section 135.282 is revised to read as follows:

§ 135.282 Spaces used for engineer's shops, deducted.

Spaces used exclusively for engineer's shops shall be deducted. The deduction of spaces under this section shall be reasonable in extent.

15. In § 135.285 the heading of the section and paragraph (a) are revised to read as follows:

§ 135.285 Water ballast spaces, deducted.

(a) Water ballast spaces, other than spaces in the vessel's double bottom, shall be deducted if they are adapted and used only for water ballast, have for entrance only ordinary circular or oval manholes whose greatest diameter does not exceed 30 inches, and are not available for the carriage of cargo, stores, or fuel. Spaces that would otherwise qualify as water ballast except that they are also used for fuel for the vessel's own use shall be regarded as part of the vessel's fuel space as defined in § 135.390.

* * * * *

§ 135.286 [Revoked]

16. Section 135.286 is revoked.

17. Section 135.287 is revised to read as follows:

§ 135.287 Marking and use of deducted spaces.

Each of the spaces enumerated in §§ 135.275–135.285, unless otherwise specifically stated, shall be subject to such conditions and requirements as to marking or designation and use or purpose as are contained in the navigation or registry laws of the several countries, but no space shall be deducted unless the use to which it is to be exclusively devoted has been appropriately designated by official marking. In no case, however, shall an arbitrary maximum limit be fixed to the aggregate deduction made under §§ 135.271–135.285.

§ 135.322 [Amended]

18. In § 135.322 the reference to § 135.-286 in the heading and in the second line of the section is amended to read § 135.-285.

§ 135.324 [Amended]

19. In § 135.324 the reference to §§ 135.381–135.383 is amended to read §§ 135.252–135.354, 135.382.

20. Section 135.327 is revised to read as follows:

§ 135.327 Propelling power deductions, how made.

The deductions made for propelling power provided for in §§ 135.323–135.325 shall be made by adding to the space occupied by the engine room as defined in §§ 135.352–135.354 and 135.382, the spaces available for fuel as defined in §§ 135.390 and 135.391.

21. The undesignated center heading preceding § 135.351 is amended to read as follows:

SPACE OCCUPIED BY ENGINE ROOM

§ 135.351 [Revoked]

22. Section 135.351 is revoked.

23. In § 135.352 the last four sentences are revised to read as follows:

§ 135.352 What understood by space occupied by engine rooms.

* * * When a portion of the space within the boundary of the engine or boiler room is occupied by a tank or tanks for the storage of fresh water, lubricating oil, or fuel, including settling tanks, the space considered to be within the engine room shall be reduced by the space taken up by such tanks. Installations not strictly required for the working of the engines or boilers are not to be included in the engine room measurement no matter where situated but given separate deductions when they qualify under §§ 135.271–135.285 and are listed under the appropriate item on page 2 of the Panama Canal Certificate.

24. In § 135.353 the last sentence is revised to read as follows:

§ 135.353 Manner of ascertaining cubical content of spaces occupied by engine room.

* * * Add such contents, as well as those of the space occupied by the shaft trunk and by any donkey engine and boiler located within the boundary of the engine room or of the light and air casing above the engine room and used in connection with the main machinery for propelling the ship, to the cubical contents of the space below the crown of the engine room; divide the sum by 100 or by 2.83, according as the measurements are taken in feet or meters, and the result shall be deemed to be the space occupied by the engine room for purposes of calculating the deduction for propelling power.

25. Section 135.354 is revised to read as follows:

§ 135.354 Manner of ascertaining cubical content of spaces occupied by engine room; where engines and boilers are in separate compartments.

If in any ship in which the space for propelling power is to be measured the engines and boilers are in separate compartments, the contents of each compartment shall be measured separately in like manner, according to the above method; and the sum of the tonnage of the spaces included in the several compartments shall be deemed to be the space occupied by the engine room for purposes of calculating the deduction for propelling power.

§ 135.381 [Revoked]

26. Section 135.381 and the undesignated center heading preceding that section reading "PROPELLING POWER DEDUCTION FOR VESSELS WITH FIXED BUNKERS, OR HAVING FUEL-OIL COMPARTMENTS THAT CANNOT BE USED TO STOW CARGO OR STORES" are revoked.

§ 135.383 [Revoked]

27. Section 135.383 is revoked.

28. Two new sections numbered §§ 135.390 and 135.391, preceded by an undesignated center heading "SPACES AVAILABLE FOR CARRIAGE OF FUEL" are added, reading as follows:

SPACES AVAILABLE FOR CARRIAGE OF FUEL

§ 135.390 Spaces available for the carriage of fuel.

The spaces available for the carriage of fuel will include the actual volume of tanks or fixed compartments for the storage of lubricating oil or fuel, including settling tanks, which cannot be used to stow cargo or stores and which have been certified by official marking to be spaces for the vessel's own fuel. Dual purpose fuel tanks whose only other use is for the carriage of water ballast will be included in the fuel deduction provided they have been included in the gross tonnage and qualify in all other respects for a deduction.

§ 135.391 Manner of ascertaining cubical contents of spaces available for the carriage of fuel.

The cubical contents of the abovenamed spaces available for the carriage of fuel shall be ascertained in accordance with the following provisions: For each fuel tank or compartment, measure the mean length. Ascertain the area of three transverse sections of the ship (as set forth in §§ 135.141 or 135.142–135.241 for the calculation of the gross tonnage) to the deck which covers the tank or compartment. One of these three sections must pass through the middle of the aforesaid length, and the two others through the two extremeties. Add to the sum of the two extreme sections four times the middle one, and multiply the sum thus obtained by the third of the distance between the two section. This product, divided by 100 if the measurements are taken in English feet, or by 2.83 if they are taken in meters, gives the tonnage of the spaced measured. When they cannot be readily measured, the tonnage of tanks may also be obtained by using liquid capacity times the conversion factor with one-sixth off for frames in case of peak tanks and one-twelfth off in case of wings or deep tanks.

§ 135.412 [Amended]

29. In § 135.412 the words and figures in the second, third, and fourth lines "other than fuel spaces deducted under §§ 135.351–135.354" are revoked.

30. Section 135.511 is revised to read as follows:

§ 135.511 **Administration of rules.**

The rules of measurement provided in this part shall be administered by the President of the Panama Canal Company.

[FR Doc.75-31475 Filed 11-20-75;8:45 am]

Title 36—Parks, Forests, and Public Property

CHAPTER I—NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

Oversnow Vehicles, Yellowstone National Park, Wyoming

Pursuant to the authority contained in Section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3), and the Act of May 7, 1894 (28 Stat. 73, as amended; 16 U.S.C. 26), 245 DM 1 (34 FR 13879), as amended, National Park Service Order No. 77 (38 FR 7478), as amended, Regional Director, Rocky Mountain Region Order No. 1 (39 FR 12369), § 7.13(*l*) is hereby amended.

The purpose of this amendment is to partially relax an existing restriction on the operation of oversnow vehicles on park routes by persons under 16 years of age and to provide for controls on the operations resulting from this relaxation.

The snowmobile routes in Yellowstone National Park are snowcovered summer roads that are marked and groomed in the winter season for oversnow-vehicle travel. Due to the grooming and the high-speed traffic attainable with the modern snow machine, the hazards on park routes are quite similar to those of normal summer automobile traffic. The National Park Service, therefore, felt that an age limit on operators of snow machines was necessary. The age originally chosen was 16 years, as it was felt that this closely coincided with the motor-vehicle operation laws of most states and was generally accepted as a minimum age for responsible and mature drivers.

No objections to the 16 year age limitation were received in response to the proposal of this regulation in the FEDERAL REGISTER. This regulation was published as a notice of final rulemaking at page 33313 of the FEDERAL REGISTER of September 17, 1974, and became effective on October 17, 1974. During the first season of enforcement of this regulation, many comments regarding the age limitation were received from individuals and groups.

In summary, these comments stated that, while it was generally agreed that 16 was a proper minimum age for snowmobile operators without supervision or training, those persons under this age, who were directly supervised by a responsible adult or had received adequate training in oversnow-vehicle operation, should not be prevented from operating a snowmobile in the park.

In response to these comments and experience gained in this past year, the National Park Service is hereby amending its regulations on age limits for oversnow-vehicle operators.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. However, since this regulation relieves an existing restriction and is based upon extensive public comment, it is determined that the rulemaking procedure is unnecessary and not in the public interest. Accordingly, this revision shall become effective November 21, 1975.

36 CFR 7.13(l)(1)(iv) is revised and (l)(1)(v) is added as set forth below:

* * * * *

§ 7.13 **Yellowstone National Park.**

(l) * * *

(1) * * *

(iv) Operation of a snowmobile by any person under the age of 16, provided, however, that persons who are at least 12 years of age, but have not reached their 16th birthday, may operate an oversnow vehicle when one or more of the following special conditions have been met. The person shall:

(A) Remain under the immediate and direct supervision of at least one parent to the extent the underage operator of a moving snowmobile shall be not more than 50 yards ahead of, or behind, a parent, or

(B) Remain under the immediate and direct supervision of a person 21 years of age or older to the extent the underage operator of a moving snowmobile shall be not more than 50 yards ahead of, or behind, the supervising person, and produce, at the time of entry to the park documentary evidence (certificate or qualification card) showing the underage operator has successfully completed a formal snowmobile safety training course which may be legally required within the operator's residing state or may be voluntarily provided, but with statewide-adopted training standards as specified by a nationally recognized snowmobile organization or as provided by the nationally recognized Snowmobile Safety and Certification Committee of the International Snowmobile Industry Association, provided, however, a person 21 years of age or older may not supervise the snowmobile use of more than one person under 16 years of age at any one time.

(v) Permitting Unauthorized Minor to Operate a Snowmobile: Except as provided by Paragraph (iv), no person shall cause or knowingly permit a child or ward under the age of 16 years to drive a snowmobile upon any snowmobile route in Yellowstone National Park when such minor is not authorized as herein provided or is in violation of any of the provisions of this section.

* * * * *

ROBERT C. HARADEN,
Acting Superintendent
Yellowstone National Park.

[FR Doc.75-31539 Filed 11-20-75;8:45 am]

Title 38—Pensions, Bonuses, and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

PART 2—DELEGATIONS OF AUTHORITY

Employees Authorized To Conduct Investigations, Etc.

Section 2.74 is revised to read as follows:

§ 2.74 **Field personnel in office of Veterans Services Division and other employees who are qualified and designated by Field Station Director are authorized, when assigned, to conduct investigations (field examinations) and examine witnesses upon any matter within jurisdiction of Veterans Administration, to take affidavits, to administer oaths and affirmations, to certify copies of public or private documents and to aid claimants in preparation of claims.**

This delegation of authority is identical to § 13.2(a) of this chapter.

Approved: November 14, 1975.

By direction of the Administrator.

[SEAL] ODELL W. VAUGHN,
Deputy Administrator.

[FR Doc.75-31513 Filed 11-20-75;8:45 am]

PART 3—ADJUDICATION

Eligibility for Educational Benefits

At 40 FR 45853, October 3, 1975, there was published a notice of proposed regulatory development to amend § 3.807 to incorporate the provisions of Pub. L. 91-584 (84 Stat. 1575) which amended section 1701 to extend basic eligibility for educational benefits under chapter 35, title 38, United States Code, to the child or wife (husband) of a member of the Armed Forces on active duty who, for more than 90 days, has been listed as (1) missing in action, (2) captured by hostile forces, or (3) forcibly detained or interned by a foreign government or power. Minor editorial changes are made in §§ 3.805 and 3.806 to reflect these provisions apply to male and female veterans and beneficiaries.

Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulations.

No written comments have been received and the proposed regulations are hereby adopted without change and are set forth below.

Effective date. Section 3.807 is effective December 24, 1970 and §§ 3.805 and 3.806 are effective November 14, 1975.

Approved: November 14, 1975.

By direction of the Administrator.

[SEAL] ODELL W. VAUGHN, *Deputy Administrator.*

1. In § 3.805, paragraphs (d), (e), (f) and the cross reference are revised to read as follows:

§ 3.805 Loan guaranty for widows: certification.

* * * * *

(d) The widow (widower) meets the requirements of the term "widow" ("widower") as outlined in § 3.50; and

(e) The veteran's widow (widower) is unmarried; and

(f) The applicant is not herself (himself) an eligible veteran.

CROSS REFERENCES: Wife, widow or spouse. See § 3.50(b). Terminated marital relationships. See § 3.55.

2. In § 3.806 the portion of paragraph (a) preceding subparagraph (1) is revised to read as follows:

§ 3.806 Death gratuity; certification.

(a) Where a veteran dies on or after January 1, 1957, and during the 120-day period which begins on the day following the date of his or her discharge or release from active duty, active duty for training, or inactive training duty, the Veterans Administration will certify that fact to the Secretary concerned if the Veterans Administration determines on the basis of a claim filed with it that:

* * * * *

3. In § 3.807, the introductory portion preceding paragraph (a) and paragraphs (a) and (b) are revised to read as follows:

§ 3.807 Dependents' educational assistance; certification.

For the purposes of dependents' educational assistance under 38 U.S.C. ch. 35 (see § 21.3020 of this chapter), the child, wife (husband) or widow (widower) of a veteran or serviceman (servicewoman) will have basic eligibility if the following conditions are met:

(a) *General.* Basic eligibility exists if the veteran:

(1) Was discharged from service under conditions other than dishonorable, or died in service; and

(2) Has a permanent total service-connected disability; or

(3) A permanent total service-connected disability was in existence at the date of the veteran's death; or

(4) Died as a result of service-connected disability; or (if a serviceman or servicewoman)

(5) Is on active duty as a member of the Armed Forces and now is, and, for a period of more than 90 days, has been listed by the Secretary concerned as missing in action, captured in line of duty by a hostile force, or forcibly detained or interned in line of duty by a foreign Government or power.

(b) *Service.* Service-connected disability or death must have been the result of active military, naval, or air service on or after April 21, 1898. (Pub. L. 89–358; 80 Stat. 12) Effective September 30, 1966, educational assistance for a child (but not for a wife (husband) or widow (widower)) may be authorized based on service in the Philippine Commonwealth Army or as a Philippine Scout as defined in § 3.8 (b), (c), or (d). 38 U.S.C. 1765)

* * * * *

[FR Doc.75-31509 Filed 11-20-75;8:45 am]

PART 3—ADJUDICATION

Increased Compensation Rates and Clothing Allowance

At 40 FR 41540, September 8, 1975, there was published a notice of proposed regulatory development to amend Part 3 of Title 38, Code of Federal Regulations, to implement provisions of Pub. L. 94–71 (89 Stat. 395). The following changes were proposed. An amendment to § 3.5 to reflect rates of additional dependency and indemnity compensation payable to widows and widowers because of children under age 18 or because of need for aid and attendance. Amendments to §§ 3.350 and 3.552 to incorporate the increased disability compensation rates. An amendment to § 3.400(o) to incorporate the provision for paying increased disability compensation effective the date the disability increased and an amendment to § 3.400(j) to delete obsolete provisions. A change to § 3.810 to reflect the increase in the clothing allowance.

Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulations.

No written comments have been received and the proposed regulations are hereby adopted without change and are set forth below.

Effective date. These VA Regulations are effective August 1, 1975, except § 3.400(j) which is effective November 14, 1975.

Approved: November 14, 1975.

By direction of the Administrator.

[SEAL] ODELL W. VAUGHN, *Deputy Administrator.*

1. In § 3.5, paragraph (e) (1) and (3) is revised and (e) (4) is added so that the revised and added material reads as follows:

§ 3.5 Dependency and indemnity compensation.

* * * * *

(e) *Widow's or widower's rate.* (1) The monthly rate of dependency and indemnity compensation for a widow or widower is based on the "pay grade" of the veteran. This rate is subject to increase as provided in paragraph (e) (3) and (4) of this section. (38 U.S.C. 411 (a))

* * * * *

(3) If there is a widow or widower with one or more children under the age of 18 (including a child not in the widow's or widower's actual or constructive custody and a child who is in active military, air, or naval service) the total amount payable shall be increased by $29 for each child. (38 U.S.C. 411(b); Pub. L. 94–71, 89 Stat. 395).

(4) If the widow or widower is determined to be in need of aid and attendance under the criteria in § 3.352 or is a patient in a nursing home, the total amount payable shall be increased by $72. (38 U.S.C. 411(c))

2. In § 3.350, the introductory portion of paragraphs (a), (b), (c), (e) and (i) preceding subparagraph (1) and paragraphs (d), (f) (1) and (2) (i) through (iv) and (h) are revised to read as follows:

§ 3.350 Special monthly compensation ratings.

The rates of special monthly compensation stated in this section are those provided under 38 U.S.C. 314.

(a) *Ratings under 38 U.S.C. 314(k).* Special monthly compensation ($52) is payable for each anatomical loss or loss of use of one hand, one foot, both buttocks, one or more creative organs, blindness of one eye having only light perception, deafness of both ears, having absence of air and bone conduction, or complete organic aphonia with constant inability to communicate by speech. This special compensation is payable in addition to the basic rate of compensation otherwise payable on the basis of degree of disability, provided that the combined rate of compensation does not exceed $814 monthly when authorized in conjunction with any of the provisions of 38 U.S.C. 314 (a) through (j) or (s). When there is entitlement under 38 U.S.C. 314 (l) through (n) or an intermediate rate under (p) such additional allowance is payable for each such anatomical loss or loss of use existing in addition to the requirements for the basic rates, provided the total does not exceed $1,139 per month. The limitations on the maximum compensation payable under this paragraph are independent of and do not preclude payment of additional compensation for dependents under 38 U.S.C. 315, or the special allowance for aid and attendance provided by 38 U.S.C. 314(r). (Pub. L. 94–71, 89 Stat. 395)

* * * * *

(b) *Ratings under 38 U.S.C. 314(l).* The special monthly compensation provided by 38 U.S.C. 314(l) is payable for anatomical loss or loss of use of both hands, both feet, one hand and one foot, blindness in both eyes with visual acuity of 5/200 or less or being permanently bedridden or so helpless as to be in need of regular aid and attendance. The monthly rate is $814.

* * * * *

(c) *Ratings under 38 U.S.C. 314(m).* The special monthly compensation provided by 38 U.S.C. 314(m) is payable for anatomical loss or loss of use of two extremities at a level or with complications preventing natural elbow or knee action with prosthesis in place; or for blindness in both eyes having light perception; or for blindness in both eyes rendering the veteran so helpless as to be in need of regular aid and attendance. The monthly rate is $896.

* * * * *

(d) *Ratings under 38 U.S.C. 314(n).* The special monthly compensation provided by 38 U.S.C. 314(n) is payable for the anatomical loss of two extremities so near the shoulder or hip as to prevent the use of a prosthetic appliance or anatomical loss of both eyes. The rate is $1,018 per month. Amputation is a prerequisite. If a prosthesis cannot be worn at the present level of amputation but could be applied if there were a reamputation at a higher level the requirements of this paragraph are not met; instead, consideration will be given to loss of natural elbow or knee action.

(e) *Ratings under 38 U.S.C. 314(o).* The special monthly compensation provided by 38 U.S.C. 314(o) is payable for conditions entitling to two or more of the rates (no condition being considered twice) provided in 38 U.S.C. 314 (l) through (n) or for bilateral deafness rated at 60 percent or more disabling, and the hearing impairment in one or both ears is service connected, in combination with service-connected blindness with bilateral visual acuity 5/200 or less. The monthly rate is $1,139.

* * * * *

(f) *Intermediate or next higher rate; 38 U.S.C. 314(p)*—(1) *Extremities.* (i) Anatomical loss or loss of use of one extremity with the anatomical loss or loss of use of another extremity at a level or with complications preventing natural elbow or knee action with prosthesis in place will entitle to the rate intermediate between 38 U.S.C. 314 (l) and (m). The monthly rate is $855.

(ii) Anatomical loss or loss of use of one extremity with anatomical loss of another extremity so near the shoulder or hip as to prevent the use of a prosthetic appliance will entitle to the rate equal to 38 U.S.C. 314(m). The monthly rate is $896.

(iii) Anatomical loss or loss of use of extremity at a level preventing natural elbow or knee action with prosthesis in place with anatomical loss of another extremity so near the shoulder or hip as to prevent the use of a prosthetic appliance will entitle to the rate intermediate between 38 U.S.C. 314 (m) and (n). The monthly rate is $957.

(2) *Eyes, bilateral, and blindness in connection with deafness.* (i) Blindness of one eye with 5/200 visual acuity or less and blindness of the other eye having only light perception will entitle to the rate intermediate between 38 U.S.C. 314 (l) and (m). The monthly rate is $855.

(ii) Blindness of one eye with 5/200 visual acuity or less and anatomical loss, or blindness having no light perception accompanied by phthisis bulbi, evisceration or other obvious deformity or disfigurement of the other eye, will entitle to a rate equal to 38 U.S.C. 314(m). The monthly rate is $896.

(iii) Blindness of one eye having only light perception and anatomical loss, or blindness having no light perception accompanied by phthisis bulbi, evisceration or other obvious deformity or disfigurement of the eye, will entitle to a rate intermediate between 38 U.S.C. 314 (m) and (n). The monthly rate is $957.

(iv) Total blindness of both eyes having no light perception accompanied by phthisis bulbi, evisceration, or other obvious deformity or disfigurement will entitle to a rate equal to 38 U.S.C. 314 (n). The monthly rate is $1,018.

* * * * *

(h) *Special aid and attendance benefit in maximum monthly compensation cases; 38 U.S.C. 314(r).* A veteran receiving the maximum rate ($1,139) of special monthly compensation under any provision or combination of provisions in 38 U.S.C. 314 who is in need of regular aid and attendance is entitled to an additional allowance during periods he or she is not hospitalized at United States Government expense. (See § 3.552(b)(2) as to continuance following admission for hospitalization.) The rate is $489. Determination of this need is subject to the criteria of § 3.352. This additional allowance is payable whether or not the need for regular aid and attendance was a partial basis for entitlement to the maximum $1,139 rate, or was based on an independent factual determination.

(i) *Total plus 60 percent, or housebound; 38 U.S.C. 314(s).* The special monthly compensation at the rate of $732 provided by 38 U.S.C. 314(s) is payable where the veteran has a single service-connected disability rated as 100 percent without resort to individual unemployability and,

* * * * *

3. In § 3.400, paragraphs (j) and (o) are revised to read as follows:

§ 3.400 General.

* * * * *

(j) *Election of Veterans Administration benefits (§ 3.700 series).* Unless otherwise provided, the date of receipt of election, subject to prior payments.

* * * * *

(o) *Increases (38 U.S.C. 3010(a) and 3010(b)(2), Pub. L. 94–71, 89 Stat. 395; §§ 3.109, 3.156, 3.157)*—(1) *General.* Except as provided in paragraph (o)(2) of this section and § 3.401(b), date of receipt of claim or date entitlement arose, whichever is later. A retroactive increase or additional benefit will not be awarded after basic entitlement has been terminated, such as by severance of service connection.

(2) *Disability compensation.* Earliest date as of which it is factually ascertainable that an increase in disability had occurred if claim is received within 1 year from such date otherwise, date of receipt of claim.

* * * * *

4. In § 3.552, paragraphs (g) and (h) are revised to read as follows:

§ 3.552 Adjustment of allowance for regular aid and attendance.

* * * * *

(g) Where a veteran entitled to one of the rates under 38 U.S.C. 314 (l), (m), or (n) by reason of anatomical losses or losses of use of extremities, blindness (visual acuity 5/200 or less or light perception only), or anatomical loss of both eyes is being paid compensation of $1,139 because of entitlement to another rate under section 314(l) on account of need for aid and attendance the compensation will be reduced while hospitalized to the following:

(1) If entitlement is under section 314(l) and in addition there is need for regular aid and attendance for another disability, the award during hospitalization will be $896 since the disability requiring aid and attendance is 100 percent disabling. (38 U.S.C. 314(p)).

(2) If entitlement is under section 314(m), $1,018.

(3) If entitlement is under section 314(n), $1,139 would be continued, since the disability previously causing the need for regular aid and attendance would then be totally disabling entitling the veteran to the maximum rate under 38 U.S.C. 314(p).

(h) If, because of blindness, a veteran requires regular aid and attendance, but has better vision than "light perception only" the award under 38 U.S.C. 314(m) $896 will be reduced while hospitalized to the rate payable under 38 U.S.C. 314 (l) ($814).

* * * * *

5. In § 3.810, the introductory portion of paragraph (a) is revised to read as follows:

§ 3.810 Clothing allowance.

(a) A veteran whose service-connected disability is compensable under laws administered by the Veterans Administration is entitled, upon application therefor, to an annual clothing allowance of $175 (payable in a lump sum).

* * * * *

[FR Doc.75-31510 Filed 11-20-75;8:45 am]

PART 13—DEPARTMENT OF VETERANS BENEFITS, FIDUCIARY ACTIVITIES

FIDUCIARY ACTIVITIES

Miscellaneous Amendments

At 40 FR 31960, July 30, 1975, there was published a notice of proposed regulatory development to revise §§ 13.1 through 13.111 to change references to the Chief Attorney (now known as District Counsel) as the initiator of fiduciary actions of a nonlegal nature to the Veterans Services Officer; to eliminate authority pertaining to commitment, restoration and appointment of State court fiduciaries, which is now under the jurisdiction of the General Counsel; to conform citations to a redesignation of paragraphs in section 3202 of title 38, United States Code; to reflect substantive changes in section 102(b) of title 38, United States Code, which provides that the term "wife" includes the husband of any female veteran and the term "widow" includes the widower of any female veteran; to reflect changes in section 3202 of title 38, United States Code, which permit complete discretion in the selection of fiduciaries; and to reflect amendment to section 1701 of title 38, United States Code, which changes one of the definitions of a "guardian" from one who is legally vested with the care of the eligible person to one who has been appointed by the Administrator to receive payment of Veterans Administration benefits for the use and benefit of the eligible person.

Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulations.

No written comments have been received and the proposed regulations are hereby adopted without change and are set forth below.

Effective date. These VA Regulations are effective November 14, 1975.

Approved: November 14, 1975.

By direction of the Administrator.

[SEAL] ODELL W. VAUGHN,
Deputy Administrator.

1. The title of Part 13 is changed from "Department of Veterans Benefits, Chief Attorneys" to "Department of Veterans Benefits, Fiduciary Activities" and §§ 13.1, 13.2 and 13.3 are revised to read as follows:

§ 13.1 Authority.

The regulations in this part are issued pursuant to 38 U.S.C. 210 to reflect action under 38 U.S.C. 212 and to implement 38 U.S.C. 3101, 3202, 3203, 3311 and 5220. The duties, the delegations of authority, and all actions required of the Veterans Services Officer set forth in §§ 13.1 through 13.111 inclusive, are to be performed under the direction of, and authority vested in, the Director of the field station.

§ 13.2 Field examinations.

(a) *Authority to conduct; generally.* Field personnel in the Office of the Veterans Services Division and other employees who are qualified and designated by the field station Director are authorized, when assigned, to conduct investigations (field examinations) and examine witnesses upon any matter within the jurisdiction of the Veterans Administration, to take affidavits, to administer oaths and affirmations, to certify copies of public or private documents and to aid claimants in the preparation of claims.

(b) *Scope of field examinations; fiduciary activities.* Field examinations include but are not limited to the following:

(1) Matters involving the administration of estates and the welfare of beneficiaries of the Veterans Administration who are under legal disability or in need of supervision by the Veterans Services Officer.

(2) Matters involving the welfare and needs of dependents of incompetent beneficiaries.

(3) Recovery of amounts due the Government or General Post Fund under laws administered by the Veterans Administration.

§ 13.3 State legislation.

Field station Directors are authorized to cooperate with the affiliated organizations, legislative committees, and through the General Counsel with local and State bar associations, to the end that deficiencies of the State laws relating to Veterans Administration operations may be removed. No action to commit the Veterans Administration regarding any proposed legislation relating to fiduciary matters will be taken without the approval of the Chief Benefits Director or designee.

§§ 13.4, 13.50, 13.51, 13.52, 13.53, 13.54 [Revoked]

2. Sections 13.4, 13.50, 13.51, 13.52, 13.53 and 13.54 are revoked.

3. Sections 13.55, 13.56, 13.57, 13.58 and 13.59 are revised to read as follows:

§ 13.55 Veterans Services Officer to select and appoint or recommend for appointment the person or legal entity to receive Veterans Administration benefits in a fiduciary capacity.

(a) *Authority.* The Veterans Services Officer is authorized to select and appoint (or in the case of a court-appointed fiduciary, to recommend for appointment) the person or legal entity best suited to receive Veterans Administration benefits in a fiduciary capacity for a beneficiary who is mentally ill (incompetent) or under legal disability by reason of minority or court action, and beneficiary's dependents.

(b) *Payees.* Authorized payees include:

(1) The beneficiary (§ 13.56(c));

(2) The beneficiary under supervision (supervised direct payment) (§ 13.56(a) and (b));

(3) The wife or husband of an incompetent veteran (§ 13.57);

(4) The legal custodian of a beneficiary's Veterans Administration benefits (§ 13.58);

(5) A court-appointed fiduciary of a beneficiary (§ 13.59);

(6) The chief officer of the institution in which the veteran is receiving care and treatment (§ 13.61);

(7) The bonded officer of an Indian reservation (§ 13.62);

(8) A custodian-in-fact of the beneficiary (§ 13.63);

(9) Dependents of the veteran by an apportioned award (§ 13.70).

(c) *Certification.* The Veterans Services Officer's certification is authority to make payments to the designated payee.

§ 13.56 Direct payment.

(a) *Veterans.* Veterans Administration benefits payable to a veteran rated incompetent may be paid directly to the veteran in such amount as the Veterans Services Officer determines the veteran is able to manage with continuing supervision by the Veterans Services Officer, provided a fiduciary is not otherwise required.

(b) *Other adults.* Veterans Administration benefits payable to a mentally ill or infirm adult may be paid directly to the beneficiary in such amount as the Veterans Services Officer determines the beneficiary is able to manage with continuing supervision by the Veterans Services Officer, provided a fiduciary is not otherwise required.

(c) *Minors.* Veterans Administration benefits payable to a minor:

(1) May be paid direct when:

(i) Arising in connection with a program of education or training under 38 U.S.C. ch. 35.

(ii) The Veterans Services Officer determines it would be in the minor's best interests.

(2) Will be paid direct when:

(i) The beneficiary's only legal disability is minority and he or she is in active military, naval, or air service, or the widow or widower of a veteran.

(ii) The minor is deemed otherwise emancipated under State law.

§ 13.57 Payment to the wife or husband of incompetent veteran.

Compensation, pension or emergency officers' retirement pay of a veteran rated or judicially declared incompetent, may be paid to the veteran's spouse, provided the spouse is qualified to administer the funds payable and agrees to use the amounts paid for the veteran and the veteran's dependents, if any.

§ 13.58 Legal custodian.

(a) *Authority.* The Veterans Services Officer is authorized to make determinations as to the person or legal entity to be appointed legal custodian to receive Veterans Administration payments on behalf of a beneficiary who is incompetent or under legal disability by reason of minority or court action. In the absence of special circumstances, the person or legal entity to be appointed legal custodian will be the person or legal entity caring for and/or having custody of the beneficiary or the beneficiary's estate.

(b) *Payment to.* Veterans Administration benefits may be paid to a legal custodian subject to the following conditions:

(1) The Veterans Services Officer has determined that it would be in the best interests of the beneficiary to appoint a legal custodian.

(2) The proposed legal custodian is qualified to administer the benefits payable and will agree to:

(i) Apply the benefits paid for the best interests of the beneficiary;

(ii) Invest surplus funds as provided by Veterans Administration regulations,

(iii) Furnish, upon request, evidence of compliance with agreement as to usage and investment of Veterans Administration benefits, and

(iv) Inform the Veterans Services Officer of any change in the beneficiary's estate or any other circumstances that might affect entitlement or the manner in which payments are to be made.

§ 13.59 Court-appointed fiduciary.

(a) *Payment to.* Any Veterans Administration benefit may be paid to the fiduciary appointed by a State court for a beneficiary who is a minor, or incompetent or under other legal disability adjudged by a court of competent jurisdiction. Formal or informal accountings may be required from such fiduciaries, with or without judicial proceedings.

(b) *Veterans Services Officer's responsibility.* The Veterans Services Officer shall:

(1) Determine and recommend to the District Counsel the person or legal entity best fitted for appointment as State court fiduciary for the particular beneficiary. Necessary legal action will be taken by the District Counsel.

(2) Upon advice from the District Counsel that the fiduciary has been appointed, issue appropriate certification thereof so that payment of benefits can be made to such fiduciary.

§ 13.60 [Revoked]

4. Section 13.60 is revoked.

5. Sections 13.61 and 13.62 are revised to read as follows:

§ 13.61 Payment to the chief officer of institution.

The Veterans Services Officer may authorize the payment of all or part of the pension, compensation or emergency officers' retirement pay payable in behalf of a veteran rated incompetent by the Veterans Administration to the chief officer of the institution wherein the veteror institutional, nursing or domiciliary care, for the veteran's use and benefit, when the Veterans Services Officer has determined such payment (called an institutional award) will adequately provide for the needs of the veteran and obviate need for appointment of another type of fiduciary.

§ 13.62 Payment to bonded officer of Indian reservation.

Any benefits due an incompetent adult or minor Indian, who is a recognized ward of the Government, may be awarded to the superintendent or other bonded officer designated by the Secretary of the Interior to receive funds under 25 U.S.C. 14.

§§ 13.64, 13.65, 13.67, 13.68 [Revoked]

6. Sections 13.64, 13.65, 13.67 and 13.68 are revoked.

7. Sections 13.69, 13.70, 13.71, 13.72, 13.73 and 13.74 are revised to read as follows:

§ 13.69 Limitation of beneficiaries to individual fiduciary.

For purposes of payment of Veterans Administration benefits, the number of beneficiaries for whom an individual fiduciary may act will be limited to the number the fiduciary may be reasonably expected to properly serve. When, in the judgment of the Veterans Services Officer, a fiduciary has been appointed or is seeking appointment in a case in excess of that number, the Veterans Services Officer will initiate action to obtain a suitable substitute fiduciary.

§ 13.70 Apportionment of benefits to dependents.

(a) *Incompetent veterans being furnished hospital treatment, institutional or domiciliary care by United States or political subdivision thereof.* (1) When compensation, pension or emergency officers' retirement pay is payable in behalf of a veteran who is incompetent or under other legal disability by court action, the Veterans Services Officer may recommend such apportionment to or in behalf of the veteran's wife, husband, child or dependent parent as may be necessary to provide for their needs.

(2) When payment of compensation, pension or emergency officers' retirement pay, in behalf of a veteran rated incompetent by the Veterans Administration by reason of mental illness has no wife, husband or child and is being furnished hospital treatment, institutional or domiciliary care by the United States or a political subdivision thereof, has been stopped because his or her estate equals or exceeds $1,500, the Veterans Services Officer may recommend the payment of so much of the benefit otherwise payable as is necessary to provide for the needs of dependent parent or parents. (See §§ 13.74(b) and 13.108(b).)

(b) *Dependent parents.* When the compensation of a veteran paid to his or her fiduciary includes an additional amount for a dependent parent or parents and the fiduciary neglects or refuses to make an equivalent contribution for their support, the Veterans Services Officer may recommend the apportionment to the parent or parents of the additional amount.

(c) *Payments withheld because of fiduciary's failure to properly administer veteran's estate.* When payments of compensation, pension or emergency officers' retirement pay in behalf of a veteran have been stopped because of the fiduciary's failure or inability to properly account or otherwise administer the estate, the Veterans Services Officer may recommend the apportionment to the veteran's wife, husband, child or dependent parent of any benefit not paid under an institutional award or to a custodian-in-fact.

§ 13.71 Payment of cost of veteran's maintenance in institution.

(a) *By institutional award.* (1) The payment of part of compensation, pension or emergency officers' retirement pay for the cost of a veteran's hospital treatment, institutional or domiciliary care in an institution operated by a political subdivision of the United States may be authorized as provided in paragraph (a)(2) of this section when:

(i) The veteran is rated incompetent by the Veterans Administration.

(ii) It has been determined the veteran is legally liable for the cost of his or her maintenance, and

(iii) The institution's representative has asserted or probably will assert a claim for full maintenance costs.

(2) Subject to these conditions and the further condition that the responsible official of the institution or political subdivision will agree not to assert against Veterans Administration benefits any further claim for maintenance during the veteran's lifetime, the Veterans Services Officer may agree with such official to the payment of the veteran's benefits through an institutional award to be applied to:

(i) A monthly amount determined by the Veterans Services Officer to be needed for the veteran's personal use,

(ii) An amount to be agreed upon to be accumulated to provide for the veteran's rehabilitation upon release from the institution, and

(iii) So much of the amount of the benefit as remains not exceeding the amount the Veterans Services Officer shall determine to be the proper charge as fixed by statute or administrative regulation, to the cost of the veteran's maintenance.

(3) Upon execution of an agreement as provided in paragraph (a)(2) of this section, the Veterans Services Officer may certify to the Adjudication Division the total amount to be released to the chief officer of the institution.

(b) *By care and maintenance award.* When payment of compensation, pension or emergency officers' retirement pay in behalf of a veteran rated incompetent by the Veterans Administration by reason of mental illness, who has no wife, husband or child and is being furnished hospital treatment, institutional or domiciliary care by a political subdivision of the United States, has been stopped because his or her estate has reached $1,500, the Veterans Services Officer may certify to the Adjudication Division the amount to be released to the responsible official to pay for the cost of the veteran's current care and maintenance. The amounts paid in such cases shall not exceed the amount of the benefit otherwise payable less any amounts apportioned to dependent parents and in no event exceed the amount which the Veterans Services Officer shall determine to be the proper charge as fixed by statute or administrative regulation. (See §§ 13.74(b) and 13.108(b).)

§ 13.72 Release of funds from Personal Funds of Patients.

Veterans Services Officers may authorize release of funds from Personal Funds of Patients for the needs of veterans and their dependents, including amounts fixed by statute or administrative regulations as the cost of current maintenance of veterans in institutions of the United States or a political subdivision thereof other than Veterans Administration institutions.

§ 13.73 Transfer of funds from funds due incompetent beneficiaries.

Veterans Services Officers may, when required for the benefit of the veteran and/or the veteran's dependents, authorize the transfer of amounts credited to veterans in Funds Due Incompetent Beneficiaries to Veterans Administration Personal Funds of Patients accounts or to chief officers of non-Veterans Administration institutions for the accounts of institutionalized veterans.

§ 13.74 Recommendation for payment.

(a) *General.* When veterans' benefits are discontinued under 38 U.S.C. 3203 (b)(1), Veterans Services Officers are delegated authority to recommend apportionments or awards in accordance with paragraphs (b) and (c) of this section.

(b) *Needy dependent parent.* If the veteran's estate is $4,000 or more, the Veterans Services Officer may authorize payment from Personal Funds of Patients or recommend payment from the veteran's estate for the needs of the dependent parent and for the care and maintenance of the veteran if hospitalized by the United States or a political subdivision thereof other than a Veterans Administration institution. If the estate is $2,500 or more but less than $4,000, the Veterans Services Officer may recommend an apportionment from appropriated funds to the dependent parent or parents, predicated upon need, not to exceed the veteran's discontinued award, and authorize an award to the hospital from Personal Funds of Patients if available, otherwise, the hospital must look to the veteran's estate for payment. If the veteran's estate is less than $2,500, the Veterans Services Officer may recommend an apportionment to the dependent parents, predicated upon need, and an award of so much of the balance, if any, of the veteran's discontinued award as is necessary for the current care and maintenance of the veteran, to the hospital.

(c) *No dependents.* If the veteran is hospitalized by the United States or a political subdivision thereof other than a Veterans Administration institution and has no dependent parent, and the estate is less than $2,500, the Veterans Services Officer may recommend an award from appropriated funds, not to exceed the amount of the veteran's discontinued award, to the hospital for current care and maintenance. When the veteran's estate is $2,500 or more, no award from appropriated funds should be made but the Veterans Services Officer may authorize an award from Personal Funds of Patients if available; otherwise, the hospital must look to the veteran's estate for payment.

(d) *Hardship cases.* Veterans Services Officers are authorized, in exceptional cases, to deviate from the criteria stated to avoid hardship.

8. In § 13.75, paragraph (b) is revised to read as follows:

§ 13.75 Beneficiaries in penal institutions.

* * * * *

(b) *Incompetent veterans; 38 U.S.C. 3203(b)(1).* In addition to paragraph (a) of this section as to payment in pension cases, the provisions of 38 U.S.C. 3203(b)(1) governing payment of compensation, pension or emergency officers' retirement pay to an incompetent veteran are applicable during his or her confinement in a penal institution whether awaiting trial, sentence or after conviction.

9. Sections 13.76, 13.77 and 13.100 are revised to read as follows:

§ 13.76 Appeals from Veterans Services Officer's determination under 38 U.S.C. 3203(b)(2).

(a) *Notification.* The Veterans Services Officer will be responsible for notification of action taken and the right to initiate an appeal by filing a Notice of Disagreement and of the time limits within which such notice may be filed (§ 19.109 of this chapter) when he or she determines that:

(1) The dependent is not in need.

(2) The needs of the dependent parent are to be met from the veteran's estate or from Personal Funds of Patients and no payments or partial payments will be made for the dependent parents' support from appropriated funds.

(3) No award from appropriated funds for care and maintenance for the veteran in a non-Veterans Administration hospital will be made, and that the veteran's estate will have to defray the cost.

(b) *Appeals.* Part 19 of this chapter will be followed in connection with appeals to the Board of Veterans Appeals from determinations of the Veterans Services Officer. Appeals may be initiated by a dependent parent on questions of need and payments for his or her support from appropriated funds, and by a fiduciary for the disallowance of the use of appropriated funds for the veteran's institutional care and maintenance.

(c) *Statement of the case.* When a Notice of Disagreement is filed, the Veterans Services Officer will be responsible for furnishing the claimant and the claimant's representative with a Statement of the Case and such notification regarding the filing of an appeal as is provided for in §§ 19.114(b) and 19.115 of this chapter.

§ 13.77 Administrative review of the Veterans Services Officer's determination made under 38 U.S.C. 3203 (b)(2).

(a) *Veterans Services Officer (revisions).* (1) The Veterans Services Officer may revise any previous determination upon review of the evidence of record, provided a specific finding is made in writing that it was clearly and unmistakably erroneous.

(2) The Veterans Services Officer may revise a previous determination upon receipt of new evidence.

(b) *Chief Benefits Director.* Upon request for further review by the dependent parent, the Chief Benefits Director or designee will review and may revise the determination of the Veterans Services Officer as to the amount to be paid from Personal Funds of Patients for the support of the dependent parent, predicated upon need.

§ 13.100 Supervision of fiduciaries.

(a) *Federal fiduciaries.* In Federal fiduciary cases, the Veterans Services Officer may, when he or she deems it necessary for the protection of the beneficiary's interests:

(1) Require an accounting, formal or informal, of Veterans Administration benefits paid.

(2) Terminate the appointment of a Federal fiduciary and appoint a successor Federal fiduciary.

(b) *Court-appointed fiduciaries.* In court-appointed fiduciary cases, the Veterans Services Officer will take such informal action as may be necessary to assure that the needs of the beneficiary are provided for and Veterans Administration benefits are prudently administered and adequately protected.

(c) *Unsatisfactory conditions.* In any case where a fiduciary fails to render a satisfactory account or has collected or paid, or is attempting to collect or pay, fees, commissions, or allowances that are illegal or inequitable or in excess of those allowed by law, or has failed to use Veterans Administration funds for the benefit of the beneficiary or the beneficiary's dependents, or has otherwise failed or neglected to properly execute the duties of his or her trust, and informal efforts by the Veterans Services Officer to correct the situation prove unsuccessful, the case will be referred to the District Counsel. In such cases the Veterans Services Officer may have all Veterans Administration benefits suspended.

(d) *Misappropriation, embezzlement or violation of Federal statutes.* When the evidence indicates a prima facie case of misappropriation, embezzlement or violation of the Federal statutes, the matter will be submitted to the District Counsel for review and, if appropriate, the District Counsel's referral to the U.S. Attorney.

10. In § 13.102, paragraph (a) is revised to read as follows:

§ 13.102 Accountability of legal custodians.

(a) *Institutionalized veterans without wife, husband or child.* The legal custodian of Veterans Administration benefits of any incompetent veteran who has neither wife, husband nor child and who is being furnished hospital treatment, institutional or domiciliary care by the United States or a political subdivision thereof, will account upon request to the Veterans Administration for funds received from the Veterans Administration for the beneficiary and will submit a statement of all other income received and the total assets from any source held for the beneficiary.

* * * * *

11. Sections 13.103, 13.104, 13.105 and 13.106 are revised to read as follows:

§ 13.103 Investments by legal custodians.

(a) *Type authorized.* Veterans Administration benefits paid a legal custodian in a beneficiary's behalf may be invested only in U.S. savings bonds, or in interest or dividend-paying accounts in State or federally insured institutions, whichever is to the beneficiary's advantage.

(b) *Savings bond registration.* When funds are invested in bonds, they will be registered in this form: *(Beneficiary's name), (Social security number)*, under custodianship by designation of the Veterans Administration.

(c) *Savings account registration.* When funds are invested in interest or dividend-paying accounts in State or federally insured institutions, the account will be registered in this form: (*Beneficiary's name*), by (*Legal custodian's name*), legal custodian.

§ 13.104 Accounts of court-appointed fiduciaries.

(a) *Requirement to account; notices of filings and hearings.* Accounts may be required from court-appointed fiduciaries as provided by State law, but in no event less frequently than once every 3 years. Arrangements will be made with the courts whereby notices of filing of all petitions, accounts, etc., and of hearings on same, relative to court-appointed fiduciary cases wherein the Veterans Administration is an interested party, will be sent to the Veterans Services Officer for review, distribution and such action as may be appropriate. Matters which require legal action will be referred to the District Counsel, and will include any matter in which the Veterans Administration has any objections to offer.

(b) *Fiduciary and beneficiary in jurisdiction other than a State of the United States.* Accounts will not be required, in the discretion of the Veterans Services Officer, in cases where the fiduciary and beneficiary permanently reside in a jurisdiction other than a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico or the Republic of the Philippines, and the fiduciary appointment was made in said jurisdiction.

§ 13.105 Surety bonds.

(a) *Federal fiduciaries.* (1) The Veterans Services Officer may require a legal custodian, custodian-in-fact or chief officer of a private institution recognized to administer Veterans Administration benefits on behalf of a beneficiary, to furnish a corporate surety bond in an amount determined to be sufficient to protect the interest of the beneficiary. Such bond shall run to the Administrator of Veterans Affairs for the use and benefit of the beneficiary.

(2) The Veterans Services Officer may require a legal custodian to furnish an agreement in lieu of a surety bond or additional surety bond when funds are deposited in an interest or dividend-paying account in a State or federally insured institution. The agreement will provide that the legal custodian and institution agree that all funds received from the Veterans Administration on behalf of the beneficiary, which have been or will be deposited by the legal custodian in the account, will be withdrawn only with the written consent of the Veterans Services Officer or designee.

(b) *Substitution of surety; claims against defunct companies.* If any surety company is placed in receivership or ceases to do business in the particular State, the Veterans Services Officer will take the necessary action to have proper bonds substituted in Federal fiduciary cases and refer the matter to the District Counsel for such other action as may be appropriate.

§ 13.106 Investments by court-appointed fiduciaries.

The Veterans Services Officer will review and to the extent possible determine the legality and prudence of investments involving Veterans Administration income or estate. It is Veterans Administration policy to invest income or estate derived from Veterans Administration benefits only in legal investments which have safety, assured income, stability of principal and ready convertibility for the requirements of the beneficiary and his or her dependents. When notice of a contemplated or actual illegal or imprudent investment comes to the attention of the Veterans Services Officer, he or she will take remedial action to protect the beneficiary's estate. Cases in which it becomes necessary to institute court action will be referred to the District Counsel.

12. Section 13.108 is revised to read as follows:

§ 13.108 Estate $1,500; incompetent veteran, without wife, husband or child, is being furnished hospital treatment, institutional or domiciliary care by the United States or a political subdivision thereof.

(a) *Discontinuance of payments.* Where a veteran, rated incompetent by the Veterans Administration by reason of mental illness, without wife, husband or child as defined in 38 U.S.C. 101(4), is receiving hospital treatment, domiciliary or institutional care in a public institution other than a Veterans Administration institution or has a fiduciary and is receiving hospital treatment or domiciliary care in a Veterans Administration institution, and his or her estate equals or exceeds $1,500, the Veterans Services Officer shall immediately notify the Adjudication Division so that payments, other than insurance, may be discontinued. In those cases in which the payment has been discontinued, the Veterans Services Officer shall, when such estate has been reduced to $500, immediately notify the Adjudication Division of that fact.

(b) *Apportionment to dependent parent; care and maintenance award.* In any case in which a veteran, without wife, husband or child, is hospitalized by the United States or a political subdivision thereof and his or her award of compensation, pension or emergency officers' retirement pay has been discontinued because his or her estate equals or exceeds $1,500, an apportionment of the award otherwise payable may nevertheless be made to a dependent parent, if any, based upon actual need as determined by the Veterans Services Officer. So much of any monthly remainder of the discontinued payments as equals the amount charged to the veteran for his or her current care and maintenance in the institution in which treatment or care is furnished, but not more than the amount determined by the Veterans Services Officer to be the proper charge as fixed by statute or administrative regulation, may be paid to the institution. The Veterans Services Officer shall recommend to the Adjudication Division the amount of either award.

(c) *Death of veteran; Personal Funds of Patient.* In the event of the incompetent veteran's death in other than a Veterans Administration institution, the Veterans Services Officer should make certain that the provisions of the pertinent laws are applied as to the gratuitous benefits in Personal Funds of Patients.

13. Section 13.109 is revised to read as follows:

§ 13.109 Determination of value of estate; 38 U.S.C. 3203(b)(1).

Except as stated in paragraph (d) of this section, all funds, including accumulated social security and amounts on deposit in Funds Due Incompetent Beneficiaries and to the veteran's credit in Personal Funds of Patients at Veterans Administration regional offices, hospitals, State institutions, hospitals or institutions of any nature whatsoever, as well as other property, both personal and real (which is capable of being liquidated), and interest therein owned by the veteran, will be included in arriving at the value of the veteran's estate.

(a) The value of such property, including any interest therein, will be established at the estimated net price the veteran's equity in the property will bring at a forced sale after payment of all costs incident to liquidation.

(b) U.S. savings bonds, war bonds, adjusted service bonds, and other appreciation bonds, the current value, including accrued interest, will be used.

(c) Bonds and stocks, the current price listed on recognized stock exchange or by over-the-counter dealers will be the value to be used. In the absence of either, other reliable evidence of value may be used.

(d) The following will not be included as assets:

(1) Adjusted service certificate.

(2) Insurance policy having cash surrender or loan value.

(3) Dividend credits on National Service Life Insurance and United States Government Life Insurance policies.

(4) Personal property, such as furniture and household equipment, working tools, livestock and jewelry, which are included under State exemption statutes.

NOTE: Cash in the estate will be considered, notwithstanding it was derived from any of the above excluded items.

14. In § 13.110, paragraphs (b) and (c) are revised to read as follows:

§ 13.110 Escheat; post fund.

* * * * *

(b) *General Post Fund; 38 U.S.C. 5220(a).* Upon the death of a veteran intestate while a member or patient in any facility while being furnished care or treatment therein by the Veterans Administration, who is not survived by a spouse, next of kin, or heirs entitled under the laws of the veteran's domicile, the veteran's fiduciary, if any, or the veteran's personal representative shall account for and turn over to the Veterans Administration all personal property, including money and choses in action owned by the veteran at the time of his or her death. (See also § 14.514(c) of this chapter)

(c) *Refusal of fiduciary or personal representative to cooperate.* If the fiduciary or personal representative, if any, refuses to voluntarily comply with the provisions of paragraph (a) or (b) of this section, the Veterans Services Officer will submit a complete report to the District Counsel.

15. Section 13.111 is revised to read as follows:

§ 13.111 **Claims of creditors.**

Under 38 U.S.C. 3101(a), payments made to or on account of a beneficiary under any of the laws relating to veterans are exempt, either before or after receipt by the beneficiary, from the claims of creditors and State and local taxation. The fiduciary should invoke this defense where applicable. If the fiduciary does not do so, the Veterans Services Officer should refer the matter to the District Counsel for appropriate action.

[FR Doc.75-31511 Filed 11-20-75;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations; Table of Assignments

1. The *First Report and Order* in Docket No. 20325, adopted April 23, 1975 (FCC 75-461), amended the FM Table of Assignments (§ 73.202 of the Commission's Rules) by making channel assignments to various communities, including the assignment of Channel 224A to Bloomfield, Indiana. The channel has not been applied for. The *Order* stated that the assignment was technically feasible. However, it now appears that this assumption was based on an erroneous identification of the location of an existing station with respect to zone. Bloomfield, Indiana, is located in Zone I. In order for Channel 224A to be assigned to Bloomfield, it must meet the spacing requirement to, among others, Channel 223 at Owensboro, Kentucky, licensed to Station WBKR. Owensboro, Kentucky, is located in Zone II, just south of the boundary dividing the zones. The initial calculation was based on the assumption that Station WBKR was located in Zone I. Since the distance between Station WBKR and Bloomfield is approximately 88 miles, the assignment of Channel 224A complied with the minimum mileage separation requirement of 65 miles for stations in that zone. However, Station WBKR is located in Zone II, and the required separation is 105 miles. Since it is not possible for a station operating on Channel 224A at Bloomfield to meet the provisions of Sections 73.207 and 73.315 of the Rules, the Channel 224A assignment there will be deleted.

2. The Table of FM Assignments presently lists Channel 295 at City of Nansemond, Virginia, and Channel 244A at Oceanlake, Oregon. It appears that, on January 1, 1974, the merger of the City of Nansemond and the city of Suffolk was effected and the name of Suffolk was retained. It also appears that the city of Oceanlake merged, during the last U.S. Census period, with the cities of DeLake and Taft, Oregon, and was renamed Lincoln City, Oregon. Thus the FM Table will be amended to reflect the changes in the identification of communities of assignments.

3. In view of the above action to change the community identification, the FM Table should also reflect the present FM channel usage at Suffolk, Virginia. Presently Channel 225 is listed as assigned to Norfolk-Newport News, Virginia. However, it is used at Suffolk by Station WFOG. Thus, concurrently with the change reflecting the Nansemond reassignment, the table will also be amended by deleting Channel 225 at Norfolk-Newport News and assigning it to Suffolk.

4. This amendment to the rules is adopted pursuant to the authority contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules. Since this amendment constitutes a corrective measure, imposes no new requirements, and will not adversely affect the rights of any licensee, prior notice of proposed rulemaking and the usual effective date requirements of the Administrative Procedure Act are unnecessary. 5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3).

5. Accordingly, *It is ordered,* That effective December 23, 1975, the Table of FM Assignments, Section 73.202(b) of the rules and regulations, *is amended* to read as follows:

City:	*Channel No.*
Bloomfield, Ind	----
Lincoln City, Oreg	244A
Oceanlake, Oreg	----
City of Nansemond, Va	----
Norfolk-Newport News, Va	239, 247, 254, 259, 263, 275, 283, 287
Suffolk, Va	225, 295

Adopted: November 10, 1975.

Released: November 12, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.75-31523 Filed 11-20-75;8:45 am]

[Docket No. 20265]

PART 73—RADIO BROADCAST SERVICES

Correction

1. In its Report and Order, FCC 75-769 released July 14, 1975, and published at 40 F.R. 29850 in Docket No. 20265, 54 F.C.C. 2d 1, the Commission adopted certain amendments to §§ 73.14, 73.37, 73.41, and 73.51 of the rules and regulations. In an Errata adopted July 16, 1975, FCC 75-684, certain corrections were made in the amendments to §§ 73.37 and 73.51, and by a Memorandum Opinion and Order, adopted August 19, 1975 (FCC 75-974), 54 F.C.C. 2d, 1027 disposing of petitions for reconsideration, amendments were made of the Notes appended to Section 73.37, and of the text of Section 73.41.

2. It has now been brought to our attention that, through an erroneous formulation of the instructions for the amendment of § 73.37, as contained in the Report and Order of June 27, paragraph (e)(3) has been retained, whereas it was intended that this subparagraph be deleted in its entirety. This error has remained undetected and uncorrected up to the present time.

3. Accordingly, paragraph (e)(3) of § 73.37 should now be deleted.

Released: November 17, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.75-31524 Filed 11-20-75;8:45 am]