two conditions. The extension will allow the State an opportunity to revise previously submitted material and to provide additional materials to meet the conditions which will reflect the organizational changes. Thus, the Secretary hereby extends the deadline for Tennessee to satisfy conditions "i" and "j" to April 30, 1983.

Following the submission of additional materials, the public will be provided an opportunity to comment on their adequacy in meeting the conditions before the Secretary makes his final decision to approve or disapprove the amendments.

Additional Determinations

1. *Compliance with the National Environmental Policy Act.*—The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act.*—On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule does not impose any new requirements; rather, it ensures that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act.*—This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 942

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Accordingly, 30 CFR Part 942 is amended as set forth herein.

Dated: February 18, 1983.

Daniel N. Miller, Jr.,

Assistant Secretary for Energy and Minerals.

PART 942—[AMENDED]

§ 942.11 [Amended]

1. 30 CFR Part 942.11 is amended in paragraphs (i) and (j) by substituting "April 30, 1983," for "October 31, 1982" in each paragraph.

[FR Doc. 83-4883 Filed 2-24-83; 8:45 am]
BILLING CODE 4310-05-M

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 354

Regulations Governing Book-Entry Securities of the Student Loan Marketing Association (Sallie Mae)

AGENCY: Fiscal Service, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury, acting for the Student Loan Marketing Association (Sallie Mae), hereby issues regulations to govern the issuance of, and transactions in, all Sallie Mae securities issued in book-entry form. The securities shall be held in accounts maintained through Federal Reserve Banks, acting as fiscal agents for the Association by designation of the Department of the Treasury. These regulations shall apply only to Sallie Mae securities issued in book-entry form on or before September 30, 1983. The regulations permit the Student Loan Marketing Association to issue and market its securities in non-competitive form to a wider class of investors.

EFFECTIVE DATE: February 25, 1983.

FOR FURTHER INFORMATION CONTACT: Joanne W. Trimble, Senior Staff Attorney, Student Loan Marketing Association. (202-333-8000)

SUPPLEMENTARY INFORMATION: The Student Loan Marketing Association, established by the Congress as a private corporation and financed by private capital, serves as a secondary market and warehousing facility for student loans. The Association, popularly referred to as "Sallie Mae," is authorized, with the approval of the Secretary of the Treasury, to issue obligations having such maturities and bearing such rate or rates of interest as may be determined by the Association.

The Secretary of the Treasury, to discharge fully his responsibility for approving the issuance of Sallie Mae securities, had designated the Federal Reserve Bank of New York to act as fiscal agent for the Association. To facilitate the issuance of, and transactions in, Sallie Mae securities, the Secretary of the Treasury hereby authorizes all Federal Reserve Banks, as fiscal agents, to maintain for the Association securities issued in book-entry form.

The authority of the Federal Reserve Banks to act as fiscal agents for the Student Loan Marketing Association and for the Association to issue securities pursuant to these regulations, shall terminate on September 30, 1983. Sallie Mae obligations issued prior to that date shall continue to be serviced by Federal Reserve Banks, as fiscal agents, until their respective maturities, and these regulations shall apply to such obligations for the period that they remain outstanding.

It has been determined that these regulations, which are based on book-entry regulations governing United States securities heretofore published by the Fiscal Service, Department of the Treasury in Parts 306 and 350 of Title 31, Code of Federal Regulations, do not require a notice of proposed rulemaking as they involve the fiscal policy of the United States, and that they are not a "major rule" for purposes of Executive Order 12291, dated February 17, 1981.

List of Subjects in 31 CFR Part 354

Bonds, Securities.

Dated: February 22, 1983.

John Kilcoyne,

Assistant Fiscal Assistant Secretary.

Title 31, Code of Federal Regulations is amended by adding a Part 354 to read as follows:

PART 354—REGULATIONS GOVERNING BOOK-ENTRY SECURITIES OF THE STUDENT LOAN MARKETING ASSOCIATION (SALLIE MAE)

Authority: Section 1087-2(h)(1) of the Higher Education Act of 1965, as amended, 88 Stat. 265; 94 Stat. 1427-1430; 95 Stat. 457 (20 U.S.C. 1087-2); 12 U.S.C. 391; and 5 U.S.C. 301.

§ 354.0 Applicability and effect.

(a) *Applicability.* The regulations in this part govern the issuance of, and transactions in, all securities issued by the Student Loan Marketing Association, sometimes hereafter referred to as "Sallie Mae" or "Association," on or before September 30, 1983.

(b) *Effect.* The Sallie Mae securities to which these regulations apply are obligations, which, by the terms of their issue, are available exclusively in book-entry form, or, which, by the terms of their issue, or otherwise, are convertible from book-entry to definitive form, or vice versa.

§ 354.1 Definition of terms.

In this part, unless the context otherwise requires or indicates:

(a) "Reserve Bank" means a Federal Reserve Bank acting as fiscal agent for Sallie Mae and, when indicated, in its individual capacity.

(b) "Sallie Mae" means the Student Loan Marketing Association, a stockholder-owned corporation established in 1972 by the Higher Education Act of 1965, Pub. L. 92-318, 86 Stat. 265 (20 U.S.C. 1087-2), to provide liquidity for financial and educational institutions and other lenders participating in the Federal Guaranteed Student Loan Program and the Health Education Assistance Loan Program to support the credit needs of students.

(c) "Sallie Mae security" or "security" means notes, bonds, debentures or other similar obligations of the Student Loan Marketing Association issued under the Higher Education Act of 1965, as amended.

(d) "Definitive Sallie Mae security" or "definitive security" means a Sallie Mae security issued in engraved or printed form.

(e) "Book-entry Sallie Mae security" or "book-entry security" means a Sallie Mae security issued in the form of an entry made as prescribed in this part on the records of a Federal Reserve Bank.

(f) "Convertible" means a definitive Sallie Mae security that is convertible into a book-entry Sallie Mae security or vice versa.

(g) "Pledge" includes a pledge of, or any other security interest in, book-entry Sallie Mae securities as collateral for loans or advances, or to secure deposits of public moneys or the performance of an obligation.

(h) "Depository institution" means any national bank, or State bank, other bank or trust company, or any other financial institution, authorized under the Monetary Control Act of 1980, to secure Reserve Bank services.

(i) "CUSIP number" is a unique identification for each security issue established by the Committee on Uniform Security Identification Procedures.

§ 354.2 Authority of Reserve Banks.

Each Reserve Bank is hereby authorized, in accordance with the provisions of this part, to:

(a) Issue book-entry Sallie Mae securities by means of entries on its records, which shall include the name of the Bank's depositor, the latter's employer identification number, where appropriate, and the amount, maturity date and CUSIP number of each security;

(b) Effect conversions between book-entry Sallie Mae securities and definitive Sallie Mae securities;

(c) Service and maintain book-entry Sallie Mae securities; and

(d) Issue a confirmation of transaction in the form of an advice (serially-numbered or otherwise), which specifies the amount, maturity date, and CUSIP number of the security, as well as the date of the transaction.

(e) The foregoing authority shall terminate at the close of business on September 30, 1983, except that, with respect to each issue of book-entry Sallie Mae securities outstanding on said date, the authority shall terminate on its respective maturity date.

§ 354.3 Scope and effect of book-entry Sallie Mae securities accounts.

(a) *Scope and effect of accounts at Reserve Bank.* The Reserve Banks, as fiscal agents for the Student Loan Marketing Association, may apply the regulations in this part to any Sallie Mae securities which are available either in book-entry or definitive form, which have been or are hereafter deposited with a Reserve Bank for any purpose, or which, by the terms of their issuance, are available only in book-entry form, in accounts held in its individual capacity under terms and conditions which indicate that the Reserve Bank will continue to maintain such deposit accounts in its individual capacity notwithstanding their maintenance in book-entry form. This paragraph shall be applicable, but not limited to, Sallie Mae securities deposited or maintained:

(1) As collateral pledged to the Reserve Bank (in its individual capacity) for advances by it;

(2) For a depository institution for its sole account;

(3) For a depository institution held for the account of its customers;

(4) In connection with deposits in a depository institution of funds of States, municipalities, or other political subdivisions;

(5) In connection with the performance of an obligation or duty under federal, state, municipal, or local law, or judgments or decrees of courts.

The maintenance of book-entry Sallie Mae securities under this paragraph shall not derogate from or adversely affect the relationships that would otherwise exist between a Reserve Bank, in its individual capacity, and the entities for which accounts are maintained. Whenever Sallie Mae securities are held in book-entry form, the Reserve Bank is authorized to take all actions necessary in respect of said securities to enable such Reserve Bank, in its individual capacity, to perform its obligations as depository with respect to such Sallie Mae securities.

(b) *Conversion of securities to book-entry.* A Reserve Bank shall convert to book-entry any Sallie Mae securities deposited in definitive form as collateral pledged to the United States, and may hold as book-entries any Sallie Mae securities deposited therewith.

(c) *Consent to conversion.* Any person having an interest in Sallie Mae securities, which are available in either definitive or book-entry form, which are deposited in definitive form with a Reserve Bank (in either its individual capacity or as fiscal agent of the Student Loan Marketing Association) for any purpose shall be deemed to have consented to their conversion to book-entry Sallie Mae securities pursuant to the provisions of this part and in the manner and under procedures prescribed by the Reserve Bank.

§ 354.4 Transfer or pledge.

(a) *Reserve Bank records.* A transfer or a pledge of book-entry Sallie Mae securities to a Reserve Bank or to any transferee or pledgee eligible to maintain an appropriate book-entry account in its name with the Reserve Bank under this part, is effected and perfected, notwithstanding any provision of law to the contrary, by the Reserve Bank making an appropriate entry in its records of the Sallie Mae securities transferred or pledged. The making of such an entry in the records of the Reserve Bank shall:

(1) Have the same effect as the delivery of Sallie Mae securities in bearer definitive form;

(2) Have the effect of a taking of delivery by the transferee or pledgee;

(3) Constitute the transferee or pledgee a holder;

(4) If a pledge, effect a perfected security interest therein in favor of the pledgee. A transfer or pledge of book-entry Sallie Mae securities shall have priority over any transfer, pledge or other interest, theretofore or thereafter effected or perfected under paragraph (b) of this section or in any other manner.

(b) *Member banks or others.* A transfer or a pledge of book-entry Sallie Mae securities, or any interest therein, maintained by a Reserve Bank (in its individual capacity or as fiscal agent of

Sallie Mae) in a book-entry account under this part, including Sallie Mae securities in book-entry form under § 354.3, is effected, and a pledge is perfected, by any means that would be effective under applicable law to effect a transfer or to effect and perfect a pledge of Sallie Mae securities or any interest therein, if the securities were maintained by the Reserve Bank in bearer definitive form. For purposes of transfer or pledge hereunder, book-entry Sallie Mae securities maintained by the Reserve Bank shall, notwithstanding any provision of the law to the contrary, be deemed to be maintained in bearer definitive form. The Reserve Bank maintaining book-entry Sallie Mae securities either in its individual capacity, or as agent of Sallie Mae, is not a bailee for purposes of notification of pledges of those securities under this paragraph. Where Sallie Mae securities are recorded on the books of an entity for account of the pledgor or transferor thereof and such securities are on deposit or are maintained with the Reserve Bank in a book-entry account hereunder, such entity shall, for purposes of perfecting a pledge of such securities or effecting their delivery to a purchaser under applicable provisions of law, be the bailee to which notification of the pledge of the securities may be given or the third person in possession from which acknowledgment of the holding of the securities for the purchase may be obtained. The Reserve Bank will not accept notice or advice of a transfer or a pledge effected or perfected under this paragraph, and any such notice or advice shall have no effect. The Reserve Bank may continue to deal with its depositors in accordance with the provisions of this part, notwithstanding any transfer or pledge effected or perfected under this paragraph.

(c) *Filing and recording unnecessary.* No filing or recording with a public recording office or officer shall be necessary or effective with respect to any transfer or pledge of book-entry Sallie Mae securities or any interest therein.

(d) *Conversion.* The Reserve Bank shall, upon receipt of appropriate instructions, convert book-entry Sallie Mae securities into definitive Sallie Mae securities, if convertible, and deliver them in accordance with such instructions. No such conversion shall affect existing interests in such Sallie Mae securities.

(e) *Transfer by Reserve Bank.* A transfer of book-entry Sallie Mae securities within a Reserve Bank shall be made in accordance with the procedure established by the Bank not inconsistent with this part. The transfer of book-entry Sallie Mae securities by a Reserve Bank may be made through a telegraphic transfer procedure.

(f) *Timeliness of requests.* All requests for transfer, withdrawal or any authorized transaction, must be received prior to the date of call or maturity of the security.

§ 354.5 Withdrawal of Sallie Mae securities.

(a) *Withdrawal of convertible securities.* A depositor of book-entry Sallie Mae securities may withdraw them, if convertible, from a Reserve Bank by requesting delivery of like definitive Sallie Mae securities to itself or, on its order, to a transferee.

(b) *Registration.* Sallie Mae securities, issued on or after the effective date of these regulations, which, by the terms of their issuance, are available in definitive form, may be withdrawn in registered form only.

§ 354.6 Delivery of Sallie Mae securities.

Where a Reserve Bank has received Sallie Mae securities and effected pledges, made entries regarding them, or transferred or delivered them according to the instructions of its depositor, it shall not be liable for conversion or for participation in breach of fiduciary duty even though the depositor has no right to dispose of or take other action in respect of the securities. A Reserve Bank shall be fully discharged of its obligations under this part by the transfer or delivery of Sallie Mae securities in book-entry form to its depositor or upon the order of such depositor. Customers of a depository institution or other entity (other than a Reserve Bank) may obtain Sallie Mae securities in definitive form, if convertible, only by causing the depositor of the Reserve Bank to order the withdrawal thereof from the Reserve Bank.

§ 354.7 Classes of accounts.

A Reserve Bank is authorized to maintain book-entry Sallie Mae securities for depository institutions located in its district for securities such institutions hold for their own account, or hold for the account of their customers, and as otherwise specified in § 354.3. Purchasers of book-entry Sallie Mae securities, on original issue or otherwise, may have such securities maintained in book-entry form at depository institutions of a Federal Reserve Bank or in accounts maintained at entities providing securities safekeeping services for customers (*e.g.*, securities dealers) which have related accounts at such institutions.

§ 354.8 Identification of accounts.

Book-entry accounts may be established in such form or forms as customarily permitted by the entity (*e.g.*, depository institution, securities dealer, etc.) maintaining them, except that each account should include data to permit both customer identification by name, address, and taxpayer identifying number, as well as a determination of the Sallie Mae securities being held in such account by amount, maturity, date, and CUSIP number, and of transactions relating thereto.

§ 354.9 Servicing book-entry Sallie Mae securities.

Payment of interest; payment at upon call or at maturity.

(a) *Payment of interest.* Interest becoming due on book-entry Sallie Mae securities shall be charged to the appropriate Sallie Mae account at the Reserve Bank on the interest-due date and remitted or credited in accordance with the instructions of the depository institution.

(b) *Payment of principal.* Upon call or at maturity book-entry Sallie Mae securities shall be redeemed and charged to the appropriate Sallie Mae account at the Reserve Bank and the redemption proceeds, i.e., principal and any interest payable with the principal, shall be disposed of in accordance with the instructions of the depository institution for whose account the securities were maintained.

[FR Doc. 83-4962 Filed 2-24-83; 8:45 am]
BILLING CODE 4810-40-M

DEPARTMENT OF EDUCATION

34 CFR Part 601

Eligibility of Foreign Medical Schools Under the Guaranteed Student Loan Program (GSLP)

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary issues regulations for the purpose of determining whether medical schools located outside the United States and Canada are eligible to apply for participation in the Guaranteed Student Loan Program (GSLP). Participation in the GSLP by a foreign medical school means that its students who are citizens or nationals of the United States may apply for loans from eligible lenders under that program. These regulations establish new procedures and criteria that will be used by the Secretary in determining eligibility.

EFFECTIVE DATE: Unless Congress takes certain adjournments, these regulations will take effect 45 days after publication in the **Federal Register.** If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Mr. Richard J. Rowe, Director, Eligibility and Agency Evaluation Staff, Office of Postsecondary Education, United States Department of Education, Washington, D.C. 20202, Telephone (202) 245-9873.

SUPPLEMENTARY INFORMATION:

Background

Section 435(a) of the Higher Education Act of 1965, as amended, provides that foreign schools are eligible to apply for participation in the Guaranteed Student Loan Program (GSLP) if they are comparable to institutions of higher education or vocational schools located in the United States and are otherwise approved by the Secretary for purposes of the GSLP.

Sections 435 (b) and (c) of the Higher Education Act of 1965, as amended, provide that institutions of higher education and vocational schools located in the United States must, among other things, be accredited to be eligible to apply for participation in the GSLP. In the United States there is a nationally recognized accrediting agency which accredits medical schools. The same nationally recognized accrediting agency which accredits United States medical schools also accredits medical schools located in Canada. Accordingly, the Secretary is able to use the same procedures and criteria for determining the eligibility of Canadian medical schools under the GSLP as are used for United States medical schools.

With respect to foreign medical schools other than those in Canada, however, there exists no accrediting agency on whose opinion the Secretary can rely. No organization comparable to a nationally recognized accrediting agency makes site reviews of foreign medical schools and makes expert judgments as to the content, scope, and quality of the training offered, nor does the Secretary have the resources to undertake such reviews. The Secretary recognizes the great value an international accrediting agency such as the one just described would have to the American educational community, and the Secretary encourages the establishment of such an agency as the most effective means of monitoring the educational quality of all foreign schools, including foreign medical schools. The regulations promulgated by the Department concerning foreign medical school eligibility under the GSLP are viewed as only an interim solution in only one limited area of the much broader problem of assessing the "comparability" of all foreign schools which are not now monitored by a comprehensive international accrediting body.

In making past eligibility determinations regarding foreign medical schools, the Department sought to determine two facts—whether the medical school was "recognized" or "approved" by any relevant foreign professional organization or government ministry, and whether the educational programs offered by the medical school were of adequate quality by American standards. In making these determinations, the Department sought and considered information from every available source.

With respect to "recognition" of foreign medical schools, the primary sources of information included international directories, yearbooks or handbooks, and organizations of such institutions within the foreign country, for example, the Association of Commonwealth Universities for countries in the British Commonwealth of Nations, or the Union of Latin American Universities.

Sources of information relating to the quality of a medical school included school catalogs, foreign educational organizations and direct observations by third parties. These sources, however, did not always provide reliable information, or any information, about the quality of a school, especially one which had just opened. As a practical matter, therefore, in the absence of any reliable information volunteered by these sources which indicated that a school's educational quality was unsatisfactory, the school's educational quality was assumed to be "comparable", and therefore the school was granted eligibility.

By January 1978, the Department (at that time, the United States Office of Education) had concluded that the indicators of quality it had primarily relied upon in the past were not totally reliable indicators of quality and, in many cases, were not objective or verifiable. The Department therefore decided, under the authority of sections 435(b) and 435(c) of the Higher Education Act, to appoint a special advisory committee of qualified experts, to recommend more reliable measures of the quality of education provided at foreign medical schools as compared with the quality of that provided at United States medical schools. The committee recommended an objective standard for measuring relative medical school quality—performance of a school's three most recent graduating classes on a commonly taken, standardized test of medical knowledge, the examination given by the Educational Commission for Foreign Medical Graduates (ECFMG), Philadelphia, Pennsylvania.

The then Commissioner of Education took cognizance of the "comparability" measure recommended by the special advisory committee, and this measure formed the basis for the Notice of Proposed Rulemaking (NPRM) published by the Department in the **Federal Register** on April 23, 1979 (44 FR 23888) as proposed subpart E of 45 CFR Part 149 (now redesignated as 34 CFR Part 601).

These final regulations adopt as a measure of institutional "comparability" the "output" measure set forth in the proposed regulations of April 23, 1979, but with some modifications made in light of comments submitted by members of the public.

Specifically, the Secretary will require that for a foreign medical school to be eligible to participate in the GSLP, its students who are United States citizens or nationals must have passed the ECFMG examination on 50 percent of the occasions on which such United States citizens or nationals took the ECFMG examination during the most recent twenty-four month period for which data are available from the Educational Commission for Foreign Medical Graduates. The ECFMG examination is a common and readily accessible examination by which a United States citizen or national who is attending a foreign medical school may qualify for entry into the United States health care system. Public comment on the proposed regulations provided information that the ECFMG examination, though not actually taken by United States-trained medical students, would, by design, be passed by at least 87 percent of such United States-trained medical students on a given testing. Therefore, the Secretary considered setting the minimum pass rate for "comparable" foreign medical schools at 87 percent. For reasons set forth in detail in Appendix A, however, groups of students at *individual* foreign medical schools who are United States citizens or nationals cannot each be fairly expected to achieve or exceed the *average* pass rate that the *entire group* of domestically-trained American medical students would be expected to achieve on the ECFMG examination. The Secretary believes instead that a pass rate of *50 percent* at a foreign medical school establishes a reasonable likelihood that its students who are United States citizens or nationals will successfully enter the United States health care delivery system at a rate comparable to that at which graduates of many accredited domestic medical schools enter the system, thereby evidencing a similar reasonable likelihood that the foreign medical school's academic program is comparable to that of most accredited American medical schools.

The only schools which will not have to comply strictly with the 50 percent pass rate requirement are those schools that only a very small number of Americans attend. The Secretary will deal with those schools in a more flexible fashion, in light of the possible unfairness to those schools of making eligibility decisions based on an exceedingly small sample of student performance.

Section 601.4(c), like the corresponding section in the proposed regulations, provides that an eligible school must provide a period of clinical and classroom medical education of not less than 32 months. Unlike the corresponding section in the proposed regulations, however, § 601.4(c) provides that an eligible school must directly supervise the education it provides its students and must provide such education in facilities adequately equipped and staffed to afford students comprehensive clinical and classroom medical training. Section 601.4(c) has been modified in response to the views of many commenters and in light of the findings of the General Accounting Office (GAO) set forth in its report "Policies on U.S. Citizens Studying Medicine Abroad Need Review and Reappraisal" (HRD-81-32, issued November 21, 1980).

The purpose of § 601.4(c) as modified is both to provide greater assurance that the facilities and staff of an eligible foreign medical school are comparable to those of most accredited United States medical schools and to provide assurance that the eligible foreign medical school is itself providing the educational services its students' loan proceeds are intended to pay for. The Department intends to require a school to submit information relevant to this criterion only after the school has demonstrated its satisfaction of all other criteria for statutory eligibility, thereby reducing the administrative burdens placed upon many applicants and upon the Department in its implementation of these regulations.

The criterion set forth in § 601.4(d) provides that a foreign medical school which has not yet graduated two classes will be unable to qualify. The Secretary believes that approval of a new foreign medical school should not be issued until the school has become firmly established and its entire educational program has been exposed to a significant number of students.

In addition, foreign medical schools must demonstrate, as they have had to do in the past, that they meet a number of other basic requirements, such as being listed in the *World Directory of Medical Schools* published by the World Health Organization and being recognized by evaluative bodies in their own countries.

Once a foreign medical school is determined eligible to apply for participation in the GSLP, the Secretary will not review the ECFMG examination scores of that school's students again for two years. After two years, another review of those scores will be required. Therefore, even if a school's pass rate drops below the ECFMG pass rate criterion during those two years, the school will not lose its eligibility for the GSLP. The purpose of this provision is to reduce the administrative burdens placed upon eligible foreign medical schools and upon the Department in the implementation of these regulations.

A foreign medical school will lose its eligibility immediately, however, if at any time it no longer meets any eligibility criterion other than the ECFMG pass rate criterion. Most of these criteria are fundamental to a school's existence as a medical school and are satisfied by a foreign medical school early in its existence; it is highly unlikely that a foreign medical school, once eligible, will subsequently fail to meet one of these criteria. If a school does lose its eligibility because it no longer meets an eligibility criterion other than the ECFMG pass rate criterion, however, no student attending that school may receive a Guaranteed Student Loan Program loan during that school's ineligibility. The only exception to this rule is the situation of a student who, on the publication date of these regulations, is attending a foreign medical school which is eligible to participate in the GSLP and who is a recipient of a GSLP loan for a previous period of study at that school. Such a student may qualify to receive additional GSLP loans for the remainder of his or her enrollment at the school, thereby mitigating any deleterious effects the Department's promulgation of these regulations might have had upon a student who is currently attending an eligible school and is financing his or her education at least in part with GSLP loans.

Similarly, when a foreign medical school that has established its eligibility to apply under these regulations subsequently loses its eligibility solely because of its failure, after two years of eligibility, to continue to meet the ECFMG pass rate criterion, those students who received loans under the GSLP while the school was eligible may qualify to receive additional loans for the remainder of their enrollment at the school; however, no other students at the school may qualify for GSLP loans during the school's ineligibility. The purpose of this rule is to give students a fairly high degree of assurance that an educational program begun at an eligible foreign medical school with the help of GSLP loans may be completed with the help of GSLP loans as well.

Summaries of changes resulting from public comment and summaries of other comments that did not result in changes in these regulations, together with the Secretary's responses to those comments, are contained in Appendices A and B following these regulations.

Executive Order 12291: These regulations have been reviewed in accordance with Executive Order 12291. They are classified as non-major because they do not meet the criteria for major regulations established in the order.

List of Subjects in 34 CFR Part 601

Colleges and universities, Education, Foreign medical schools.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these final regulations.

(Catalog of Federal Domestic Assistance 84.032—Guaranteed Student Loan Program)

Dated: February 18, 1983.

T. H. Bell,

Secretary of Education.

The Secretary adds a new Part 601 to Chapter VI of Title 34 of the Code of Federal Regulations, to read as follows:

PART 601—ELIGIBILITY OF FOREIGN MEDICAL SCHOOLS UNDER THE GUARANTEED STUDENT LOAN PROGRAM (GSLP)

Sec.

Authority: Sections 432 and 435(a) of the Higher Education Act of 1965, as amended (20 U.S.C. 1082, 1085(a)).

§ 601.1 Purpose and scope.

(a) An educational institution located outside the United States is eligible to apply for participation in the Guaranteed Student Loan Program (GSLP) if it is comparable to medical schools in the United States and has been otherwise approved by the Secretary for purposes of the GSLP. This subpart sets forth procedures and criteria by which the Secretary determines whether medical schools located outside the United States and Canada are eligible to apply for participation in the GSLP. "Participation" in the GSLP by a foreign medical school means that its students who are citizens or nationals of the United States may apply for loans from eligible lenders under that program.

(b) This subpart does not cover the procedures and criteria by which a foreign medical school determined eligible to apply for participation in the GSLP actually applies for such participation. Those procedures and criteria are set forth in the GSLP regulations, 34 CFR Part 682.

(c) With respect to medical schools located in Canada, the Secretary uses the same procedures and criteria for determining eligibility as for medical schools located in the United States, because the nationally recognized accrediting agency which accredits medical schools located in the United States also accredits medical schools located in Canada. Similarly, any other school, wherever located, which acquires the accreditation of an accrediting agency which the Secretary recognizes as comparable to the agency which accredits United States medical schools shall be subject to the procedures and criteria applied to United States medical schools, rather than to the provisions of this part.

(20 U.S.C. 1082, 1085)

§ 601.2 Definitions.

For purposes of this subpart:

"Foreign medical school" means a medical school not located in a State or in Canada.

"Guaranteed Student Loan Program (GSLP)" means the student loan program authorized by Title IV, Part B of the Higher Education Act of 1965, as amended (20 U.S.C. 1071 to 1087–2, regulations in 34 CFR Part 682) and includes the PLUS program (Auxiliary Loan Program, regulations in 34 CFR Part 683), also authorized by Part B.

"Medical school" means a school which satisfies the criteria for listing as a medical school in the *World Directory of Medical Schools* published by the World Health Organization (WHO).

"Pass rate" means the number of examinations passed (with passing scores on both medicine *and* English sections) by persons counted as "United States citizens" for tabulation purposes by the ECFMG who were graduates of the medical school, or in attendance at the school, at the time the examinations they passed were administered, divided by the number of examinations taken by all persons counted as "United States citizens" for tabulation purposes by the ECFMG who were graduates of the medical school, or were in attendance at the school, at the time the examinations they took were administered, expressed as a percentage.

"State" or "United States" includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

(20 U.S.C. 1082, 1085, 1141)

§ 601.3 Requesting an eligibility determination.

The Secretary may determine a foreign medical school eligible to apply for participation in the GSLP at any time, upon the request of either:

(a) A person who is

(1) Enrolled, or accepted for enrollment, at that school, and

(2) Otherwise eligible to receive a GSLP loan, or

(b) The school, on behalf of eligible students in attendance.

(20 U.S.C. 1082, 1085)

§ 601.4 Criteria for determination of eligibility to apply for participation in the GSLP.

The Secretary determines that a foreign medical school is eligible to apply for participation in the GSLP only if it meets all of the following criteria:

(a) The school is a medical school, as defined in § 601.2.

(b) The school is both recognized as a medical school and approved by those evaluating bodies (such as medical associations or educational agencies) in the country in which the school is located whose views are considered relevant by the Secretary.

(c) The school provides, and in the normal course requires its students to complete, a program of clinical and classroom medical instruction of not less than 32 months in length, which is supervised closely by members of the school's faculty and which is provided either (1) outside the United States, in facilities adequately equipped and staffed to afford students comprehensive clinical and classroom medical instruction, or (2) in the United States, through a training program for foreign medical students which has been approved by all medical licensing boards and evaluating bodies whose views are considered relevant by the Secretary.

(d) The school has graduated classes during each of the two twelve-month periods immediately preceding the date the Secretary receives the school's request for an eligibility determination.

(e) During the most recent twenty-four month period for which data is available prior to the date the Secretary receives a request for a determination of the school's eligibility, the school's American students have achieved a pass rate of not less than 50 per cent on the examination of the Educational Commission for Foreign Medical Graduates (ECFMG), Philadelphia, Pennsylvania; provided, however, that if the number of ECFMG examinations taken by American students or graduates of the school during the preceding twenty-four month period is less than eight, the Secretary shall not deem the school to have failed to satisfy this criterion unless, after assessing the ECFMG examination performance of the school's students and graduates over a preceding period greater than twenty-four months, the Secretary concludes that the ECFMG examination performance of the school's students and graduates has been significantly and consistently substandard for a prolonged period of time.

(20 U.S.C. 1082, 1085)

§ 601.5 Duration of eligibility determination.

(a) A determination by the Secretary that a foreign medical school is eligible to apply for participation in the GSLP is effective for two years, subject to the qualifications set forth in § 601.6. The determination is not rescinded during the two-year period even if at any time during that period the school no longer meets the criterion set forth in § 601.4(e).

(b) At any time, the Secretary may require a school or student to update the information the school or student provided in an earlier request for an eligibility determination.

(20 U.S.C. 1082, 1085)

§ 601.6 Determination that a school previously eligible under this subpart is no longer eligible.

(a) If at any time a school previously eligible under this subpart no longer meets any of the criteria set forth in § 601.4 other than the criterion set forth in § 601.4(e), it loses its eligibility on the date it no longer meets that criterion. In such a case, except as provided in § 601.7, no student may subsequently receive a GSLP loan for attendance at that school, until the school's eligibility is restored.

(b) Upon a determination, made by the Secretary after the expiration of the two-year period described in § 601.5, that a foreign medical school which was previously eligible under this subpart no longer satisfies the criterion set forth in § 601.4(e) but satisfies all other eligibility criteria, only those students enrolled at the foreign medical school who actually received GSLP loans for a period during which the school was eligible under this subpart may receive additional loans for the remainder of their enrollment at the school, provided the school continues to satisfy all eligibility criteria other than the criterion set forth in § 601.4(e) and provided those students continue to satisfy all other student eligibility requirements.

(20 U.S.C. 1082, 1085)

§ 601.7 Exception for student who received GSLP loan to attend foreign medical school prior to publication date of this subpart.

Any student who was enrolled at a foreign medical school that was eligible to participate in the GSLP on the publication date of this subpart and who actually received a GSLP loan to attend that school for a period during which the school was eligible to participate in the GSLP may receive GSLP loans for the remainder of his or her enrollment at that school, despite the school's loss of eligibility under this subpart, provided the school continues to be a medical school, as defined in § 601.2, and provided the student continues to satisfy all other student eligibility requirements.

(20 U.S.C. 1082, 1085)

Note.—This Appendix is included for information. It is not to be codified in the Code of Federal Regulations.

Appendix A—Summary of Changes Resulting From Rulemaking

A Notice of Proposed Rulemaking was published in the **Federal Register** on April 23, 1979 as Subpart E of 45 CFR Part 149 (44 FR 23888–23890), now redesignated as 34 CFR Part 601. Interested persons were given 60 days in which to comment. Comments were analyzed in relation to their bearing on the fundamental concern of these regulations—namely, that American students in foreign medical schools benefit from a medical education which is comparable to that offered by most accredited American medical schools. Discussed below are those comments that resulted in changes from positions taken in the Department's proposed regulations.

1. *Section 601.4(a)—listing in the World Directory of Medical Schools.*

Comments. Several commenters indicated that a foreign medical school's listing in the *World Directory of Medical Schools* published by the World Health Organization (WHO) is not an indication of the quality of that medical school's program, but only an indication that that school has been licensed to operate by its country's government. These commenters suggested that the WHO listing requirement be deleted.

Response. The Department fully agrees with the substantive point made by these commenters but points out that WHO listing is merely one of a number of requirements a foreign medical school must meet in order to be eligible to apply for GSLP participation. The Department, however, as the result of these comments, has incorporated the WHO listing requirement into the definition of "medical school" for purposes of these regulations, arguably a more appropriate location.

2. *Section 601.4(c)—concern over the nature of the instruction provided at a foreign school.*

Comments. Proposed section 149.84, among other things, proposed to require an eligible foreign medical school to provide a period of "instruction" of at least 32 months, without specifying the characteristics of that "instruction". The generality of this proposed provision reflects the Department's acknowledged lack of the resources necessary to do site reviews at foreign institutions and its recognition of the fact that inexpert third-party reports concerning the facilities and staff of a foreign institution are not always completely accurate or reliable. However, a substantial number of commenters, including *some students enrolled at foreign medical schools at the time they submitted their comments,* expressed great concern and dissatisfaction regarding the lack of comprehensive *clinical* training at a number of foreign medical schools. They similarly questioned whether a high pass rate among its students on the ECFMG examination guarantees that a foreign medical school is providing adequate clinical training.

These comments were bolstered by the findings of a review done by the United States General Accounting Office (GAO) (HRD–81–32 issued November 21, 1980), based upon site visits to six foreign medical schools in the Caribbean, Mexico and Europe, made between July and November 1979. A major shortcoming at each school, the GAO found, was a lack of adequate clinical training facilities; at some schools, clinical faculty and clinical curriculum were found to be lacking or of poor quality as well. The GAO also found that though some foreign medical schools attempt to compensate for their lack of adequate clinical facilities by sending their students to the United States for clinical training, the United States programs to which those students are sent often have not been approved by State medical licensing boards or other relevant professional agencies in the jurisdiction in which the programs are conducted. Furthermore, students sent to the United States for clinical training, the GAO found, often are not supervised at all by staff members of the foreign medical school to whom the students have paid their tuition.

Response. Since in the opinion of the concerned commenters and the GAO, adequate clinical training is an absolutely essential component of a medical doctor's education, the Department feels it should examine the nature of the training provided by a foreign medical school in making its determination of foreign medical school eligibility. Perhaps more accurately, the Department believes it should not be precluded from considering information regarding the nature of the training provided by a foreign medical school, at least when the Department has strong reason to believe that that information is reliable.

3. *Section 601.4(e)—the ECFMG standard.* By far the most commented-upon sections of the proposed regulations were those concerning the requirement that a school demonstrate that not less than 95 percent of its American graduates during the past 24-month period had passed the ECFMG examination on their first attempt. The 95 percent figure was based upon a professional opinion, published in the *New England Journal of Medicine,* to the effect that at least 95 percent of American-trained medical graduates would be likely to pass the ECFMG on their first attempt.

(a) *The relationship between the ECFMG examination and tests taken by American-trained medical students.*

Comment. Many commenters argued that no basis existed for the 95 percent projected pass rate, noting that American medical graduates do not take the ECFMG examination and that as a result, no such comparison can be made with foreign medical school graduates' performance on the ECFMG examination.

Response. The Department has found the commenters' criticisms in this regard to be unjustified; however, as described below, as a result of information provided by *another commenter* concerning the same issue, the Department has redefined its concept of "pass rate" for purposes of the regulations and has accordingly modified the percentage associated with that concept.

According to one commenter who provided information solicited directly from the Educational Commission for Foreign Medical Graduates, there is a direct relationship between the ECFMG exam, which is taken by foreign-educated medical trainees, and Parts I and II of the examination series given by the National Board of Medical Examiners (NBME), which is taken by all American-educated medical trainees. The questions which make up the ECFMG examination are selected from a large pool of test questions which is maintained by the NBME. Each of these questions has been used in at least one previous NBME examination; hence each question has a known "track record" of performance in the previous examinations in which it was used, and precise information is available regarding the precentage of correct answers given to each question on previous examinations.

On any NBME I and II examination series, the lowest passing score in the reference group of examinees is set at 1.2 standard deviations below the mean for basic science questions and at 2.1 standard deviations below the mean for clinical science questions. In practice, these standards result in a passing score for approximately the top 89 percent on the basic science questions and for approximately the top 98 percent on the clinical science questions. Therefore, even assuming the highly unlikely circumstance that none of the NBME I and II examinees who fail the basic science section also fail the clinical science section, and *vice versa*, the maximum rate at which a group of students who take both the NBME I and II will fail one or the other section is 13 percent (11 percent basic science plus 2 percent clinical science), and the minimum pass rate, accordingly, is 87 percent.

The passing standard for any ECFMG examination, in turn, is set at the level of correct answers that it would have been necessary for American medical students to have attained in order to have passed a hypothetical NBME I and II series consisting of the questions actually used in the ECFMG examination in question. Since the ECFMG passes every student whose score is as high or higher than the lowest passing score on the hypothetical NBME series just described, and because by design no less than 87 percent of American students would achieve a passing score on that hypothetical examination, it follows that at least 87 percent of the American citizens or nationals who take a given ECFMG exam should pass it if they are as well trained as their American-trained counterparts.

There does exist, therefore, a basis for relating the performance of domestically-trained medical students on the NBME I and II examinations to the performance of foreign-trained medical students on the ECFMG examination. Indeed, because at least 87 percent of American-educated medical trainees could be expected to pass the ECFMG examination on *any* given testing, there is no need for the Department to apply its standard only to *first-time* takers of the ECFMG examination, as the Notice of Proposed Rulemaking provided; therefore, as many commenters requested, the "first time taker" provision has been deleted from the regulations.

(b) *Biasing factors in the application of the ECFMG pass rate criterion.* Though, as indicated above, a case could be made for establishing a pass rate of 87 percent with respect to all examinations taken by American students at each foreign medical school, certain comments from members of the public have convinced the Secretary to depart from the 87 percent pass rate that the statistical analysis above suggests. There are essentially three such comments that the Secretary believes are worthy of consideration.

Comments. First, as some commenters mentioned, it is clear that neither every domestic medical school nor every foreign medical school has an American student population comprised of a randomly-drawn cross section of American medical school students. Though the Department of Education has learned that no less than 87 percent of all *medical students* who take both the NBME I and II examinations will pass both examinations on the first try, the Department has been unable to obtain data from the NBME regarding the performance of United States-trained NBME test takers on a *school-by-school* basis. It is virtually certain, however, that because some United States schools are likely to enroll proportionately more passing students than other schools, on a given NBME testing series, at a substantial number of accredited domestic medical schools, less than 87 percent of the students who take the examination series pass both NBME I and II on the first try. Because not all accredited United States schools produce a group of test takers who pass the NBME I and II series at an 87 percent rate, it is arguably unfair to require all foreign schools to achieve a pass rate as high as 87 percent in order to attain GSLP eligibility.

Second, a number of comenters pointed out that the rules for certain transfer and placement programs for foreign medical students who are beyond their second year of medical education—most notably the "Fifth Pathway" programs—require foreign medical students to take the ECFMG examination substantially earlier in their education than American-trained students are required to take Part II of the NBME examination series. Therefore, the commenters asserted, because many foreign students seek to take advantage of such transfer programs, a substantial number of foreign-trained students are not as well prepared to take their first ECFMG examination as American-trained students are prepared to take their first NBME II examination. As a result, foreign-trained students should not be expected to perform as well, as a group, on the ECFMG examination as American-trained fourth-year medical students could be expected to perform on that examination.

Finally, many commenters noted that it is a common practice at foreign medical schools for students to take the ECFMG examination for the first time well before their fourth year of education, purely for purposes of gaining experience in taking the examination. In many cases, such students take the examination substantially before they have a reasonable likelihood of passing it and, as a consequence, their performance significantly reduces the overall pass rate of foreign medical students on the ECFMG examination.

Response. Because of the three factors described above, the Secretary believes it inappropriate to hold foreign medical school students to a passing standard of 87 percent on a school-by-school basis. After assessing the likely extent to which the two test-taking practices described above may depress the overall pass rate of foreign medical students on the ECFMG, and after taking into account the Department's interest in not imposing upon those foreign medical students compliance burdens not directly related to the Department's regulatory objectives, the Secretary has set the required pass rate for eligible foreign medical schools at 50 percent.

(c) *Application of the ECFMG pass rate criterion to schools with small numbers of American students.*

Comment. A final criticism of the proposed ECFMG pass rate criterion that was raised by a large number of commenters concerns the fact that the criterion could deal harshly and unfairly with foreign medical schools that graduate only a very small number of Americans each year. Commenters indicated that a school's future eligibility could depend completely upon the testing performance of that school's *one* American student each year, and that the performance of a single student is much too small a sample of overall student performance to serve as a basis for an eligibility judgment. Some commenters suggested a lower pass rates for schools with a small number of Americans, and others suggested that such schools should be entirely exempt from the pass rate criterion.

Response. The Secretary recognizes the merit of the point made by the commenters and has chosen a more flexible approach with regard to foreign medical schools at which American students have taken the ECFMG examination less than eight times during the relevenat 24-month period. The Secretary will not automatically exclude such a school merely because it fails to satisfy the ECFMG pass rate criterion applied to larger schools. The Secretary will instead survey the ECFMG examination performance of that school's American students over a period of time greater than the preceding 24 months. After that survey, the Secretary will exclude the school only if its students have performed poorly on the ECFMG examination so consistently and for such a long period of time that the Secretary finds the students' poor performance a significant indicant of an educational problem at the school. Though the Secretary will therefore exercise a great deal more discretion with respect to the eligibility of foreign medical schools with a small number of Americans, the Secretary will by no means completely exempt these schools from critical examination under the ECFMG pass rate criterion.

4. *Proposed section 149.4(h)—requirement that graduates of school be capable of being licensed in country in which school is located.*

Comment. A small number of commenters pointed out that this criterion was duplicative of the requirements of proposed section 149.84(b), regarding recognition and approval by local medical authorities; the commenters indicated that seldom, if ever, would a medical school be approved by local authorities if its graduates could not be licensed to practice in the jurisdiction those authorities regulate. Other commenters, particularly students attending Mexican medical schools, also pointed out that the concepts of "graduation" and "licensing" as thought of in the United States and many other countries do not transfer neatly to Mexico.

Response. After consideration of these comments, the Department has chosen to eliminate the criterion in question from the final regulations.

5. *Section 601.6—treatment of students in attendance at eligible school when school loses eligibility.*

Comment. A small number of commenters indicated that though they supported the proposed section which "grandfathers in" those students attending eligible schools when the regulation is issued who had received GSLP loans in the past, the commenters felt there was likewise a need for protection for *any* student who in the future is placed in a similar situation, especially when the school's loss of eligibility is due to its failure to continue to meet the ECFMG pass rate requirement.

Response. Though the Department recognizes that in general, neither foreign nor domestic students attending ineligible educational institutions are entitled to receive GSLP loans, the Department also recognizes that a foreign medical student reliant on GSLP loans is especially burdened when his or her school loses its eligibility. Moving to another eligible medical school (if that option exists) would most likely require such a student to move to another country as well as to move into a different educational system. The Department believes that for largely the same reasons it is "grandfathering in" those GSLP recipients attending eligible foreign medical schools on the date the regulation is published, a continuing but somewhat more limited "grandfather" provision is appropriate for future American foreign medical school students who choose to attend a foreign medical school which is eligible when they begin their education but which later becomes ineligible. The Department has included such a limited "grandfather" provision in its final regulations.

A summary of other comments that did not result in changes in these regulations and the Secretary's reponses to them are contained in Appendix B.

Appendix B—Summary of Comments That Did Not Result in Changes and Responses to Those Comments

In the notice of proposed rule making published in the **Federal Register** on April 23, 1979 (44 FR 23888–23890), the Department invited comments on the proposed regulations to implement Section 435(a) of the Higher Education Act of 1965, as amended, as it applies to the determination of the eligibility of foreign medical schools to apply for participation in the Guaranteed Student Loan Program (GSLP).

The following is a summary of the substantive public comments which were received and considered but which did not result in changes from the positions taken by the Department in the proposed regulations. Appendix A contains a summary of the substantive public comments which did result in changes from positions taken by the Department in its proposed regulations. The comments and responses are organized to the extent possible in the same order as the referenced sections are organized in the final regulations.

General Comments

Comment. A large number of people objected to the Department's entire regulatory effort regarding foreign medical schools. They objected to the concept of different eligibility criteria for foreign as opposed to domestic medical schools, and they objected to the Department's action to "single out" foreign medical school eligibility from all other possible foreign school eligibility matters. Some commenters found similarly "discriminatory" both the exemption of Canadian schools from the regulation's application and the Department's failure to exempt Mexican schools from the regulation's application.

Response. Different treatment of foreign medical school eligibility and domestic medical school eligibility is necessitated by the absence of relevant accrediting bodies for foreign medical schools. Canadian medical schools are exempted from the regulations because the accrediting body that accredits United States medical schools also accredits Canadian medical schools. The Department considers foreign medical school eligibility a matter particularly worthy of regulation because of the enormous responsibility placed upon doctors and because of the possibly disastrous consequences of mistakes resulting from a doctor's inadequate training.

Comment. Some commenters questioned the validity of using student examination performance as a measure of school's educational quality. These commenters indicated that a student's performance on a standardized examination does not always accurately reflect his or her competence or training and that many American citizens and nationals are attending foreign medical schools precisely because they are "bad testers" and, as a consequence, were not admitted to American medical schools. The noteworthy alternatives to the "output" approach suggested by the commenters included site reviews performed either by the Department of Education or by the Overseas Liaison Committee of the American Council of Education, and close examination of schools' entrance requirements and curricula.

Response. Section 435(a) of the Higher Education Act of 1965, as amended, allows the Secretary to find statutorily eligible those foreign schools that are, among other things, "comparable to an [American] institution of higher education or to a vocational school". The Secretary has little doubt that the most scientifically reliable manner in which to implement the "comparability" standard is to conduct site visits at foreign schools; indeed, accrediting bodies regularly make such visits to American institutions of higher education and vocational schools. Unfortunately, no accrediting body conducts site visits at foreign medical schools and, as indicated in the preamble, the Department lacks the resources to conduct such visits itself. Even if the Department had the resources necessary to conduct such visits, it is not clear that such an "accreditation" system for foreign schools, administered by the United States Government, would be diplomatically advisable; certainly the administration of such an accreditation system would place the Department of Education in an unaccustomed—indeed unprecedented—role. Over the years, many organizations and accrediting bodies, including the Overseas Liaison Committee of the American Council of Education, have repeatedly shunned the task of foreign medical school certification. The Department is continuing to explore the possibility of the formation of a private international accrediting body for all foreign schools, including foreign medical schools.

Left without the option of site reviews, the Department believes the "output" approach is the next best option. Though the approach has its limitations, it is clearly superior to examination of admission requirements and curricula as a method for determining educational quality, for the latter approach indicates nothing about whether a school is actually imparting significant knowledge to its admittedly well qualified students through its admittedly impressive-looking curriculum. Arguably the most relevant indicator of a professional school's quality is the extent to which it successfully prepares its students for practice in their profession. The Department strongly believes that the performance of a foreign medical school's students on the ECFMG examination is probative of the school's capacity to prepare its students for professional practice in the United States and that a standard based on such performance is superior to any other measure of "comparability" presently available to the Department. Indeed, many commenters indicated that the "output" approach *does not go far enough* in assuring that only foreign schools providing high quality clinical education programs are found to be statutorily eligible.

Section-by-Section Comments

Section 601.4(b)—Criteria for determination of eligibility to apply for GSLP—approval by local evaluating bodies.

Comment. A few commenters objected to the requirement that a foreign medical school be "recognized" by any local professional evaluating bodies "whose views are considered relevant by the Secretary". These commenters were concerned that the provision gives too much discretion to local authorities in foreign countries, authorities whose approval or disaproval might hinge upon political or other non-educational considerations. One commenter indicated that this provision raises "serious questions of foreign policy".

Response. The Department agrees that this provision does have foreign policy implications; indeed, it was written precisely to allow the Secretary to consider the diplomatic factors involved in foreign medical school establishment and GSLP eligibility. The Secretary believes that much more serious diplomatic problems would be raised were the Department to completely ignore a foreign evaluating body's disagreements—whatever their nature—with a foreign medical school located in its country, rather than to honor those local expressions of dissatisfaction. The Secretary notes, however, that a local evaluating body which acts completely unreasonably with respect to a foreign medical school risks losing its status as a body "whose views are considered relevant by the Secretary".

Section 601.4(d)—Criteria for determination of eligibility to apply for GSLP—graduation of two classes.

A few commenters felt that it is unfair to delay granting eligibility to a newly-established foreign medical school until it has graduated two classes merely because until then, the Department does not have the data needed to apply its ECFMG pass rate test. The commenters suggested that alternate measures be used to evaluate a school that has not been in existence long enough to generate two years of ECFMG examination results.

Response. The commenters have assumed that the purpose of the requirement is more limited than intended. The Department has a significant interest, independent of the existence of the ECFMG pass rate requirement, in making sure that a foreign medical school is not a "fly-by-night" operation and that the school is capable of providing and likely to continue to provide, for many years into the future, a complete medical education for all those American citizens and nationals who choose to enroll there. The requirement that the two graduating classes be spaced over a period of at least twelve months is intended to prevent a new school from evading the spirit and purpose of the requirement by, for example, arbitrarily dividing its first group of graduates into two segments, each of which it might call a separate "class", then holding the graduations of these "classes" on consecutive days.

Section 601.4(e)—Criteria for determination of eligibility to apply for GSLP—ECFMG standard.

Comment. A number of commenters suggested the use of examinations other than the ECFMG examination for purposes of the "output" measure. The plausible suggestions included performance on Part I of the examination series given by the National Board of Medical Examiners (NBME) alone, performance on Part II of that examination series alone, performance on both Parts I and II of that examination series, and performance on the Federation Licensing Examination (FLEX) used as the physician licensing examination in many States.

Response. The Secretary believes that in theory, each of the alternatives suggested has both positive and negative aspects when considered for use in these regulations. A fundamental problem exists, however, in the implementation of any of these alternatives—the fact that the organizations who administer the suggested alternatives refused to provide the Department the data the Department would need in order to evaluate students' performance on a school-by-school basis. The Department would have liked very much to have considered as an option students' performance on both NBME I and NBME II, because those examiniations probe both basic science and clinical science knowledge and are taken while students are still in school or shortly after they graduate. Unfortunately this option was not available to the Department. Fortunately, however, the ECFMG examination option was available, allowing the Department to use an examination possessing very much the same virtues possessed by NBME I and II and which might well have been selected for use over NBME I and II in any event.

[FR Doc. 83-4792 Filed 2-24-83; 8:45 am]
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VETERANS ADMINISTRATION

38 CFR Parts 6, 8 and 9

United States Government Life Insurance, National Service Life Insurance, and Servicemen's and Veterans' Group Life Insurance

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The Veterans Administration is amending its regulations relating to insurance matters to reflect amendments made under Pub. L. 97-66. These amendments: (1) Provide that a beneficiary may elect to receive payment of National Service and United States Government Life Insurance proceeds in a lump sum if the policyholder has not selected a mode of payment and the policy matures after September 30, 1981; (2) provide for an increase in the maximum amount of Servicemen's and Veterans' Group Life Insurance which may be purchased; (3) require Retired Reservists, insured under Servicemen's Group Life Insurance, to apply for the increased coverage within one year; and (4) provide for the collection of premiums for the Servicemen's Group Life Insurance program. In addition, certain terms are being changed to eliminate gender reference in those regulations which are being amended.

EFFECTIVE DATES: October 17, 1981, except that the amendments to 38 CFR Part 9 concerning the increased coverage under Servicemen's and Veterans' Group Life Insurance are effective December 1, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Robert W. Carey, Assistant Director for Insurance, Veterans Administration Regional Office and Insurance Center, P.O. Box 8079, Philadelphia, Pa. 19101; (215-951-5360).

SUPPLEMENTARY INFORMATION: Public Law 97-66, in part, amends sections 717, 752, 767, 769 and 777 of title 38 of the United States Code. The amendments to sections 717 and 752 provide that a beneficiary may, in the case of insurance maturing after September 30, 1981, elect to receive payment of the insurance proceeds in a lump sum if the insured has not selected a settlement option. The amendments to sections 767 and 777 provided for an increase from $20,000 to $35,000 in the maximum amount of Servicemen's and Veterans' Group Life Insurance. Section 767 is further amended to require Retired Reservists to apply within one year for the increased coverage. The amendment to section 769 provides that the Secretary of Defense shall prescribe regulations to ensure that the Secretaries of the military departments remit premiums to cover Ready Reservists insured under Servicemen's Group Life Insurance. Pursuant to these amendments in the law, Veterans Administration regulations are being amended accordingly.

The Veterans Administration is publishing these amendments as final regulations. An opportunity for public comment is not being provided as the agency finds that public comment would be impracticable unnecessary and contrary to public interest (38 CFR 1.12). Since the amendments merely reflect statutory changes in the law, allowing public comment would have no effect on implementing the changes mandated by Congress. Additionally, the cost to the Government, ultimately a burden to the taxpayers, for prior publication is saved. Since a proposed notice will not be published, these regulation changes are not subject to requirements of the Regulatory Flexibility Act, Pub. L. 96-354.

The agency has determined that these regulations are nonmajor in accordance with Executive Order 12291, Federal Regulation. These regulations will not have a large effect on the economy, will not cause an increase of costs or prices, and will not otherwise have any significant adverse economic effects.

List of Subjects in 38 CFR Parts 6, 8 and 9

Life insurance, Military personnel, Veterans.

(Catalog of Federal Domestic Assistance Program number, 64.103)

Approved: February 7, 1983.

By direction of the Administrator.

Everett Alvarez, Jr.,
Deputy Administrator.

PART 6—UNITED STATES GOVERNMENT LIFE INSURANCE

1. Section 6.64 is revised as follows:

§ 6.64 Selection, recording, revocation, and election.

The insured under a United States Government Life Insurance policy may select one of the optional settlements set forth in § 6.68, but notice of the selection shall not be valid unless and until it is recorded in the Veterans Administration. The insured may revoke his or her selection of the optional settlement, but the revocation shall not be valid unless and until it is recorded in the Veterans Administration. If the insured does not select one of the optional settlements, then he or she shall be deemed to have made no election, and the insurance shall be payable in 240 monthly installments, unless an election under option 2, 3 or 4 is made by the beneficiary: Provided, that if the insurance matures after September 30, 1981 and the insured has not selected one of the optional settlements, the beneficiary may elect to receive the proceeds in a lump sum.

(38 U.S.C. 752)

2. In § 6.65, the introductory paragraph is revised as follows:

§ 6.65 Election of optional settlement by beneficiary.

If the insured under a United States Government Life Insurance policy has not selected one of the optional settlements then at the death of the insured the designated beneficiary may elect to receive settlement under option 2, 3 or 4, as provided in § 6.68, but such an election by the beneficiary shall not be valid unless and until it is recorded in the Veterans Administration: Provided, that if the insurance matures after September 30, 1981 and the insured has not selected one of the optional settlements, the beneficiary may elect to receive the proceeds in a lump sum. If the insured has selected an optional settlement then at the death of the insured the designated beneficiary may elect to receive the proceeds of insurance in installments spread over a greater period of time than that selected by the insured and in accordance with the following provisions:

(38 U.S.C. 752)

* * * * *

3. In § 6.68, Option 1 is revised as follows:

§ 6.68 Options.

* * * * *

Option 1. Insurance payable in one sum. Settlement under this option will be made only when selected by the insured during his or her lifetime or by his or her last will and testament, or if no option has been selected by the insured and he or she dies after September 30, 1981. When such selection has been made, the face amount will be payable in one sum at the maturity of the policy by death.

(38 U.S.C. 752)

* * * * *

PART 8—NATIONAL SERVICE LIFE INSURANCE

4. In § 8.77, paragraph (a)(1) is revised as follows:

§ 8.77 Election of optional settlement by beneficiary.

(a) * * *

(1) If the insured under a National Service Life Insurance policy has not selected one of the optional settlements and dies on or after August 1, 1946, the insurance shall be payable in 36 equal monthly installments, but the designated beneficiary may elect to receive settlement under option 2, 3 or 4: Provided, that if the insurance matures after September 30, 1981 and the insured has not selected one of the optional settlements, the beneficiary may elect to receive the proceeds in a lump sum. Such an election shall not be valid unless and until it is received in the Veterans Administration. If the insured has selected an optional settlement, then at the death of the insured the designated beneficiary may elect to receive payment in installments spread over a greater period of time than that selected by the insured; thus:

(38 U.S.C. 717)

* * * * *

5. In § 8.79, Option 1 is revised as follows:

§ 8.79 Optional settlements on participating National Service Life Insurance and nonparticipating insurance issued under section 602(c)(2) of the National Service Life Insurance Act, as amended, on which the requirements of good health were waived.

* * * * *

Option 1. Insurance payable in one sum. Settlement under this option will be made only when selected by the insured during his or her lifetime or by his or her last will and testament, or if no option has been selected by the insured and he or she dies after September 30, 1981. When such selection has been made, the face amount (less any indebtedness) will be payable in one sum upon the death of the insured.

(38 U.S.C. 717)

* * * * *

6. In § 8.80, Option 1 is revised as follows:

§ 8.80 Optional settlements on insurance issued under the provisions of section 620 or 621 of the National Service Life Insurance Act, as amended, and section 722(a) of Title 38, United States Code.

* * * * *

Option 1. Insurance payable in one sum. Settlement under this option will be made only when selected by the insured during his or her lifetime or by his or her last will and testament, or if no option has been selected by the insured and he or she dies after September 30, 1981. When such election has been made, the face amount (less any indebtedness) will be payable in one sum upon the death of the insured.

(38 U.S.C. 717)

* * * * *

7. In § 8.80c, Option 1 is revised as follows:

§ 8.80c Optional settlements on insurance issued under the provisions of section 723(b) of Title 38, United States Code.

* * * * *

Option 1. Insurance payable in one sum. Settlement under this option will be made only when selected by the insured during his or her lifetime or by his or her last will and testament, or if no option has been selected by the insured and he or she dies after September 30, 1981. When such election has been made, the face amount (less any indebtedness) will be payable in one sum upon the death of the insured.

(38 U.S.C. 717)

* * * * *

8. In § 8.81, Option 1 is revised as follows:

§ 8.81 Optional settlements on insurance issued under the provisions of section 725 of Title 38, United States Code.

* * * * *

Option 1. Insurance payable in one sum. Settlement under this option will be made only when selected by the insured during his or her lifetime or by his or her last will and testament, or if no option has been selected by the insured and he or she dies after September 30, 1981. When such election has been made, the face amount (less any indebtedness) will be payable in one sum upon the death of the insured.

(38 U.S.C. 717)

* * * * *

PART 9—SERVICEMEN'S GROUP LIFE INSURANCE AND VETERAN'S GROUP LIFE INSURANCE

§ 9.2 [Amended]

9. In § 9.2, paragraphs (a) and (b) are amended by replacing the date "May 24, 1974" with the date "December 1, 1981" in both paragraphs and by adding the cite "(38 U.S.C. 767)" to the end of both paragraphs.

10. In § 9.3, new paragraph (e) is added as follows:

§ 9.3 Applications

* * * * *

(e) Members who met the requirements for full-time coverage under § 9.1(a)(3), as of December 1, 1981, are eligible to obtain increased Servicemen's Group Life Insurance coverage up to a maximum of $35,000 if the member—

(1) Is insured under Servicemen's Group Life Insurance as of December 1, 1981; or

(2) Within one year after December 1, 1981, reinstates Servicemen's Group Life Insurance that had lapsed for nonpayment of premiums; and

(3) The member submits a written application for the increased coverage to the office established in § 9.1(j) within one year after December 1, 1981.

(38 U.S.C. 767)

11. Section 9.4 is revised as follows:

§ 9.4 Amount of insurance.

Effective December 1, 1981, Servicemen's Group Life Insurance is issued in the amount of $35,000 unless the insured member elects in writing (a) not to be insured, or (b) to be insured in the amount of $30,000, $25,000, $20,000, $15,000, $10,000, or $5,000. The $35,000 coverage does not apply to those members separated or released prior to December 1, 1981 except for those members eligible for coverage under §9.1(a)(3).

(38 U.S.C. 767)

12. In § 9.6, paragraph (a) is revised as follows:

§ 9.6 Waiver or reduction of coverage.

(a) A member may waive his or her right to group coverage or elect to reduce the amount of insurance from $35,000 to any lesser amount, divisible by $5,000, by filing a written notice with his or her uniformed service. In any case where a member's uniformed service receives a waiver or reduction prior to the date any group coverage would become effective, no insurance shall be placed in effect on the lives of those members who waive coverage and those who elect reduced coverage shall be insured for only the reduced amount from the date coverage becomes effective. A member who is paying premiums directly to the administrative office may reduce his or her coverage by notifying that office.

(38 U.S.C. 767)

* * * * *

13. In § 9.8, the introductory portion of paragraph (c) and paragraph (c)(1) are revised as follows:

§ 9.8 Restoration of coverage.

* * * * *

(c) Subject to approval by the insurer, coverage is restored in the amount applied for ($35,000 or a lesser amount divisible by $5,000) effective the date of receipt of application with evidence of good health by the uniformed service:

(1) For a member who previously waived the right to be covered or elected to be covered for only $30,000, $25,000, $20,000, $15,000, $10,000 or $5,000; or

(38 U.S.C. 767)

* * * * *

14. In § 9.10, new paragraphs (e) and (f) are added as follows:

§ 9.10 Deductions from pay.

* * * * *

(e) During any month in which a member is assigned to the Ready Reserve of a uniformed service under conditions which meet the qualifications of § 9.1(a)(2), or is assigned to the Reserve (other than the Retired Reserve) and meets the qualifications of § 9.1(a)(2), and is insured under Servicemen's Group Life Insurance, there shall be contributed from the appropriation made for active duty pay of the uniformed service concerned an amount determined by the Administrator (which shall be the same for all such members) as the share of the cost attributable to insuring such member, less any costs traceable to the extra hazards of such duty in the uniformed services. Any amounts so contributed on behalf of any individual shall be collected by the Secretary concerned from such individual (by deduction from pay or otherwise) and shall be credited to the appropriation from which such contribution was made.

(38 U.S.C. 769)

(f) The Secretary of Defense shall prescribe regulations for the administration of the functions of the Secretaries of the military departments under this section. Such regulations shall prescribe such procedures as the Secretary of Defense, after consultation with the Administrator, may consider necessary to ensure that such functions are carried out in a timely and complete manner and in accordance with the provisions of this section, including specifically the provisions of paragraph (e) relating to contributions from appropriations made for active duty pay.

(38 U.S.C. 769)

15. In § 9.16, paragraphs (g) and (h) are revised as follows:

§ 9.16 Beneficiaries and options.

* * * * *

(g) Until and unless otherwise changed, a beneficiary designation and settlement option filed by a member with his or her uniformed service in effect on December 1, 1981, will be effective with respect to the increased amount of insurance authorized on December 1, 1981, by Pub. L. 97–66 and the insurance shall be settled in the same proportionate amount as the portion designated for such beneficiary or beneficiaries bore to the amount of insurance theretofore in effect.

(38 U.S.C. 767)

(h) In any case in which a member separated or released from all obligation to perform duty in a uniformed service reenters on duty after a break in service while covered during the period of protection afforded under §§ 9.5(a) or 9.7 (a) or (b) after termination of duty and waives coverage or elects coverage in the amount of $30,000, $25,000, $20,000, $15,000, $10,000 or $5,000, an existing designation of beneficiary or election of optional settlement is not canceled with respect to any amount of insurance not replaced upon such reentry on duty.

(38 U.S.C. 767)

* * * * *

16. In § 9.22, the introductory portion and the ending portion of paragraph (b) is revised as follows, subparagraph (1) and (2) remain the same:

§ 9.22 Administrative decisions.

* * * * *

(b) When a determination is required on a claim that a member who waived coverage, or whose coverage was forfeited for one of the offenses listed in § 9.34 was in fact insured, or that a member who elected to be insured in the amount of $5,000, $10,000, $15,000, $20,000, $25,000 or $30,000 was insured for $10,000, $15,000, $20,000, $25,000, $30,000 or $35,000, as the case may be, and there is no record of an application to be insured or to increase the amount of insurance as required by § 9.8(c):

(38 U.S.C. 767)

* * * * *

Based on the evidence obtained, a formal determination will be made as to whether the member involved is deemed to have applied to be insured, or to be insured for $35,000, $30,000, $25,000, $20,000, $15,000 or $10,000 in lieu of $5,000 or no insurance. The determination will include a finding as to the member's health status for insurance purposes based on the evidence available.

(38 U.S.C. 767)

* * * * *

§ 9.24 [Amended]

17. In § 9.24, paragraphs (a) (1) and (2) are amended by replacing the date "May 24, 1974" with the date "December 1, 1981" in both subparagraphs and by adding the cite "(38 U.S.C. 767)" at the end of both subparagraphs.

§ 9.27 [Amended]

18. In § 9.27, paragraph (a) is amended by replacing the amount "$20,000" with the amount "$35,000" and by adding the cite "(38 U.S.C. 767)" to the end of the paragraph.

19. In § 9.36, paragraph (a) is revised as follows:

§ 9.36 Veterans' Group Life Insurance.

* * * * *

(a) The insurance shall be issued in the amount of $5,000, $10,000, $15,000, $20,000, $25,000, $30,000 or $35,000. No person may carry a combined amount of Servicemen's Group Life Insurance and Veterans' Group Life Insurance in excess of $35,000 at any one time.

(38 U.S.C. 777)

* * * * *

(38 U.S.C. 210)

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POSTAL SERVICE

39 CFR Part 111

Uniform Parcel Size and Weight Limits; Implementing Regulations

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: By separate notice published elsewhere in this issue the Postal Service announced changes in the mail classification schedule provisions establishing uniform size and weight limits of 70 pounds and 108 inches for Express Mail, Priority Mail, parcel post, special fourth-class rate, and library rate fourth-class mail. These changes were approved by the Governors of the Postal Service and will become effective at 12:01 a.m. on February 27, 1983.

The purpose of this final rule is to reflect these mail classification changes in postal regulations.

EFFECTIVE DATE: 12:01 a.m., February 27, 1983.

FOR FURTHER INFORMATION CONTACT: Ernest J. Collins (202) 245–4749.

SUPPLEMENTARY INFORMATION: This document changes Postal Service regulations to permit Priority Mail,