This amendment is issued by the undersigned pursuant to delegation of authority from the Board to the Secretary in 14 CFR 385.24(b). (Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324).

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-18047 Filed 7-5-83; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Part 294

[Reg. ER-1342; Economic Regs. Amdt. No. 2 to Part 294]

Canadian Charter Air Taxi Operators; Notice of Approval by the Office of Management and Budget

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule gives notice that the Office of Management and Budget (OMB) has approved revised reporting requirements in Part 294 of the Board's Economic Regulations (ER-1332, 48 FR 8050, February 25, 1983). This approval has been granted through May 31, 1986. OMB approval is required under the Paperwork Reduction Act of 1980.

DATES: Adopted: June 28, 1983. Effective: June 1, 1983.

FOR FURTHER INFORMATION CONTACT: Linda K. Koman, Data Requirements Section, Information Management Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, NW. Washington, D.C. 20428, (202) 673-6042.

SUPPLEMENTARY INFORMATION:

PART 294—[AMENDED]

List of Subjects in 14 CFR Part 294

Reporting and recordkeeping requirements.

Accordingly, the Civil Aeronautics Board amends Part 294 of its Economic Regulations (14 CFR Part 294) by adding a note at the end of the table of contents to Part 294 to read:

Note.—The reporting requirements contained herein have been approved by the Office of Management and Budget as follows: Section 294.40 under number 3024-0050; §§ 294.20 and 294.22 under number 3024-0051; § 294.3(d) under number 3024-0064.

This amendment is issued by the undersigned pursuant to delegation of authority from the Board to the Secretary in 14 CFR 385.24(b). (Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C 1324).

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-18048 Filed 7-5-83; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Part 298

[Reg. ER-1343; Economic Regs. Amdt. No. 26 to Part 298]

Exemption for Air Taxi Operations; Notice of Approval by the Office of Management and Budget

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule gives notice that the Office of Management and Budget (OMB) has approved revised reporting requirements in Part 298 of the Board's Economic Regulations (ER-1333, 48 FR 8051, February 25, 1983). This approval has been granted through May 31, 1986. OMB approval is required under the Paperwork Reduction Act of 1980.

DATES: Adopted: June 28, 1983. Effective: June 1, 1983.

FOR FURTHER INFORMATION CONTACT: Linda K. Koman, Data Requirements Section, Information Management Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, (202) 673-6042.

SUPPLEMENTARY INFORMATION:

PART 298—[AMENDED]

Accordingly, the Civil Aeronautices Board amends Part 298 of its Economic Regulations (14 CFR Part 298) by revising the note at the end of the table of contents to Part 298 to read:

Note.—The reporting requirements contained herein have been approved by the Office of Management and Budget as follows: Section 298.21(c)(2) under number 3024-0007; § 298.21(c)(1) and 298.23(b) under number 3024-0008; § 298.61 under number 3024-0009; 298.21(c)(4) under number 3024-0064.

This amendment is issued by the undersigned pursuant to delegation of authority from the Board to the Secretary in 14 CFR 385.24(b). (Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C 1324).

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-18049 Filed 7-5-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 31

[T.D. 7898]

Income Tax; Employers' Qualified Educational Assistance Programs

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to employers' qualified educational assistance programs. Changes to the applicable tax law were made by the Revenue Act of 1978. The regulations provide necessary guidance to the public for compliance with that Act, and affect both employers who establish educational assistance programs and their employees who receive benefits under these programs.

DATES: The regulations are effective for employees' taxable years beginning after December 31, 1978, and before January 1, 1984.

FOR FURTHER INFORMATION CONTACT: Monice Rosenbaum of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T:EE-178-78, 202-566-3422.

SUPPLEMENTARY INFORMATION:

Background

On November 23, 1981, the **Federal Register** published proposed amendments to the Income Tax Regulations (26 CFR Part 1) and the Employment Taxes and Collection of Income Tax at Source Regulations (26 CFR Part 31) under sections 127, 3121(a)(18), 3306(b)(13) and 3401(a)(18) of the Internal Revenue Code of 1954 (46 FR 57325). The amendments were proposed to conform the regulations to section 164 of the Revenue Act of 1978 as amended by section 103(a)(13)(A) (iii) and (iv) of the Technical Corrections Act of 1979. A public hearing was held on March 24, 1982. After consideration of comments made at the hearing and the written comments submitted in response to the notice of proposed rulemaking, the amendments are adopted, as revised, by this Treasury decision.

Statutory Provisions

Under Code section 127, amounts paid or expenses incurred by an employer for educational assistance furnished under a qualified educational assistance

program are excluded from an employee's gross income. In order for an educational assistance program to be a qualified program, it must satisfy certain requirements relating to nondiscrimination in eligibility for benefits, and a limitation on benefits for participants who are shareholders or owners.

Payments or benefits excluded from an employee's gross income under section 127 are not "wages" under Code section 3121(a)(18), 3306(b)(13), and 3401(a)(18). Consequently, such payments or benefits are not subject to tax under the Federal Insurance Contributions Act and the Federal Unemployment Tax Act and are not subject to withholding under section 3402.

Explanation of Final Regulations

The Term "Benefits"

The proposed regulations generally used the term "benefits" to describe employer provided educational assistance. A number of commentators objected to the use of that term arguing that it misconstrues the purpose of such assistance as a "fringe benefit" rather than as a job-related "work condition."

While a significant portion of employer provided educational assistance could be described as a "work condition," the legislative history of Code section 127 makes it clear that the statute is not limited to job-related educational assistance. The Senate Finance Committee report frequently uses the term "benefits" in its discussion of the scope of the educational assistance that may be provided under section 127. S. Rep. No. 95–1263, 95th Cong., 2d Sess. 98 (1978), 1978–3 C.B. 315, 396. Moreover, it is clear that Code section 127 is part of a growing body of Federal tax law relating to so called statutory fringe *benefits*. (emphasis added) Consequently, the final regulations continue to use the term "benefits" when referring to employer provided educational assistance.

Definition of Educational Assistance

Several commentators suggested changes in the proposed regulations' definition of educational assistance. These suggestions fell into three general categories: (1) Comments relating to the alternative benefits prohibition; (2) comments relating to those benefits not considered educational assistance; and (3) comments relating to the definition of "education."

The proposed regulations provided that a program's benefits did not consist solely of educational assistance if the program provided employees with a choice between educational assistance and other remuneration that "may or may not be" included in the employee's gross income. A number of commentators noted that this language was considerably broader than the statutory alternative benefits prohibition under section 127(b)(4), which prohibits only *taxable* alternative benefits. The final regulations revise the alternative benefits prohibition to track the language of the statute.

Pursuant to section 127(c)(1), the proposed regulations provided that certain employer payments or expenses are not considered educational assistance. These exclusions include an employer's payment or provision of tools or supplies retained after completing a course of instruction, the cost of meals, lodging, or transportation, and the cost of any educational involving sports, games, or hobbies (unless job related). Commentators suggested several changes to these exclusions. Specifically, it was suggested that textbooks not be excluded as "retained supplies", that expenses for meals, lodging, and transportation not be excluded, and that education for sports, games, or hobbies not be excluded if required as part of a degree program or if related to health maintenance or improvement.

In response to these suggestions, the final regulations clarify the rules relating to retained supplies and education involving sports, games or hobbies. Based on the clear language of the statute, however, the final regulations do not change the rule which excludes expenses for meals, lodging and transportation from the general definition of educational assistance.

The proposed regulations stated that the education paid for or provided under a qualified program may be provided by an educational institution. Many commentators construed this statement as a limitation on the class of organizations that could provide education under the statute. The statement was not intended to be so limited, however, and the final regulations clarify the provision accordingly.

Prohibited Discrimination

Two commentators suggested that various safe harbors be added to the regulations as additional factors not to be considered in determining the existence of prohibited discrimination. Although these suggestions were considered, the final regulations contain no changes to the rules relating to prohibited discrimination. The suggestions were rejected because of the difficulties inherent in defining safe harbors that would not result in prohibited discrimination under all circumstances.

Miscellaneous Changes

The final regulations add a substantiation requirement on employees receiving benefits under a qualified educational assistance program and clarify the requirement that a qualified program be a separate written plan.

In addition, the final regulations make certain clerical changes to the regulations under section 3401 to reflect redesignations made by the Economic Recovery Tax Act of 1981.

Nonapplicability of Executive Order 12291

The Treasury Department has determined that this regulation is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 28, 1982.

Drafting Information

The principal author of these regulations is Charles K. Kerby, III of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects

26 CFR 1.61–1 through 1.281–4

Income taxes, Exclusions, Employers qualified educational assistance programs.

26 CFR Part 31

Employment taxes, Social security, Unemployment tax, Withholding.

Adoption of amendments to the regulations

Accordingly, the amendments to 26 CFR Parts 1 and 31 as proposed are adopted, subject to the changes indicated below:

Income Tax Regulations (26 CFR Part 1)

Paragraph 1. Paragraph (b) of § 1.127–2, as set forth in the notice of proposed rulemaking, is revised to read as follows:

§ 1.127–2 Qualified educational assistance program.

* * * * *

(b) *Separate written plan.* The program must be a separate written plan of the employer. This requirement

means that the terms of the program must be set forth in a separate document or documents providing only educational assistance within the meaning of paragraph (c) of this section. The requirement for a separate plan does not, however, preclude an educational assistance program from being part of a more comprehensive employer plan that provides a choice of nontaxable benefits to employees.

* * * * *

Par. 2. Paragraph (c) of § 1.127–2, as set forth in the notice of proposed rulemaking, is revised by revising subparagraph (2), subparagraph (3) and the second sentence of subparagraph (4). The revised provisions read as follows:

§ 1.127–2 Qualified educational assistance program.

* * * * *

(c) *Educational assistance.* * * *

(2) *Alternative benefits.* Benefits will not be considered to consist solely of educational assistance if the program, in form or in actual operation, provides employees with a choice between educational assistance and other remuneration includible in the employee's gross income.

(3) *Certain benefits not considered educational assistance.* The term "educational assistance" does not include the employer's payment for, or provision of—

(i) Tools or supplies (other than textbooks) that the employee may retain after completing a course of instruction,

(ii) Meals, lodging, or transportation, or

(iii) Education involving sports, games, or hobbies, unless such education involves the business of the employer or is required as part of a degree program. The phrase "sports, games, or hobbies" does not include education that instructs employees how to maintain and improve health so long as such education does not involve the use of athletic facilities or equipment and is not recreational in nature.

(4) *Education defined.* * * * Education paid for or provided under a qualified program may be furnished directly by the employer, either alone on in conjunction with other employers, or through a third party such as an educational institution. Education is not limited to courses that are job related or part of a degree program.

Par. 3. A new paragraph (i) is added to § 1.127–2 to read as follows:

§ 1.127–2 Qualified educational assistance program.

* * * * *

(i) *Substantiation.* An employee receiving payments under a qualified educational assistance program must be prepared to provide substantiation to the employer such that it is reasonable to believe that payments or reimbursements made under the program constitute educational assistance within the meaning of paragraph (c) of this section.

Employment Taxes and Collection of Income Tax at Source Regulations (26 CFR Part 31)

Par. 4. Section 31.3401(a)(18)–1 is removed.

Par. 5. Section 31.3401(a)(19)–1, as set forth in paragraph 4 of the notice of proposed rulemaking, is redesignated as § 31.3401(a)(18)–1.

Par. 6. Section 31.3401(a)(20)–1 is redesignated as § 31.3401(a)(19)–1.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805). (Approved by the Office of Management and Budget under control number 1545–0768).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: April 29, 1983.

John E. Chapoton,

Assistant Secretary of the Treasury.

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. There are added in the appropriate place the following new §§ 1.127–1 and 1.127–2:

§ 1.127–1 Amounts received under a qualified educational assistance program.

(a) *Exclusion from gross income.* The gross income of an employee does not include—

(1) Amounts paid to, or on behalf of the employee under a qualified educational assistance program described in § 1.127–2, or

(2) The value of education provided to the employee under such a program.

(b) *Disallowance of excluded amounts as credit or deduction.* Any amount excluded from the gross income of an employee under paragraph (a) of this section shall not be allowed as a credit or deduction to such employee under any other provision of this part.

(c) *Amounts received under a nonqualified program.* Any amount received under an educational assistance program that is not a "qualified program" described in § 1.127–2 will not be excluded from gross income under paragraph (a) of this section. All or part of the amounts received under such a nonqualified program may, however, be excluded under section 117 or deducted under section 162 or section 212 (as the case may be), if the requirements of such section are satisfied.

(d) *Definitions.* For rules relating to the meaning of the terms "employee" and "employer", see paragraph (h) of § 1.127–2.

(e) *Effective date.* This section is effective for taxable years of the employee beginning after December 31, 1978, and before January 1, 1984.

§ 1.127–2 Qualified educational assistance program.

(a) *In general.* A qualified educational assistance program is a plan established and maintained by an employer under which the employer provides educational assistance to employees. To be a qualified program, the requirements described in paragraphs (b) through (g) of this section must be satisfied. It is not required that a program be funded or that the employer apply to the Internal Revenue Service for a determination that the plan is a qualified program. However, under § 601.201 (relating to rulings and determination letters), an employer may request that the Service determine whether a plan is a qualified program.

(b) *Separate written plan.* The program must be a separate written plan of the employer. This requirement means that the terms of the program must be set forth in a separate document or documents providing only educational assistance within the meaning of paragraph (c) of this section. The requirement for a separate plan does not, however, preclude an educational assistance program from being part of a more comprehensive employer plan that provides a choice of nontaxable benefits to employees.

(c) *Educational assistance*—(1) *In general.* The benefits provided under the program must consist solely of educational assistance. The term "educational assistance" means—

(i) The employer's payment of expenses incurred by or on behalf of an employee for education, or

(ii) The employer's provision of education to an employee.

(2) *Alternative benefits.* Benefits will not be considered to consist solely of educational assistance if the program, in form or in actual operation, provides employees with a choice between educational assistance and other remuneration includible in the employee's gross income.

(3) *Certain benefits not considered educational assistance.* The term "educational assistance" does not

include the employer's payment for, or provision of—

(i) Tools or supplies (other than textbooks) that the employee may retain after completing a course of instruction,

(ii) Meals, lodging, or transportation, or

(iii) Education involving sports, games, or hobbies, unless such education involves the business of the employer or is required as part of a degree program. The phrase "sports, games, or hobbies" does not include education that instructs employees how to maintain and improve health so long as such education does not involve the use of athletic facilities or equipment and is not recreational in nature.

(4) *Education defined.* As used in section 127, § 1.127–1, and this section, the term "education" includes any form of instruction or training that improves or develops the capabilities of an individual. Education paid for or provided under a qualified program may be furnished directly by the employer, either alone or in conjunction with other employers, or through a third party such as an educational institution. Education is not limited to courses that are job related or part of a degree program.

(d) *Exclusive benefit.* The program may benefit only the employees of the employer, including, at the employer's option, individuals who are employees within the meaning of paragraph (h)(1) of this section. A program that provides benefits to spouses or dependents of employees is not a qualified program within the meaning of this section.

(e) *Prohibited discrimination*—(1) *Eligibility for benefits.* The program must benefit the employer's employees generally. Among those benefited may be employees who are officers, shareholders, self-employed or highly compensated. A program is not for the benefit of employees generally, however, if the program discriminates in favor of employees described in the preceeding sentence (or in favor of their spouses and dependents who are themselves employees) in requirements relating to eligibility for benefits. Thus, although a program need not provide benefits for all employees, it must benefit those employees who qualify under a classification of employees that does not discriminate in favor of the employees with respect to whom discrimination is prohibited. The classification of employees to be considered benefited will consist of that group of employees who are actually eligible for educational assistance under the program, taking into account the eligibility requirements set forth in the written plan, the eligibility requirements reflected in the types of educational assistance available under the program, and any other conditions that may affect the availability of benefits under the program. Thus, for example, if an employer's plan provides that all employees are eligible for educational assistance, yet limits that assistance to courses of study leading to post-graduate degrees in fields relating to the employer's business, then only those employees able to pursue such a course of study are considered actually eligible for educational assistance under the program. Whether any classification of employees discriminates in favor of employees with respect to whom discrimination is prohibited will generally be determined by applying the same standards as are applied under section 410(b)(1)(B) (relating to qualified pension, profit-sharing and stock bonus plans), without regard to section 401(a)(5). For purposes of making this determination, there shall be excluded from consideration employees not covered by the program who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and one or more employers, if the Internal Revenue Service finds that educational assistance benefits were the subject of good faith bargaining between the employee representatives and the employer or employers. For purposes of determining whether such bargaining occurred, it is not material that the employees are not covered by another educational assistance program or that the employer's present program was not considered in the bargaining.

(2) *Factors not considered in determining the existence of prohibited discrimination.* A program shall not be considered discriminatory under this paragraph (e) merely because—

(i) Different types of educational assistance available under the program are utilized to a greater degree by employees with respect to whom discrimination is prohibited than by other employees, or

(ii) With respect to a course of study for which benefits are otherwise available, successful completion of the course, attaining a particular course grade, or satisfying a reasonable condition subsequent (such as remaining employed for one year after completing the course) are required or considered in determining the availability of benefits.

(f) *Benefit limitation*—(1) *In general.* Under section 127(b)(3), a program is a qualified program for a program year only if no more than 5% of the amounts paid or incurred by the employer for educational assistance benefits during the year are provided to the limitation class described in subparagraph (2). For purposes of this paragraph (f), the program year must be specified in the written plan as either the calendar year or the taxable year of the employer.

(2) *Limitation class.* The limitation class consists of—

(i) *Shareholders.* Individuals who, on any day of the program year, own more than 5% of the total number of shares of outstanding stock of the employer, or

(ii) *Owners.* In the case of an employer's trade or business which is not incorporated, individuals who, on any day of the program year, own more than 5% of the capital or profits interest in the employer, and

(iii) *Spouses or dependents.* Individuals who are spouses or dependents of shareholders or owners described in subdivision (i) or (ii). For purposes of determining stock ownership, the attribution rules described in paragraph (h)(4) of this section apply. The regulations prescribed under section 414(c) are applicable in determining an individual's interest in the capital or profits of an unincorporated trade or business.

(g) *Notification of employees.* A program is not a qualified program unless employees eligible to participate in the program are given reasonable notice of the terms and availability of the program.

(h) *Definitions.* For purposes of this section and § 1.127–1—

(1) *Employee.* The term "employee" includes—

(i) A retired disabled or laid-off employee,

(ii) A present employee who is on leave, as, for example, in the Armed Forces of the United States, or

(iii) An individual who is self-employed within the meaning of section 401(c)(1).

(2) *Employer.* An individual who owns the entire interest in an unincorporated trade or business shall be treated as his or her own employer. A partnership is treated as the employer of each partner who is an employee within the meaning of section 401(c)(1).

(3) *Officer.* An officer is an individual who is an officer within the meaning of regulations prescribed under section 414(c).

(4) *Shareholder.* The term "shareholder" includes an individual who is a shareholder as determined by the attribution rules under section 1563 (d) and (e), without regard to section 1563(e)(3)(C).

(5) *Highly compensated.* The term "highly compensated" has the same

meaning as it does for purposes of section 410(b)(1)(B).

(i) *Substantiation.* An employee receiving payments under a qualified educational assistance program must be prepared to provide substantiation to the employer such that it is reasonable to believe that payments or reimbursements made under the program constitute educational assistance within the meaning of paragraph (c) of this section.

(Approved by the Office of Management and Budget under control number 1545-0768.)

PART 31—EMPLOYMENT TAXES: APPLICABLE ON AND AFTER JANUARY 1, 1955

Par. 2. There is added in the appropriate place the following new § 31.3121(a)(18)-1:

§ 31.3121(a)(18)-1 Payments or benefits under a qualified educational assistance program.

The term "wages" does not include any payment made, or benefit furnished, to or for the benefit of an employee in a taxable year beginning after December 31, 1978, if at the time of such payment or furnishing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under section 127.

Par. 3. There is added in the appropriate place the following new § 31.3306(b)(13)-1:

§ 31.3306(b)(13)-1 Payments or benefits under a qualified educational assistance program.

The term "wages" does not include any payment made, or benefit furnished, to or for the benefit of an employee in a taxable year beginning after December 31, 1978, if at the time of such payment or furnishing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under section 127.

Par. 4. § 31.3401(a)(18)-1 is revised to read as follows:

§ 31.3401(a)(18)-1 Payments or benefits under a qualified educational assistance program.

A payment made, or benefit furnished, to or for the benefit of an employee in a taxable year beginning after December 31, 1978, does not constitute wages and hence is not subject to withholding if, at the time of such payment or furnishing, it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under section 127.

Par. 5 § 31.3401(a)(20)-1 is redesignated § 31.3401(a)(19)-1.

[FR Doc. 83-18172 Filed 7-5-83; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 289

Availability to the Public of DoD Directives, DoD Instructions, Changes Thereto, and Certain DoD Publications

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Final rule.

SUMMARY: This rule updates DoD procedures for obtaining by the public an other federal agencies, DoD Directives, DoD Instructions, Changes to DoD Directives and Instructions (hereafter, DoD issuances), the DoD Directives System Quarterly Index (DoD 5025.1-I), and certain DoD publications and changes thereto. It covers several revisions and an increase in subscription costs.

EFFECTIVE DATE: July 6, 1983.

FOR FURTHER INFORMATION CONTACT: Mrs. Margarete S. Healy, Chief, Directives Division, C&D Directorate, Washington Headquarters Services, Washington, D.C. 20301, telephone 202-697-4111.

SUPPLEMENTARY INFORMATION: On August 16, 1967, there was published in the **Federal Register** (32 FR 11760) a final rule adoption, effective September 1, 1967, that announced a subscription service for DoD issuances. Five subsequent amendments were published on December 27, 1968 (33 FR 19815), November 25, 1970 (35 FR 18047), September 21, 1977 (42 FR 47555), September 26, 1977 (42 FR 48885), and April 19, 1978 (43 FR 16478). This revision amends further the mailing services rendered by the Navy Publications and Printing Service by including certain DoD publications and ordering complete sets of DoD issuances.

List of Subjects in 32 CFR Part 289

DoD Directives System issuances, Availability to the public, Freedom of Information.

Accordingly, Part 289 of title 32 is revised, reading as follows:

PART 289—AVAILABILITY TO THE PUBLIC OF DoD DIRECTIVES, DoD INSTRUCTIONS, CHANGES THERETO, AND CERTAIN DoD PUBLICATIONS

Sec.

289.1 Subscription service.
289.2 Ordering individual copies.
289.3 Ordering complete sets of DoD issuances.

Authority: 10 U.S.C. 133, 31 U.S.C. 483a.

§ 289.1 Subscription service.

(a) DoD issuances published in the Number Index portion of DoD 5025.1-I (except those marked as not releasable to the public) are available on a subscription basis, with automatic mailing upon payment of fees (see § 289.1(b)).

(1) The DoD issuances are published under the following subject groups:

1000-Manpower, Reserve Affairs, and Personnel
2000-International Programs
3000-Planning, Research and Development, Intelligence, and Computer Technology
4000-Logistics, Acquisition, and Resources Management
5000-General Administration
6000-Safety, Health, and Medical
7000-Comptrollership
DOD 5025.1-I-DOD Directives System Quarterly Index

(2) The subscription will entitle the subscriber to receive automatically, for one year, one copy of each new and revised issuance published under the subject groups ordered.

(3) Subscriptions will be accepted for one or more subject groups.

(b) An annual service charge of $13 for the DoD issuances published under each subject group will apply without regard to the number of documents which may be issued within the group. This fee is to defray administrative expense for screening and distributing DoD issuances.

(1) Orders may be forwarded to the Director, Navy Publications and Printing Service, Eastern Division, Building 4, Section D, 700 Robbins Avenue, Philadelphia, PA 19111, in any form, accompanied by a certified check or money order payable to Navy Publications and Printing Services.

(2) Subscription service pertains only to the release of new and revised DoD issuances and the DoD 5025.1-I.

§ 289.2 Ordering individual copies.

(a) In addition to the subscription service on new and revised DoD issuances outlined in § 289.1, individual copies of any other DoD issuance and those DoD publications that are identified in the DoD 5025.1-I as being stocked at the Naval Publications and Forms Center (NPFC) and listed in the number index portion of 5025.1-I (except those marked not releasable to the public) will continue to be made available. While DoD issuances will continue to be mailed without charge, a

fee may be charged for some DoD publications.

(b) NPFC will accept requests by TELEX, telegraph, or letter. For urgent requests, TELEX and Western Union messages are recommended. Use TELEX number 834295 or Western Union Number 710–670–1685. The commercial telephone number is (215) 697–3321 or 2667. Include personal or company name, street address or P.O. box, city, state, country (if applicable), and zip code when submitting requests by telephone, TELEX, or Western Union or when writing. The number of line items requested must be limited to five or less.

(c) This service is provided to the public and federal agencies other than the Department of Defense. Submit written requests to: Commanding Officer (Code 301, Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120.

§ 289.3 Ordering complete sets of DoD issuances.

You may obtain a complete set of DoD issuances by forwarding the order together with a check or postal money order in the amount of $70 payable to Navy Publications and Printing Service to:

Director (Code NPA), Navy Publications and Printing Service Office, 700 Robbins Avenue, Philadelphia, PA 19111.

This charge represents the cost of processing, consolidating, and shipping. This charge does not include printing costs. Items not in stock will not be backordered.

June 29, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-18053 Filed 7-5-83; 8:45 am]

BILLING CODE 3810-01-M

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) to reflect that the Secretary of the Navy: (1) Has determined that USS *Dewert* (FFG 45) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a naval frigate; and (2) has found that USS *Dewert* (FFG 45) is a member of the FFG 7 class of ships, certain exemptions for which have been previously granted under 72 COLREGS Rule 38. The intended effect of this rule is to warn mariners in waters where the 72 COLREGS apply.

EFFECTIVE DATE: July 1, 1983.

FOR FURTHER INFORMATION CONTACT: Captain Richard J. McCarthy, JAGC, USN, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332, Telephone number: (202) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in Executive Order 11964 and 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS *Dewert* (FFG 45) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Rule 21(a) regarding the arc of visibility of its forward masthead light; Annex I, Section 2(a)(i), regarding the height above the hull of its forward masthead light; and Annex I, Section 3(b) regarding the horizontal relationship of its sidelights to its forward masthead light, without intefering with its special function as a Navy frigate. The Secretary of the Navy has also certified that the above-mentioned light is located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided to the effect that USS *Dewert* (FFG 45) is a member of the FFG 7 class of ships for which certain exemptions, pursuant to 72 COLREGS Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of § 706.3, are equally applicable to this ship. Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary and contrary to public interest since it is based on technical findings that the placement of lights on this ship in a manner different from that prescribed herein will adversely affect the ship's ability to perform its military function.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

§ 706.2 [Amended]

1. Table One of § 706.2 is amended as follows to indicate the certifications issued by the Secretary of Navy:

Vessel	Number	Distance in meters of forward masthead light below minimum required height. Section 2(a)(i) Annex I
.	.	.
USS *Dewert*	FFG 45	1.6

2. Table Four of § 706.2 is amended by adding to the existing paragraph 8 the following vessel for which navigational light certifications are herewith issued by the Secretary of the Navy:

. . . . .

USS *Dewert* (FFG 45).

3. Table Four of § 706.2 is amended by adding to the existing paragraph 9 the following vessel for which navigational light certifications are herewith issued by the Secretary of the Navy:

Vessel	Number	Distance of sidelights forward of masthead lights in meters
.	.	.
USS *Dewert*	FFG 45	2.75

(E.O. 11964; 33 U.S.C. 1605)

Dated: June 22, 1983.

Approved:

James F. Goodrich,

Acting Secretary of the Navy.

[FR Doc. 83-18054 Filed 7-5-83; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Great Smoky Mountains National Park; Fishing Regulations

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: On November 26, 1982, the National Park Service, Department of the Interior, published in the **Federal Register** (47 FR 53426) a proposed rule modifying fishing regulations for Great Smoky Mountains National Park, to reflect different creel limits, sizes, bait restrictions and season length. The proposal was made available for public