

Dated: July 10, 1984.

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Acting Associate Director for Scientific
Evaluation.

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VETERANS ADMINISTRATION

38 CFR Part 21

Emergency Veterans' Job Training Program

AGENCY: Veterans' Administration.

ACTION: Final regulations.

SUMMARY: These regulations establish an Emergency Veterans' Job Training Program. The program assists eligible veterans obtain significant training for employment in stable and permanent positions. The VA (Veterans Administration) makes payments to employers who employ and train eligible veterans in these jobs. The payments assist employers in defraying the costs of necessary training. These regulations implement the provisions of the Emergency Veterans' Job Training Act of 1983.

EFFECTIVE DATE: October 1, 1983.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420 (202-389-2092).

SUPPLEMENTARY INFORMATION: On pages 57529 through 57537 of the Federal Register of December 30, 1983, there was published a notice of intent to amend part 21 in order to implement the Emergency Veterans' Job Training Act of 1983 (Pub. L. 98-77).

Interested people were given 30 days in which to submit comments, suggestions or objections. The VA received seven letters containing comments and suggestions. One of these letters included a comment on the regulatory flexibility analysis. One letter was from a labor union, one was from an association of college officials; the remainder were from State and local governmental agencies.

The law and these regulations state that the wages and benefits being paid to a veteran must be comparable to wages and benefits paid to other employees participating in a comparable program of job training. One writer suggested that a comparable program is one which is also funded by the Federal government, such as training programs

under the Job Training Partnership Act (JTPA).

The VA has carefully researched the history of Pub. L. 98-77, and can find no indication that the Congress intended the term "comparable program of job training" to be a program funded by the Federal government. Furthermore, not every veterans' job training program would have a federally-funded program for comparison purposes. Therefore, this suggestion was not adopted.

Two writers criticized the fact that the Job Service of the Department of Labor was not mentioned by name in the regulations. One writer suggested that the regulations list the responsibilities of the Assistant Secretary of Labor for Veterans' Employment and Training. One writer stated that the regulations should discuss the counseling which the Department of Labor is providing for some unemployed veterans.

The Department of Labor is required by law to provide an outreach and public information program in connection with Pub. L. 98-77, and is doing so. Since that department is providing this program, it would be appropriate for the Department of Labor to decide if regulations are needed in this area. Therefore, these suggestions were not adopted.

Two writers criticized the fact that the regulations do not provide for administrative monies so that the Department of Labor can help administer the program. Funds to administer laws cannot be generated by regulation. They must be appropriated by the Congress. It would be inappropriate to include a section on administrative monies in these regulations.

One writer suggested that in § 21.4622(c) the Director, Education Service be given a time limit within which he or she must complete the review of the disapproval of a training program.

To adopt this suggestion might mislead an employer into thinking that if the employer had not been notified of the results of the review within a specified time period, the program would be approved. The employer might hire a veteran with the expectation that he or she would be reimbursed for one-half the veteran's starting wage. If the program were ultimately disapproved, the employer would be disappointed. Payments cannot be made for training which is not approvable. To avoid this situation, the agency has decided not to accept this suggestion. It should be noted that if the Director, Education Service overrules the field station director and approves a program, the effective date of the approval would be

retroactive to the date the employer applied for approval, or November 29, 1983, whichever is later.

The same writer suggested that when an employer requests a hearing in connection with a withdrawal of approval, the hearing be held and a decision made within 30 days of the request. After careful consideration the VA has decided not to adopt this suggestion.

The law allows both the employer and the veteran-employees to request a hearing concerning a withdrawal of approval. It would be more efficient to combine the hearings for all parties who request one. This can best be done by allowing ample time, as provided by the regulations, for each affected person to request a hearing. If a hearing were required within a few days of the VA's receipt of a request for one, and the affected people did not all request a hearing at the same time, adoption of the policy would result in an unnecessary series of hearings.

Consequently, the VA has decided not to adopt this suggestion.

One writer thought that all associate degrees are primarily vocational in content. He suggested that the States decide if a degree program was primarily vocational in content rather than have the VA make this decision as provided in § 21.1044(d)(4). The VA has decided not to adopt this suggestion, because it is contrary to law.

Section 18(a) of Pub. L. 98-77 states, "Subject to the limitation on the availability of funds set forth in subsection (b), an associate degree program which is predominantly vocational in content may be considered by the Administrator, for the purposes of section 1662(a)(3) of title 38, United States Code, to be a course with an approved vocational objective if such degree program meets the requirements established in such title for approval of such program."

If the Congress had considered that all associate degrees were vocational in content, it would not have included the phrase, "which is predominantly vocational in content" in this section. It is plain that associate degrees which are predominantly vocational in content must be differentiated from those which are not.

Furthermore, the law assigns to the Administrator of Veterans Affairs the task of determining whether or not an associate degree program is primarily vocational in content.

This writer also suggested that the paperwork burden placed on employers was too complex. He suggested that when the Congress was considering this

law, the VA should have used its consultative role to minimize this burden.

When asked by the Congress, the VA may comment on a bill. However, with this law, as with all others, the ultimate decision as to the content of the law rested with the Congress. The Congress wished to make sure that employers were offering bona fide training programs. These regulations are in accordance with Congressional intent, and are designed to ensure that the employer is offering a high quality program.

One writer was dissatisfied with the approval process. He objected to the provision found in § 21.4632 which forbids payment to employers in certain instances even after the employer has notified the VA of the employer's intent to hire a veteran. He suggested postponing the start of the approval process for both veterans and training programs until after the VA receives from an employer a notice of intent to employ a veteran. The VA has decided not to accept this suggestion.

There are two reasons for this decision. The first is that the review to see if the requirements of § 21.4622 are met will be routine in most cases. Consequently, the withholding of payments which appear in § 21.4632 will occur only in unusual circumstances.

In cases where the VA has previously determined and certified the veteran's eligibility, a denial of the claim will occur only if the veteran is already qualified for the job which is the objective of the program, or if the veteran's employment status has changed since he or she requested a determination of eligibility. The VA expects that these denials will involve only a small percentage of claims.

Secondly, adopting this policy would add an element of uncertainty to the program. Most employers would prefer knowing that a program cannot be approved or that a veteran is ineligible when considering whether to hire an individual. A potential employer would lack this information if this suggestion were adopted.

One writer also criticized the way in which the VA determines whether an employer can be reimbursed monthly rather than quarterly. Since the discussion of this matter appeared in the initial regulatory flexibility analysis, this concern is addressed in the final regulatory analysis.

As a result of internal analysis, these final regulations contain some changes from the proposed regulations. The changes provide for delegation of authority to make certain decisions, and to provide for centralized approval of

programs which are offered by an employer in more than one State. These changes to the proposed regulations involve only VA organization, procedure or practice. Therefore, under 38 CFR 1.12 they may be made final without publishing them for further comment.

Regulatory Flexibility Analysis

Section 21.4632(a), Title 38, Code of Federal Regulations contains the criteria an employer must meet before the employer may receive payments monthly rather than quarterly. This regulation will have an economic impact on small entities. Accordingly, 5 U.S.C. chapter 6 requires that a regulatory flexibility analysis be written.

Anyone wishing to receive a copy of the regulatory flexibility analysis for this regulation should write to: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, Washington, DC 20420.

The Administrator of Veterans' Affairs hereby certifies that the remainder of these regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), the remainder of these regulations, therefore, are exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

The regulations require an employer to certify that various criteria exist in order to obtain approval for a job training program. This will have an economic impact on small entities. However, these regulations are based on section 7(d), Pub. L. 98-77 which states in detail the certifications that employers are required to make. Hence, any economic impact resulting from these requirements derives from the law, not the implementing regulations.

The remainder of the regulations either will affect individual benefit recipients, or, in the case of appeals when job training programs are disapproved, will apply to so few small entities i.e., small businesses, small private and nonprofit organizations and small governmental jurisdictions, that the impact will not be significant.

Information collection requirements contained in §§ 21.4640 and 21.4642 have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB control number 2900-0402.

The Catalog of Federal Domestic Assistance number for the program

affected by the changes to §§ 21.1044, 21.4025, 21.4131, 21.4135, and 21.4230 is 64.111. There is no Catalog of Federal Domestic Assistance number for the new program established in the remainder of these regulations.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: June 27, 1984.

Harry N. Walters,
Administrator.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

The Veterans Administration is amending 38 CFR Part 21 as set forth below:

1. Section 21.1044 is amended as follows:

A. By removing the word "or" following paragraph (d)(1)(iv) and inserting the word "or" following paragraph (d)(1)(v).

B. By revising paragraphs (c) and (d)(2) (ii) and (iii) and adding paragraphs (d)(1)(vi), (d)(2) (iv) and (v), (d)(4) and the introductory text in paragraph (e) as follows:

§ 21.1044 Additional period of eligibility.

(c) *Time and length of additional eligibility period.* (1) If the ending date of the veteran's period of eligibility or extended period of eligibility as determined by § 21.1042 or § 21.1043 is before January 1, 1982, and the veteran is not pursuing an associate degree program which is predominantly vocational in content, the beginning date of the additional eligibility period will be—

(i) The first date of attendance or training as certified by the school or training establishment, or

(ii) January 1, 1982, whichever is later.

(2) If the ending date of the veteran's period of eligibility or extended period of eligibility as determined by § 21.1042 or § 21.1043 is after December 31, 1981, and the veteran is not pursuing an associate degree program which is predominantly vocational in content, the beginning date of the additional eligibility period will be—

(i) The first date of attendance or training as certified by the school or training establishment, or

(ii) The first day following the end of the veteran's period of eligibility or

extended period of eligibility, whichever is later.

(3) If the ending date of the veteran's period of eligibility or extended period of eligibility as determined by § 21.1042 or § 21.1043 is before October 1, 1983, and the veteran is pursuing an associate degree program which is predominantly vocational in content, the beginning date of the additional eligibility period will be the later of October 1, 1983 or whichever of the following dates is appropriate.

(i) If the associate degree is not a standard college degree, the first date of attendance, or

(ii) If the associate degree is a standard college degree, the date of registration, or date of reporting where the student is required by a published school standard to report in advance of registration.

(4) If the ending date of the veteran's period of eligibility as determined by § 21.1042 or § 21.1043 is after September 30, 1983, and the veteran is pursuing an associate degree program which is predominantly vocational in content, the beginning date of the additional eligibility period will be the later of the first day following the end of the veteran's period of eligibility or extended period of eligibility or whichever of the following is appropriate.

(i) If the associate degree is not a standard college degree, the first date of attendance, or

(ii) If the associate degree is a standard college degree, the date of registration, or date of reporting where the student is required by a published school standard to report in advance of registration.

(5) The ending date of an additional eligibility period is—

(i) The last day of attendance or training as certified by the school or training establishment, or

(ii) December 31, 1984, whichever is earlier. (38 U.S.C. 1662(a), Pub. L. 97-306, 96 Stat. 1429, sec. 18, Pub. L. 98-77, 97 Stat. 443)

(d) *Permissible programs.* (1) During the period of eligibility the veteran may only pursue—

(vi) A program leading to an associate degree, provided that—

(A) The program is predominantly vocational in content, and

(B) Funds have been appropriated and remain available for the purpose of pursuing an associate degree during an additional period of eligibility, and

(C) The veteran will pursue the program after September 30, 1983. (38 U.S.C. 1662(a); sec. 18, Pub. L. 98-77, 97 Stat. 443)

(2) During this period of additional eligibility the veteran may not pursue—

(ii) A course leading to a bachelor's or higher degree;

(iii) A program of secondary education if he or she already has a secondary school diploma or an equivalency certificate; or

(iv) A program leading to an associate degree if—

(A) The associate degree program is not predominantly vocational in content, or

(B) Funds have not been appropriated for pursuit of an associate degree program during an additional period of eligibility, or

(C) The funds appropriated for pursuit of an associate degree during an additional period of eligibility have been exhausted; or

(v) Before October 1, 1983, any training leading to an associate degree. (38 U.S.C. 1662(a); sec. 18, Pub. L. 98-77, 97 Stat. 443)

(4) The Veterans Administration considers that a program leading to an associate degree is predominantly vocational in content when more than one-half the unit subjects required for the associate degree program are vocational in nature. (Sec. 18, Pub. L. 98-77, 97 Stat. 443)

(e) *Need requirements—vocational or occupational objective.* After September 30, 1983, and before January 1, 1985, the Veterans Administration will consider a program leading to an associate degree which is predominantly vocational in content to have a vocational objective as well as an educational objective. (Sec. 18, Pub. L. 98-77; 97 Stat. 443)

2. In § 21.4025, the introductory text of paragraphs (a) and (b) is reprinted for the convenience of the reader and paragraphs (a)(2) and (b)(3) are revised and paragraphs (a)(3) and (b)(4) are added as follows:

§ 21.4025 Nonduplication; Federal programs.

(a) *Chapter 35.* Payment of educational assistance allowance and special training allowance are prohibited to an otherwise eligible person:

(2) For a unit course or courses which are paid for entirely or partly by the United States under the Government Employees' Training Act during any period that full salary is being paid him or her as an employee of the United States; or

(3) During any period when the Veterans Administration is making payments under § 21.4632 on the eligible person's behalf to the eligible person's employer. (Sec. 13, Pub. L. 98-77, 97 Stat. 443)

(b) *Chapter 34.* Payment of educational assistance allowance is prohibited to an otherwise eligible veteran:

(3) For a unit course or courses which are being paid for entirely or partly by the United States under the Government Employees' Training Act during any period that full salary is being paid him or her as an employee of the United States; or

(4) During any period when the Veterans Administration is making payments under § 21.4632 on the veteran's behalf to the veteran's employer. (Sec. 13, Pub. L. 98-77, 97 Stat. 443)

3. The cross reference immediately following § 21.4025 is changed to read "See §§ 21.1025, 21.3024, 21.3025 and 21.4632"

4. In § 21.4131, paragraph (i) is reserved and (j) is added as follows:

§ 21.4131 Commencing dates.

(i) [Reserved]
(j) *Emergency Veterans' Job Training Act of 1983 (§ 21.4630).* The day following the last day for which the veteran's employer received payments on the veteran's behalf under the Emergency Veterans' Job Training Act of 1983. (Sec. 13, Pub. L. 98-77, 97 Stat. 443)

5. In § 21.4135, paragraph (x) is reserved and (y) is added as follows:

§ 21.4135 Discontinuance dates.

(x) [Reserved]
(y) *Emergency Veterans' Job Training Act of 1983 (§ 21.4632).* The first day for which the veteran's employer received payments on the veteran's behalf under the Emergency Veterans' Job Training Act of 1983. (Sec. 13, Pub. L. 98-77, 97 Stat. 443)

6. In § 21.4230, paragraph (c) is revised as follows:

§ 21.4230 Requirements.

(c) *Professional or vocational.* A professional or vocational objective is one that leads to an occupation. It may include educational objectives essential to prepare for the chosen occupation. When a program consists of a series of courses not leading to an educational

objective, such courses must be directed toward attainment of a designated professional or vocational objective. After September 30, 1983, and before January 1, 1985, the Veterans Administration will consider a program leading to an associate degree which is primarily vocational in content to have both an educational objective and a vocational objective. (Sec. 18, Pub. L. 98-77, 97 Stat. 443)

7. In Part 21, subpart F-1 is added as follows:

Subpart F-1—Emergency Veterans' Job Training

Job Training

- Sec.
21.4600 Job training program.
21.4602 Definitions.

Eligibility Requirements for Participation in a Job Training Program

- 21.4610 Eligibility requirements.
21.4612 Application and certifications.

Approval of Employer Programs

- 21.4620 Program approval.
21.4622 Employer applications for approval.
21.4624 Withdrawal of approval.

Payments

- 21.4630 Entrance into training.
21.4632 Payments.
21.4634 Overpayments.

Administrative

- 21.4640 Inspection of records.
21.4642 Monitoring and investigations.
21.4644 False Claims Act.
21.4646 Delegations of authority.

Authority: Pub. L. 98-77, 97 Stat. 443.

Subpart F-1—Emergency Veterans' Job Training

Job Training

§ 21.4600 Job training program.

Sections 21.4600 through 21.4646 establish an Emergency Veterans' Job Training Program to assist eligible veterans in obtaining employment through training for employment in stable and permanent positions that involve significant training. The Veterans Administration makes payments to employers who employ and train eligible veterans in these jobs. The payments assist employers in defraying the costs of necessary training. (Sec. 4, Pub. L. 98-77, 97 Stat. 443)

§ 21.4602 Definitions.

For the purpose of the job training program described in §§ 21.4600 through 21.4646 the following definitions apply.

(a) *Veteran.* The term "veteran" means a person who—

(1) Served in the active military, naval or air service, as defined in paragraph (f) of this section, and

(2) Was discharged or released therefrom under conditions other than dishonorable. (Sec. 3, Pub. L. 98-77, 97 Stat. 443; 38 U.S.C. 101(2))

(b) *Korean conflict.* The term "Korean conflict" means the period beginning on June 27, 1950 and ending on January 31, 1955. (Sec. 3, Pub. L. 98-77, Stat. 443; 38 U.S.C. 101(9))

(c) *Compensation.* The term "compensation" means a monthly payment made by the Veterans Administration to a veteran because of a service-connected disability. (Sec. 3, Pub. L. 98-77, 97 Stat. 443; 38 U.S.C. 101(13))

(d) *Service-connected.* The term "service-connected" means, with respect to disability, that the disability was incurred or aggravated, or that the death resulted from a disability incurred or aggravated, in line of duty in the active military, naval or air service. (Sec. 3, Pub. L. 98-77, 97 Stat. 443; 38 U.S.C. 101(16))

(e) *State.* The term "State" means each of the several States, Territories, and possessions of the United States, the District of Columbia and the Commonwealth of Puerto Rico. (Sec. 3, Pub. L. 98-77, 38 U.S.C. 101(20))

(f) *Active military, naval or air service.* The term "active" military, naval or air service" includes active duty, any period of active duty for training during which the individual concerned was disabled from a disease or injury incurred or aggravated in line of duty, and any period of inactive duty training during which the individual concerned was disabled from an injury incurred or aggravated in line of duty. (Sec. 3, Pub. L. 98-77, 97 Stat. 443; 38 U.S.C. 101(24))

(g) *Vietnam era.* The term "Vietnam era" means the period beginning August 5, 1964 and ending on May 7, 1975. (Sec. 3, Pub. L. 98-77, 97 Stat. 443; 38 U.S.C. 101(29))

(h) *Growth industry.* A growth industry is one where, discounting for variations caused by the business cycle, employment is expected by the Bureau of Labor Statistics to increase at a rate faster than the average industry. (Sec. 6, Pub. L. 98-77, 97 Stat. 443)

(i) *Hours worked.* (1) Hours worked means—

(i) Hours the veteran worked or was trained on the job during the standard workweek and for which the veteran received wages.

(ii) All hours of the veteran's related training which occurred during the standard workweek and for which the veteran received wages, and

(iii) Legal holidays for which the veteran received wages.

(2) Hours worked do not include—

(i) Hours of work or training which exceed the hours of the standard workweek at the place where the veteran is being trained, or

(ii) Sick leave, annual leave, vacation time, administrative leave or time off in lieu of overtime pay other legal holidays. (Sec. 8, Pub. L. 98-77, 97 Stat. 443)

(j) *Full time.* The term "full time" means the standard workweek at the place where the veteran is being trained, but not less than 30 hours, unless a lesser number of hours is established as the standard workweek through collective bargaining between the employer and employees. (Sec. 3, Pub. L. 98-77, 97 Stat. 443)

(k) *Employer.* The term "employer" means a person or business or other entity which is responsible for paying wages to the veteran and can make the certification required by § 21.4622(a). (Sec. 7, Pub. L. 98-77, 97 Stat. 443)

Eligibility Requirements for Participation in a Job Training Program

§ 21.4610 Eligibility requirements.

A veteran will be eligible to participate in a job training program established by § 21.4620 only if he or she meets the requirements of this section. (Sec. 5, Pub. L. 98-77, 97 Stat. 443)

(a) *Unemployment.* (1) On the date of application the veteran must—

(i) Be unemployed, and
(ii) Have been unemployed for at least 15 of the 20 weeks immediately preceding the date of his or her application for participation in a job training program.

(2) For the purpose of this paragraph the Veterans Administration will consider that a veteran is unemployed during any period he or she—

(i) Is without a job (other than casual work),
(ii) Wants work, and
(iii) Is available for work. (Sec. 5, Pub. L. 98-77, 97 Stat. 443)

(b) *Service requirements.* The veteran must have—

(1) Served in the active military, naval or air service for a period of more than 180 days, any part of which was during the Korean conflict or the Vietnam era; or

(2) Served in the active military, naval or air service during the Korean conflict or the Vietnam era, and—

(i) Was discharged or released for a service-connected disability; or
(ii) Is entitled to compensation (or but for the receipt of retirement pay would

be entitled to compensation). (Sec. 5, Pub. L. 98-77, 97 Stat. 443)

§ 21.4612 Applications and certifications.

(a) *Application.* The veteran must apply for participation in the job training program using the form prescribed by the Veterans Administration. (Sec. 5, Pub. L. 98-77, 97 Stat. 443)

(b) *Approval.* The Veterans Administration will approve a veteran's application to participate in a job training program if—

(1) The veteran meets all the requirements of § 21.4610, and
(2) Funds are available to pay employers under the program established in § 21.4600. (Sec. 5, Pub. L. 98-77, 97 Stat. 443)

(c) *Certificates.* (1) Upon approving a veteran's application, the Veterans Administration will furnish the veteran with a certificate for presentation to an employer with a job training program. The certificate will—

(i) State that the veteran is eligible;
(ii) State the date on which it is furnished to a veteran; and
(iii) State that approval of entrance into a job training program is subject to the availability of funds.

(2) A certificate expires 60 days from the date on which it is furnished to the veteran. A certificate may be renewed for an additional 60 days if at the time the veteran applies for renewal, the provisions of paragraph (b) of this section are met. (Sec. 5, Pub. L. 98-77; 97 Stat. 443)

Approval of Employer Programs

§ 21.4620 Program approval.

In order to receive assistance paid on behalf of a veteran, an employer must have a job training program which is approved by the Veterans Administration. That program must meet all the requirements of this section, and the employer must make the certifications found in § 21.4622.

(a) *Program requirements.* (1) The following criteria must be met by all programs.

(i) The training is for at least 6 months unless—

(A) The training is for at least 3 months, and

(B) The Veterans Administration finds that the training will meet the purposes of the Emergency Veterans' Job Training Program as stated in § 21.4600.

(ii) The training program must lead to employment in an occupation which has been determined by the Veterans Administration and the Department of Labor, as appropriate, either—

(A) To be in a growth industry; or

(B) To require the use of new technological skills, or

(C) To be one in which the demand for labor exceeds supply, either in the United States as a whole or in the locality where the trainee will be employed.

(iii) The wages and benefits paid to the veteran participating in the program are not less than but are comparable to the wages and benefits normally paid to other employees participating in a comparable program of job training in the same community.

(iv) The job which is the objective of the program involves significant training.

(v) The training content of the program is adequate to accomplish the training objective of the program. In determining this, the Veterans Administration will consider—

(A) The occupation for which training is to be provided, and

(B) The content of comparable training opportunities available which lead to the occupation.

(vi) The training period under the program is not longer than the training periods that employers in the community customarily require new employees to complete in order to become competent in the occupation for which training is provided.

(vii) The following are available in the training establishment as needed to accomplish the training objective of the program.

(A) Sufficient space,

(B) Equipment,

(C) Instructional material, and

(D) Instructor personnel.

(2) In order to provide all or part of a job training program an employer may enter into an agreement with an educational institution that has a course or courses which have been approved under § 21.4253 or § 21.4254 for the enrollment of veterans. (Secs. 6, 7 and 10, Pub. L. 98-77, 97 Stat. 443)

(b) *Program restrictions.* The Veterans Administration will not approve a program of job training—

(1) For employment which consists of seasonal, intermittent, or temporary jobs;

(2) For employment under which commissions are the primary source of income;

(3) For employment which involves political or religious activities;

(4) For employment with any department, agency, instrumentality or branch of the Federal Government (including the United States Postal Service and the Postal Rate Commission), or

(5) If the training will not be carried out in a State. (Sec. 7(b), Pub. L. 98-77, 97 Stat. 443)

§ 21.4622 Employer applications for approval.

(a) *Applications for approval of apprenticeships and job training programs.* (1) An employer must apply to the Director, Education Service for approval of—

(i) A program of apprenticeship—
(A) The standards for which have been approved by the Secretary of Labor under section 50a of title 29, United States Code as a national apprenticeship program for operation in more than one State, and

(B) For which the training establishment is a carrier directly engaged in interstate commerce and providing training in more than one State; and

(ii) Any other job training program if the employer intends to offer the same training program in more than one State.

(2) For all other job training programs the employer must apply for approval to the Director of the Veterans Administration field station having jurisdiction over the place where the veteran will be trained.

(3) On the application the employer will certify—

(i) The total number of hours of participation in the job training program to be offered the veteran;

(ii) The length of the job training program;

(iii) The starting hourly rate of wages to be paid to a participant in the program;

(iv) A description of the training content of the program (including the name of the educational institution, if any, with which the employer has an agreement to provide all or part of the job training program and a description of that agreement);

(v) The objective of the program;

(vi) That the job training program meets all the requirements of § 21.4620(a)(1)(iii) through (vii);

(vii) The employment of the veteran under the program—

(A) Will not result in the displacement of currently employed workers (including partial displacement such as a reduction in the hours of nonovertime work, wages or employment benefits), and

(B) Will not be in a job while another person is laid off from the same or substantially equivalent job, or will not be in a job the opening for which was created as a result of the employer having terminated the employment of any regular employee or otherwise

having reduced its work force with the intention of hiring a veteran in the job training program;

(viii) That the employer will not employ in the program of job training a veteran who is already qualified for the job for which the training is to be provided;

(ix) That each participating veteran will be employed full time in the job training program;

(x) That the employer will keep records which are adequate—

(A) To show the progress made by each veteran participating in the program;

(B) To demonstrate that all the requirements exist for approval of the program and paying employers on behalf of veterans participating in the program.

(xi) That the employer is planning—

(A) Upon the veteran's completion of the job training program to employ the veteran in the position for which he or she has been trained, and

(B) That the position will be available on a stable and permanent basis to the veteran at the end of the training period.

(xii) The address of the location where the records described in paragraph (a)(3)(x) of this section will be kept;

(xiii) If the employer desires to be paid monthly, the number of employees the employer has;

(xiv) If the employer is basing the request for approval on the grounds that the job training program leads to an occupation requiring the use of new technological skills, a statement of what those skills are;

(xv) That the employer, before the veteran's entry into training will—

(A) Furnish the veteran with a copy of the certification described in this paragraph, and

(B) Obtain and retain the veteran's signed acknowledgment of having received the certification; and

(xvi) That the employer is in compliance with the following laws and all Federal regulations adopted pursuant to those laws:

(A) Title VI of the Civil Rights Act of 1964.

(B) Title IX of the Education Amendments of 1972,

(C) Section 504 of the Rehabilitation Act of 1973, and

(D) The Age Discrimination Act of 1975. (Secs. 6 and 7, Pub. L. 98-77, 97 Stat. 443; 20 U.S.C. 1681, 29 U.S.C. 794, 42 U.S.C. 2000d-1, 42 U.S.C. 6102)

(b) *Veterans Administration action upon receipt of the applications.* (1)

Upon receipt of the application, the Director of the Veterans Administration field station of jurisdiction, or the

Director, Education Service, as appropriate, will approve the job training program if—

(i) The program meets the requirements of § 21.4620(a);

(ii) None of the restrictions contained in § 21.4620(b) apply to the program;

(iii) The employer has made the certification required in paragraph (a) of this section; and

(iv) The Director of the Veterans Administration field station of jurisdiction, or the Director, Education Service, as appropriate, has no evidence the certifications may be inaccurate.

(2) In determining whether the provisions of § 21.4620(a)(1)(iii) through (vii) are met and whether the certifications are accurate, the Director of the Veterans Administration field station of jurisdiction, or the Director, Education Service, as appropriate, will

(i) Assume that the provisions have been met and that the certification is accurate if the job training program for which the employer is seeking approval has already been approved for training under § 21.4261 or § 21.4262, or the entire job training program is to be given by an educational institution which already has a course or courses approved for training under § 21.4250.

(ii) Consider any information the Department of Labor may have concerning the employer and the job training program; and

(iii) Consider any other evidence which may show whether or not the certification is accurate and whether or not the provisions of § 21.4620(a)(1) (iii) through (vii) are met.

(3) The Director of the Veterans Administration field station, or the Director, Education Service, as appropriate, will notify the employer in writing of the approval or disapproval of this program.

(4) The effective date of the approval will be the later of—

(i) The date the employer applied for approval, or

(ii) November 29, 1983. (Sec. 7, Pub. L. 98-77, 97 Stat. 443)

(c) *Review of a decision not to approve a program.* (1) If an employer disagrees with a decision of a Director of a Veterans Administration field station not to approve the program, the employer may ask that the decision be reviewed by the Director, Education Service. The request—

(i) Must be in writing to the Director of the Veterans Administration field station, and

(ii) Must be received by the Veterans Administration within 60 days of the date on which the employer was notified of the disapproval.

(2) Upon receipt of a valid request for a review, the Director of the Veterans Administration field station will submit all the evidence of record to the Director, Education Service.

(3) The Director, Education Service has the authority to affirm or reverse a decision of the Director of a Veterans Administration field station not to approve a job training program. The Director, Education Service shall base his or her decision on the requirements and restrictions found in § 21.4620 and in paragraph (a) of this section.

(4) A decision concerning approval or disapproval of a job training program is final when made by the Director, Education Service after review of the material submitted by the Veterans Administration field station. The decision is not subject to further administrative review.

(5) When the Director, Education Service has original jurisdiction over an application for approval of a job training program, and an employer disagrees with his or her decision not to approve the program, the employer may ask that the decision be reviewed by the Deputy Chief Benefits Director. The request—

(i) Must be in writing to the Director, Education Service, and

(ii) Must be received by the Veterans Administration within 60 days of the date on which the employer was notified of the disapproval.

(6) Upon receipt of a valid request for review, the Director, Education Service will submit all the evidence of record to the Deputy Chief Benefits Director.

(7) The Deputy Chief Benefits Director has the authority to affirm or reverse a decision of the Director, Education Service not to approve a job training program. The Deputy Chief Benefits Director shall base his or her decision on the requirements and restrictions found in § 21.4620 and in paragraph (a) of this section. There is no right of additional administrative appeal from a decision of the Deputy Chief Benefits Director. (Sec. 7, Pub. L. 98-77; 97 Stat. 443)

§ 21.4624 Withdrawal of approval.

(a) *Approval may be withdrawn.* (1)

The Director of a Veterans Administration field station, or the Director, Education Service, as appropriate, may immediately disapprove the further participation of veterans in a job training program which has been previously approved when—

(i) The program ceases to meet the requirements of § 21.4620, or

(ii) The Director finds that the employer's certification was false, or

(iii) The employer refuses to make available to an authorized representative of the Federal Government those records which the employer is required to keep under § 21.4640.

(2) The Director of the Veterans Administration field station or the Director, Education Service, as appropriate, shall notify the employer and all veterans participating in the program that approval of the program is being withdrawn. The notices shall be by certified or registered letter, return receipt requested, and shall include—

(i) A statement of the reasons for the withdrawal of approval, and

(ii) An opportunity for a hearing for an employer or a veteran with respect to withdrawal of approval, provided a hearing is requested within 60 days of the notice.

(3) If the Director of the Veterans Administration field station of jurisdiction has provided notice, the hearing will be held before the Committee on Educational Allowances in the field station as established by § 21.4207. If more than one person requests a hearing, the Veterans Administration may hold one hearing, where feasible, for all people who may wish to be heard. The Veterans Administration will not pay for any expenses incurred for counsel or witnesses. The Committee will recommend to the Director whether or not to reinstate the approval. The Director may affirm or reverse the Committee's recommendation. The Director's decision shall be final unless the employer seeks a review as provided in paragraph (a)(5) of this section.

(4) If the Director, Education Service has provided notice, the hearing will be held before the Committee on Educational Allowances at the Veterans Administration field station most convenient for the person requesting the hearing. If more than one person requests a hearing, the Veterans Administration may hold one hearing, where feasible, for all people who may wish to be heard. The Veterans Administration will not pay for any expenses incurred for counsel or witnesses. The Committee will forward the results of the hearing to the Director, Education Service for review. The Director's decision shall be final unless the employer seeks further review as provided in paragraph (a)(7) of this section.

(5) An employer or veteran who disagrees with the decision of a Director of a Veterans Administration field station to withdraw approval from a job training program may request that the

decision be reviewed by the Director, Education Service. The employer or veteran may waive the right to a hearing before the review. The request—

(i) Must be made in writing to the Director of the Veterans Administration field station, and

(ii) Must be received by the Veterans Administration within 60 days of the date the Director of the Veterans Administration field station notified the employer or veteran of the decision to withdraw approval, or if a hearing was held at the employer's or veteran's request, within 60 days of the date the decision was affirmed by the station Director.

(6) Upon receipt of a valid request for a review, the Director of the Veterans Administration field station will forward all evidence of record, including a transcript of the hearing if one was held, to the Director, Education Service. The Director, Education Service has the authority to affirm or reverse a decision of the Director of a Veterans Administration field station.

(7) An employer or veteran who disagrees with the decision of the Director, Education Service to withdraw approval from a job training program over which the Director has original approval authority may request that the decision be reviewed by the Deputy Chief Benefits Director. The employer or veteran may waive the right to a hearing before the review. The request—

(i) Must be made in writing to the Director, Education Service, and

(ii) Must be received by the Veterans Administration within 60 days of the date the Director, Education Service notified the employer or veteran of the decision to withdraw approval, or if a hearing was held at the employer's or veteran's request, within 60 days of the date the decision was affirmed by the Director, Education Service.

(8) Upon receipt of a valid request for a review, the Director, Education Service will forward all evidence of record, including a transcript of the hearing if one was held, to the Deputy Chief Benefits Director. The Deputy Chief Benefits Director has the authority to affirm or reverse a decision of the Director, Education Service. (Sec. 11, Pub. L. 98-77; 97 Stat. 443)

(b) *Renewal of approval.* In the event that an employer takes steps to bring a job training program back into compliance with the provisions of § 21.4620, the employer may request that a job training program be reapproved. (Sec. 7, Pub. L. 98-77, 97 Stat. 443)

(c) *Authority of the Director, Education Service.* (1) If in the course of his or her administrative duties the Director, Education Service finds that

the Director of a Veterans Administration field station approved a job training program in error, the Director, Education Service may direct the Director of a Veterans Administration field station to withdraw the approval in accordance with the procedures outlined in paragraph (a) of this section.

(2) If the Director, Education Service finds that an approval was withdrawn in error, he or she may direct the Director of a Veterans Administration field station to renew the approval without applying the procedures set forth in paragraph (b) of this section. (Secs. 6, 7 and 11, Pub. L. 98-77, 97 Stat. 443)

(d) *Authority of the Deputy Chief Benefits Director.* (1) If in the course of his or her administrative duties the Deputy Chief Benefits Director finds that the Director, Education Service approved a job training program in error, the Deputy Chief Benefits Director may direct the Director, Education Service to withdraw the approval in accordance with the procedures outlined in paragraph (a) of this section.

(2) If the Deputy Chief Benefits Director finds that the Director, Education Service withdrew an approval in error, he or she may direct the Director, Education Service to renew the approval without applying the procedures set forth in paragraph (b) of this section. (Secs. 6, 7 and 11, Pub. L. 98-77; 97 Stat. 443)

Payments

§ 21.4630 Entrance into training.

(a) *Lack of funds may prevent training.* Even though an eligible veteran may be in an approved job training program, the Veterans Administration may withhold or deny approval of the veteran's entry into a job training program if the Veterans Administration determines that funds are not available to make payments to the employer on behalf of the veteran. (Sec. 9, Pub. L. 98-77, 97 Stat. 443)

(b) *Certification before entry into training.* (1) Before the eligible veteran enters an approved job training program, the employer shall notify the Director of the Veterans Administration Regional Office, Houston, Texas that the employer intends to hire the veteran.

(2) The veteran may begin the job training program and the Veterans Administration will make payments to the employer on the veteran's behalf unless within 2 weeks from the date of the notice described in paragraph (b)(1) of this section, the Veterans Administration notifies the employer

that approval of the veteran's entry into the job training program must be withheld or denied due to lack of funds. In determining whether 2 weeks have elapsed, the Veterans Administration will measure the time between the date the employer's notice to the Veterans Administration was postmarked and the date the Veterans Administration's response to the employer was postmarked. (Sec. 9, Pub. L. 98-77, 97 Stat. 443)

(c) *Counseling.* At the request of a veteran who is eligible to participate in a job training program, the Veterans Administration will provide the veteran with employment counseling services to assist him or her in selecting a suitable job training program. The provisions of § 21.4104 apply to this counseling. (38 U.S.C. 111, Sec. 14, Pub. L. 98-77, 97 Stat. 443)

§ 21.4632 Payments.

The Veterans Administration shall not make payments to an employer if the job training program has not been approved as required by § 21.4622(b), or the veteran does not meet the eligibility requirements found in § 21.4610, or approval of a veteran's entrance into training must be withheld or denied due to a lack of funds. Payments made to employers on behalf of veterans in training shall be made in accordance with the provisions of this section.

(a) *Time of payments.* (1) The Veterans Administration shall make payments monthly to any employer who—

- (i) Wants monthly payments, and
- (ii) Has fewer than 75 employees at the time the veteran enters training.

(2) The Veterans Administration shall make payments quarterly to employers other than those described in paragraph (a)(1) of this section. (Sec. 8, Pub. L. 98-77, 97 Stat. 443)

(b) *Amount of payments.* Subject to the limitations stated in paragraph (e) of this section the amount paid to an employer for any period of time shall be 50 percent of the product of—

- (1) The starting hourly wage paid by the employer to the veteran (without regard to overtime, premium pay or fringe benefits), and
- (2) The number of hours the veteran worked during that period. (Sec. 8, Pub. L. 98-77, 97 Stat. 443)

(c) *Release of payments.* (1) The Veterans Administration will not pay an employer for a period of training on behalf of a veteran unless all of the criteria contained in this paragraph are met.

- (2) Unless the veteran is deceased, has moved, has quit, has had his or her

employment terminated, or is similarly unavailable, the Veterans Administration must receive from the veteran a certification that he or she was employed full time by the employer in a job training program during the period.

(3) The Veterans Administration must receive from the employer a certification—

(i) That the employer employed the veteran during that period in an approved job training program,

(ii) That the veteran's performance and progress during that period was satisfactory,

(iii) The number of hours the veteran worked during the period, and

(iv) If this is the employer's first certification for the veteran—

(A) The date the veteran's employment began, and

(B) The starting hourly rate of wages paid to the veteran (without regard to overtime, premium pay or fringe benefits). Sec. 8, Pub. L. 98-77; 97 Stat. 443)

(d) *Duration of payments.* (1) The maximum period of training for which the Veterans Administration will pay an employer on behalf of a veteran is—

(i) Fifteen months in the case of—

(A) A veteran with a service-connected disability rated at 30 percent or more, or

(B) A veteran with a service-connected disability rated at 10 or 20 percent who has been determined under 38 U.S.C. 1506(a) to have a serious employment handicap; and

(ii) Nine months in the case of any other eligible veteran.

(2) If the veteran trains in an approved job training program after having trained in one or more other training programs, the duration of payments made to the employer will be the time period determined by paragraph (d)(1) on this section less the period of time paid on the veteran's behalf to his or her previous employer or employers. (Sec. 5, Pub. L. 98-77, 97 Stat. 443)

(e) *Limitations on payments.* (1) The total amount that may be paid to an employer on behalf of a veteran participating in a job training program is \$10,000.

(2) The Veterans Administration will not pay an employer—

(i) On behalf of any veteran who applies for a job training program after November 28, 1984.

(ii) For any job training program which begins after February 28, 1985.

(iii) For any training given to the veteran before the effective date of approval of the job training program.

(iv) For any training the veteran completed after the Veterans Administration withdrew approval of the job training program.

(v) During any period of time in which the veteran receives benefits under chapters 31, 32, 34, 35 or 36, title 38, United States Code.

(vi) For any period during which the employer received any form of assistance on account of the veteran's training or employment including—

(A) Assistance under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) or

(B) A credit under section 44B of the Internal Revenue Code of 1954 (26 U.S.C. 44B).

(vii) For any hours of training the veteran completes in excess of the hours approved by the Veterans Administration for his or her job training program.

(viii) For any period for which the employer—

(A) Fails to provide the certification required by paragraph (c)(3) of this section.

(B) Fails to maintain records or fails to make them available to authorized representatives of the Federal Government as required by § 21.4640.

(ix) For any period if, during that period, the employer was in violation of Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Sec. 504 of the Rehabilitation Act of 1973 or the Age Discrimination Act of 1975 (Secs. 7, 11, 13 and 17, Pub. L. 98-77, 97 Stat. 443, 20 U.S.C. 1681, 29 U.S.C. 794, 42 U.S.C. 2000d-1, 42 U.S.C. 6102)

§ 21.4634 Overpayments.

(a) *False certification by employer.* Whenever the Veterans Administration finds that an overpayment has been made to an employer on behalf of a veteran as a result of a certification or information contained in the employer's application to the Veterans Administration which was false in any material respect, the amount of the overpayment shall constitute a liability of the employer to the United States. (Sec. 8, Pub. L. 98-77, 97 Stat. 443)

(b) *Noncompliance by employer.* Whenever the Veterans Administration finds that an employer has failed to comply with a requirement of § 21.4620 or § 21.4622 or both (unless the employer's failure is the result of false or incomplete information provided by the veteran), each amount paid to the employer on behalf of a veteran for that period shall be considered an

overpayment. The amount of the overpayment shall constitute a liability of the employer to the United States. (Sec. 8, Pub. L. 98-77, 97 Stat. 443)

(c) *False certification by veteran.* Whenever the Veterans Administration finds that an overpayment has been made to an employer on behalf of a veteran as a result of certification by the veteran, or as a result of information provided to an employer or contained in an application submitted by the veteran to the Veterans Administration which was willfully or negligently false in any respect, the amount of the overpayment shall constitute a liability of the veteran to the United States. (Sec. 8, Pub. L. 98-77, 97 Stat. 443)

(d) *Waivers of overpayments.* Any overpayment established under this section may be waived, entirely or partly, as provided by §§ 1.955 through 1.970 of this chapter. (Sec. 8, Pub. L. 98-77, 97 Stat. 443)

(e) *Recovery of overpayments.* (1) Any overpayment referred to in paragraph (a), (b) or (c) of this section may be recovered in the same manner as any other debt due the United States.

(2) If both the veteran and employer are found liable to the United States under paragraph (a), (b) or (c) of this section for all or part of the overpayment, they shall be considered to be jointly and severally liable to the extent of their respective liabilities. (Sec. 8, Pub. L. 98-77, 97 Stat. 443)

Administrative

§ 21.4640 Inspection of records.

(a) *Availability of records.* The records and accounts of employers pertaining to veterans on behalf of whom assistance shall be paid, as well as other records that the Veterans Administration determines to be necessary to ascertain compliance with the requirements established in § 21.4620 through 21.4632, shall be available at reasonable times for examination by authorized representatives of the Federal Government. (Sec. 12, Pub. L. 98-77, 97 Stat. 443)

(b) *Retention of records.* An employer must keep the records mentioned in paragraph (a) of this section intact and in good condition for at least 3 years following the last month or quarter for which the employer received a payment on behalf of the veteran. Longer retention is not required unless the employer receives a written request from the General Accounting Office or the Veterans Administration not later than 30 days before the end of the 3-year

period (Sec. 12, Pub. L. 98-77, 97 Stat. 443)

(Approved by the Office of Management and Budget under control number 2900-0402)

§ 21.4642 Monitoring and investigations.

(a) *Monitoring and investigations.* The Veterans Administration may determine compliance with the provisions of § 21.4620 through 21.4632 by—

- (1) Monitoring employers and veterans participating in job training programs,
 - (2) Investigating any matter necessary to determine compliance, and
 - (3) Requiring the submission of information deemed necessary by the Administrator of Veterans' Affairs before, during or after training. (Sec. 12, Pub. L. 98-77, 97 Stat. 443)
- (b) *Scope of investigations.* The Veterans Administration will carry out the monitoring and investigative functions contained in paragraph (a) of this section by—

- (1) Examining records (including making certified copies of records),
- (2) Questioning employees, and
- (3) Entering into any premises or on to any site where—

- (i) Any part of the job training program is conducted, or
- (ii) Any of the employer's records are kept. (Sec. 12, Pub. L. 98-77, 97 Stat. 443)

(Approved by the Office of Management and Budget under control number 2900-0402)

§ 21.4644 False Claims Act.

An individual who attempts to obtain payments on behalf of veterans through submission of false or misleading statements is subject to the provisions of the False Claims Act (31 U.S.C. 3729-3731, 18 U.S.C. 1001ff). (31 U.S.C. 3729-3731, 18 U.S.C. 1001ff)

§ 21.4646 Delegations of authority.

Except as otherwise provided, authority is delegated to the Chief Benefits Director and to supervisory or adjudicative personnel within the jurisdiction of the Education Service of the Department of Veterans Benefits authorized by him or her to make findings and decisions under Pub. L. 98-77 and the applicable regulations, precedents and instructions, as to programs authorized by §§ 21.4600 through 21.4644. (38 U.S.C. 212(a))

[FR Doc. 84-18836 Filed 7-17-84; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 761

[OPTS-62041; TSH FRL 2611-5]

Toxic Substances Control Act; Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions; Editorial Amendment of Definitions

Correction

In FR Doc. 84-16399, beginning on page 25239, in the issue of Wednesday, June 20, 1984, make the following corrections:

1. On page 25239, in the third column, in § 761.3, in the fifth paragraph, in the last line, "capacitors as" should read "capacitors are as".
2. On page 25240, in the first column, in § 761.3, in paragraph "(3)", in the fourth line, "at 2,000" should read "below 2,000".

BILLING CODE 1505-01-M

40 CFR Part 761

[OPTS-62042; FRL-2621-8]

Toxic Substances Control Act; Polychlorinated Biphenyls (PCBS) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions; Technical Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is issuing an update of its American Society for Testing Materials (ASTM) test methods that are referenced in § 761.19, in an effort to reflect the most recent edition of material incorporated by reference in that section.

DATE: This final rule is effective August 1, 1984.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, D.C. 20460, Toll free: (800-424-9065), In Washington, D.C.: (554-1404), Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: In the Federal Register of May 21, 1982 (47 FR 22098), EPA established § 761.19 to include a central listing of incorporations by reference in 40 CFR Part 761. The incorporation by reference availability information is required

under 1 CFR Part 51. In an effort to reflect the most recent edition of material incorporated by reference in § 721.60, § 761.19 is being revised at this time.

Copies of the incorporated material may be obtained from the EPA Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Rm. 106, 401 M St., SW., Washington, D.C. 20460, and from the ASTM, 1916 Race St., Philadelphia, PA.

Since there is no substantive difference in the material referenced, no public comment is required.

Executive Order 12291

Under Executive Order 12291, EPA must judge whether a rule is a "major rule" and, therefore, subject to the requirement that a Regulatory Impact Analysis be prepared. EPA has determined that this rule is not a major rule as the term is defined in section 1(b) of the Executive Order. Therefore, EPA has not prepared a Regulatory Impact Analysis for this rule.

EPA has concluded that this final rule is not "major" under the criteria of section 1(b) because the annual effect of this rule on the economy will not cause a major increase in costs or prices for any sector of the economy or for any geographic region; and it will not result in any significant adverse effects in competition, employment, investment, productivity, innovation, or on the ability of United States enterprises to compete with foreign markets. In fact, this rule simply provides for updating analytical test methodology to the state of the art. This rule was submitted to the Office of Management and Budget for review as required by E.O. 12291.

Regulatory Flexibility Act

Under section 605(b) of the Regulatory Flexibility Act, EPA certifies that this rule will not, if promulgated have a significant impact on a substantial number of small entities, and therefore does not require a Regulatory Flexibility Analysis. This rule merely updates certain (ASTM) test methods cited in the PCB regulations to current ASTM standards. In fact, this update will bring the analytical methods cited in the PCB regulations to the state of the art. Since no negative economic effect is expected upon any business entity from the promulgation of this rule, EPA certifies that this rule will not have a significant economic impact on small entities.

Paperwork Reduction Act

EPA has determined that the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et. seq. does not apply to

this final rule since no information collection or recordkeeping is involved.

(Sec. 6, 90 Stat 2020 (15 U.S.C. 2065))

List of Subjects in 40 CFR Part 761

Intergovernmental relations, Hazardous materials, Labeling, Polychlorinated biphenyls, Recordkeeping and reporting requirements, Incorporation by reference.

Dated: June 27, 1984.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

PART 761—[AMENDED]

Therefore, Chapter I of Title 40, is amended by revising the table in § 761.19 to read as follows:

§ 761.19 References.

* * * * *

(b) * * *

References	CFR Citation
ASTM D-93-80 Standard Test Method for Flash Point by Pensky-Martens Closed Tester.	§ 761.60(a)(3)(iii)(B)(6); § 761.75(b)(8)(iii).
ASTM D-129-64 (Reapproved 1978) Standard Test Method for Sulfur in Petroleum Products (General Bomb Method).	§ 761.60(a)(3)(iii)(B)(6).
ASTM D-240-76 (Reapproved 1980) Standard Test Method for Heat of Combustion of Liquid Hydrocarbon Fuel by Bomb Calorimeter.	§ 761.60(a)(3)(iii)(B)(6).
ASTM D-482-80 Standard Test Method for Ash from Petroleum Products.	§ 761.60(a)(3)(iii)(B)(6).
ASTM D-524-81 Standard Test Method for Ramsbottom Carbon Residue of Petroleum Products.	§ 761.60(a)(3)(iii)(B)(6).
ASTM D-808-81 Standard Test Method for Chlorine in New and Used Petroleum Products (Bomb Method).	§ 761.60(a)(3)(iii)(B)(6).
ASTM D-923-81 Standard Test Method for Sampling Electrical Insulating Liquids.	§ 761.60(g)(1)(ii); § 761.60(g)(2)(ii).
ASTM D-1266-80 (Reapproved 1981) Standard Test Method for Sulfur in Petroleum Products (Lamp Method).	§ 761.60(a)(3)(iii)(B)(6).
ASTM D-1796-68 (Reapproved 1977) Methods for Water and Sediment in Crude Oils and Fuel Oils by Centrifuge.	§ 761.60(a)(3)(iii)(B)(6).
ASTM D-2158-80 Standard Test Method for Residues in Liquefied Petroleum (LP) Gas.	§ 761.60(a)(3)(iii)(B)(6).
ASTM D-2709-68 (Reapproved 1982) Standard Test Method for Water and Sediment in Distillate Fuel by Centrifuge.	§ 761.60(a)(3)(iii)(B)(6).
ASTM D-2784-80 Standard Test Method for Sulfur in Liquefied Petroleum Gases (Oxyhydrogen Burner or Lamp).	§ 761.60(a)(3)(iii)(B)(6).
ASTM D-3178-73 (Reapproved 1979) Standard Test Methods for Carbon and Hydrogen in the Analysis Sample of Coke and Coal.	§ 761.60(a)(3)(iii)(B)(6).
ASTM D-3278-78 (Reapproved 1982) Standard Test Methods for Flash Point of Liquid by Setflash Closed Tester.	§ 761.75(b)(8)(iii).
ASTM E-258-67 (Reapproved 1982) Standard Test Method for Total Nitrogen Inorganic Material by Modified KJELDAHL Method.	§ 761.60(a)(3)(iii)(B)(6).

[FR Doc. 84-18851 Filed 7-17-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 13, 73 and 74

Oversight of the Radio and TV Broadcast Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Order amends broadcast station regulations in 47 CFR Parts 73 and 74 of the FCC rules. Amendments are made to delete regulations that are no longer necessary, correct inaccurate rule texts, contemporize certain requirements and to execute editorial revisions as needed for purposes of clarity and ease of understanding.

DATE: Effective July 18, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Steve Crane, Mass Media Bureau, (202) 632-5414.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 13

Commercial radio operators licenses, Radio.

47 CFR Part 73

Radio broadcast, Television.

47 CFR Part 74

Television.

Order

In the matter of oversight of the radio and TV broadcast rules.

Adopted: June 29, 1984.

Released July 11, 1984.

By the Chief, Mass Media Bureau.

1. In this *Order*, the Commission focuses its attention on the oversight of its radio and TV broadcast rules. Modifications are made herein to update, delete, clarify or correct broadcast regulations as described in the following amendment summaries:

(a) When a licensed operator is employed at more than one broadcast station, his original license must be posted at one station and FCC Form 759, the verification of radio operator license or permit, must be posted at the other station(s).

The Form 759 is available at the FCC in Washington or at FCC field offices. It is a somewhat complicated form which