with the applicable 72 COLREGS requirements.

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 vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine Safety, Navigation (Water), Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

2. Table Five of § 706.2 is amended by adding the following vessel:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, sec. 2(a)(i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, sec. 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, sec. 2(a)(i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex I, sec. (3)(a)	Percentage horizontal separation attained
USS MISSISSIPPI	CGN-40	—	—	—	—	—	X	X	13

Approved:

H. Lawrence Garrett III,

Undersecretary of the Navy.

Date: October 15, 1987.

[FR Doc. 87-25418 Filed 11-2-87; 8:45 am]

BILLING CODE 3810-AE-M

32 CFR Part 706

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

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 Under Secretary of the Navy has determined that USS TENNESSEE (SSBN-734) 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 submarine. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: October 15, 1987.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Under Secretary of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS TENNESSEE (SSBN-734) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Rule 21(c), pertaining to the arc of visibility of the sternlight; Annex I, section 2(a)(i), pertaining to the height of the masthead light; Annex I, section 2(k), pertaining to the height and relative positions of the anchor lights; and Annex I, section 3(b), pertaining to the location of the sidelights. Full compliance with the above-mentioned 72 COLREGS provisions would interfere with the special functions and purposes of the vessel. The Under Secretary of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided to the effect that USS TENNESSEE (SSBN-734) is a member of the SSBN-726 class of vessels 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 USS TENNESSEE (SSBN-734).

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 vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), Vessels.

Accordingly, 32 CFR Part 706 is amended as follows:

PART 706—[AMENDED]

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

2. Table One of § 706.2 is amended by adding the following vessel:

Vessel	Number	Distance in meters of forward masthead light below minimum required height. § 2(a)(i), Annex I
USS TENNESSEE	SSBN-734	3.70

3. Table Three of § 706.2 is amended by adding the following vessel:

Vessel	Number	Masthead lights, arc of visibility; Rule 21(a)	Side lights, arc of visibility; Rule 21(b)	Stern light, arc of visibility; Rule 21(c)	Side lights, distance inboard of ship's sides in meters § 3(b), Annex I	Stern light distance forward of stern in meters; Rule 21(c)	Forward anchor light, height above hull in meters; § 2(k), Annex I	Anchor lights relationship of aft light to forward light in meters; § 2(k), Annex I
USS TENNESSEE	SSBN-734			209°	5.3	9.0	3.8	4.0 below.

Approved:

H. Lawrence Garrett III,

Under Secretary of the Navy.

Date: October 15, 1987.

[FR Doc. 87-25416 Filed 11-2-87; 8:45 am]

BILLING CODE 3810-AE-M

VETERANS ADMINISTRATION

38 CFR Part 1

Standards for Collection, Compromise, Suspension, or Termination to Collection Efforts and Referral of Civil Claims for Money or Property; Regional Office Committees on Waivers and Compromises

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: In order to comply with recent legislative changes and revisions to General Accounting Office (GAO)/ Department of Justice claims collection standards, the Veterans Administration (VA) has amended current regulations on claims collection standards and compromise standards and updated authority for the consideration of a request for waiver of erroneous payments of travel, transportation and relocation expenses and allowances by the Committees on Waivers and Compromises.

EFFECTIVE DATE: December 3, 1987.

FOR FURTHER INFORMATION CONTACT: Peter Mulhern, Office of Budget and Finance (Controller), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233-3405.

SUPPLEMENTARY INFORMATION: On pages 21700 through 21709 of the **Federal Register** of June 9, 1987, the VA published proposed regulations to establish policy and procedures for the collection of debts and the operations of the Committees on Waivers and Compromises. No comments were received.

Public Law 97-365, the Debt Collection Act of 1982, amended the Federal Claims Collection Act. To comply with this legislation, GAO and the Department of Justice completely revised title 4 of the Code of Federal Regulations pertaining to the Federal Claims Collection Standards. The Debt Collection Act of 1982 enhanced the capability of Federal agencies to collect money or property owed to the Federal government by giving new and broader authority to collect such debts. Some of this new authority, such as the charging of interest and administrative costs, referral of debtor information to consumer reporting agencies, and standards for administrative offset, had already been granted to the VA by Pub. L. 96-466, the Veterans Rehabilitation and Education Amendment of 1980. The VA published regulations to implement this authority (52 FR 21700). However, many of the revisions to title 4 of the Code of Federal Regulations deal with technical changes for termination and suspension of collection action, referral of cases to GAO/Department of Justice, and new compromise standards. In addition, the revisions to Title 4 also contain new regulations required by the Debt Collection Act of 1982 for offset of Civil Service Retirement and standards for the use of IRS taxpayer mailing addresses, for which this Agency currently does not have any regulations. As a result of these revisions to title 4, we believe that it is necessary for this Agency's regulations on claims collection and compromise standards to be updated.

Public Law 99-224 (Dec. 28, 1985) amended the statutes (5 U.S.C. 5584, 10 U.S.C. 2774, and 32 U.S.C. 716) granting the Comptroller General and agency heads the authority to waive collection of erroneous payments made to civilian employees and members of the Armed Services. Prior to enactment of Pub. L. 99-224, waiver consideration was limited to erroneous payments of pay and allowances. With the enactment of this legislation, waiver authority has been expanded to include authority to waive erroneous payments of travel, transportation, and relocation expenses and allowances. This expanded authority applies only to overpayments made on or after December 28, 1985.

We have made only one technical change to the proposed version of the regulations in preparation for the final publication. This change is found in § 1.919(f)(2)(ii). In the proposed version, the section referred incorrectly to two waiver statutes, 5 U.S.C. 5584 and 38 U.S.C. 3102. The proper reference should have been made only to 38 U.S.C. 3102.

The Administrator hereby certifies that these final rules 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), these final rules are therefore exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604. The reason for this certification is that these final rules primarily affect only individuals indebted to the United States Government as a result of either participation in programs administered by the VA or the erroneous payment of pay or allowances.

These final rules have also been reviewed under E.O. 12291, Federal Regulation, and have been determined to be nonmajor because they will not have a $100 million annual effect on the economy and will not have any adverse economic impact on or increase costs to consumers, individual industries, Federal, State, and local government agencies or geographic regions.

There is no Catalog of Federal Domestic Assistance Program number.

List of Subjects in 38 CFR Part 1

Administrative practice and procedures, Claims, Veterans.

Approved: September 16, 1987.

Thomas K. Turnage,

Administrator.

38 CFR Part 1, *General,* is amended as follows:

PART 1—[AMENDED]

1. In § 1.900 the first sentence is revised to read as follows:

§ 1.900 Prescription of standards.

The instructions contained in §§ 1.900 through 1.954 are issued pursuant to the Federal Claims Collection Act (Pub. L. 89-508 and 97-365) and the joint regulations thereunder of the Comptroller General of the United States and the Attorney General of the United States, Title 4, Chapter II, Code of Federal Regulations. * * *

2. Section 1.901 is revised to read as follows:

§ 1.901 Omissions not a defense.

The standards set forth in §§ 1.900 through 1.954 shall apply to VA handling of civil claims for money and property but the failure of the agency to comply with any provision of the standards shall not be available as a defense for any debtor.

3. Section 1.902 is revised to read as follows:

§ 1.902 Fraud, antitrust and tax claims excluded.

(a) The standards set forth in §§ 1.900 through 1.954 do not apply to the handling of any claim as to which there is an indication of fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or any other party having an interest in the claim, or to any claim based in whole or in part on violation of the antitrust laws. Only the Department of Justice has authority to compromise, suspend, or terminate collection action on such claims.

(b) Upon identification of a claim of any of the types described in paragraph (a) of this section (an indication of fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or any other party having an interest in the claim), the VA shall refer the matter promptly to the Department of Justice. At its discretion, the Department of Justice may determine that no action is warranted and return the claim to the VA for further handling in accordance with §§ 1.900 through 1.954.

(c) The VA has no authority to consider or compromise Federal tax claims, as to which differing exemptions, administrative considerations, enforcement considerations, and statutes apply.

(d) Sections 1.900 through 1.954 do not apply to claims between Federal agencies. The VA shall attempt to resolve interagency claims by negotiation. Any unresolved claims shall be referred to the General Accounting Office (GAO) for final resolution.

(Authority: 37 U.S.C. 3711)

4. In § 1.903, the first two sentences are revised to read as follows:

§ 1.903 Settlement, waiver, or compromise under other statutory or regulatory authority.

Nothing in §§ 1.900 through 1.954 is intended to preclude VA settlement, waiver, or compromise of claims under statutes other than the Federal Claims Collection Act. See, e.g. 38 U.S.C. 1820(a) (4) and (5) and 3102(a) and 42 U.S.C. 2651–2653. * * *

5. Section 1.905 is revised to read as follows:

§ 1.905 Subdivision of claims not authorized.

Claims shall not be subdivided in order to avoid the monetary ceiling established by 31 U.S.C. 3711(a)(2). A debtor's liability arising from a particular transaction or contract shall be considered as a single claim in determining whether the claim is one of less than $20,000, exclusive of interest and administrative costs, either for purposes of suspension or termination of collection action (§§ 1.940 through 1.943) or for determining the applicability of the $20,000 limit with respect to compromise (§§ 1.930 through 1.938).

(Authority: 31 U.S.C. 3711)

6. Section 1.907 is added to read as follows:

§ 1.907 Definitions.

(a) For the purpose of §§ 1.900 through 1.954, the terms "claims" and "debt" are synonymous and interchangeable. They refer to any amount of money or property which has been determined by an appropriate official of the VA to be owed to the United States by any person, organization or entity, except another Federal agency.

(b) A debt is considered delinquent if it has not been paid by the date specified in the initial written notice of indebtedness or applicable contractual agreement, unless other satisfactory payment arrangements have been previously made. A debt is also considered delinquent if the debtor fails to satisfy obligations under a repayment agreement with the VA.

(c) As used in §§ 1.900 through 1.954, "referral for litigation" means referral to the Department of Justice for appropriate legal actions, except in those specified instances where a case is referred to the VA District Counsel for legal action.

(Authority: 31 U.S.C. 3701, 3711)

§ 1.911 [Removed]

7. Section 1.911 is removed.

§ 1.911a [Redesignated as § 1.911]

8. Section 1.911a is redesignated § 1.911.

§ 1.911 [Amended]

9. In § 1.911(a) remove the words "Chapter II" and add in their place the words "Part 102".

10. Section 1.912 is revised to read as follows:

§ 1.912 Collection by offset.

(a) *Authority and scope.* In accordance with Part 102 of Title 4 of the Code of Federal Regulations, the VA shall collect debts by administrative offset from any payments made by the VA to an individual indebted to the VA. This section does not pertain to offset from either current salary or from benefit payments, but does apply to offset from all other VA payments, including an employee's final salary check and lump-sum leave payment. Procedures for offset from benefit payments and current salary are found in § 1.912a and §§ 1.980 through 1.994. NOTE: The VA cannot offset or refer for the purpose of offset, either under the authority of this section or under any other authority found in §§ 1.900 through 1.954 and §§ 1.980 through 1.984, any debt described in 38 U.S.C. 1826 unless the requirements set forth in that section have been met.

(b) *Notification.* Prior to initiation of administrative offset, if not provided in the initial notice of indebtedness, the VA is required to provide the debtor with written notice of:

(1) The nature and amount of the debt;

(2) The VA's intention to pursue collection by offset procedures from the specified VA payment, the date of commencement of offset, and the exact amount to be offset;

(3) The opportunity to inspect and copy VA records pertaining to the debt;

(4) The right to contest either the existence or amount of the debt or the proposed offset schedule, or if applicable, to request a waiver of collection of the debt, or to request a hearing on any of these matters;

(5) That commencement of offset will begin, unless the debtor makes a written request for the administrative relief discussed in paragraph (b)(4) of this section within 30 days of the date of this notice; and

(6) The oppportunity to enter into a written agreement with the VA to repay the debt in lieu of offset.

(c) *Deferral of offset.* (1) If the debtor, within 30 days of the date of the notification required by paragraph (b) of this section, disputes in writing the existence or amount of the debt or the amount of the scheduled offset, offset shall not commence until the dispute is reviewed and a decision is rendered by the VA adverse to the debtor.

(2) If the debtor, within 30 days of the date of the required notification by the VA, requests in writing the waiver of collection of the debt in accordance with § 1.963 or § 1.964, offset shall not commence until the VA has made an

initial decision to deny the waiver request.

(3) If the debtor, within 30 days of the required notification by the VA, requests in writing a hearing on the issues found in paragraphs (c) (1) and (2) of this section, offset shall not commence until a decision is rendered by the VA on the issue which is the basis of the hearing.

(d) *Exceptions.* (1) Offset may commence prior to either resolution of a dispute or decision on a waiver request as discussed in paragraph (c) of this section, if collection of the debt would be jeopardized by deferral of offset. In such a case, notification pursuant to paragraph (b) of this section shall be made at the time offset begins or as soon thereafter as possible.

(2) If the United States has obtained a judgment against the debtor, offset may commence without the notification required by paragraph (b) of this section. However, a waiver request filed in accordance with the time limits and other requirements of § 1.963 or § 1.964 will be considered, even if filed after a judgment has been obtained against the debtor. If waiver is granted, in whole or in part, refund of amounts already collected will be made in accordance with § 1.967.

(e) *Hearing.* (1) After a debtor requests a hearing, the VA shall notify the debtor of the form of the hearing to be provided; i.e., whether the hearing will either be oral or paper. If an oral hearing is determined to be proper by the hearing official, the notice shall set forth the date, time, and location of the hearing. If the hearing is to be a paper review, the debtor shall be notified that he or she should submit his or her position and arguments in writing to the hearing official by a specified date, after which the record shall be closed. This date shall give the debtor reasonable time to submit this information.

(2) Unless otherwise required by law, an oral hearing under this paragraph is not required to be a formal evidentiary type of hearing.

(3) A debtor who requests a hearing shall be provided an oral hearing if the VA determines that the matter cannot be resolved by review of documentary evidence. Whenever an issue of credibility or veracity is involved, an oral hearing will always be provided the debtor. For example, the credibility or veracity of a debtor is always an issue whenever the debtor requests a waiver of collection of the debt. Thus, a hearing held in conjunction with a waiver request will always be an oral hearing. If a determination is made to provide an oral hearing, the hearing official may offer the debtor the opportunity for a hearing by telephone conference call. If this offer is rejected or if the hearing official declines to offer a telephone conference call, the debtor shall be provided an oral hearing permitting the personal appearance of the debtor, his or her personal representative, and witnesses. Witnesses shall testify under oath or affirmation.

(4) In all other cases where a debtor requests a hearing, a paper hearing shall be provided. The debtor shall be provided an opportunity to submit material for the record. A paper hearing shall consist of a review of the written evidence of record by the designated hearing official.

(f) When collecting multiple debts by administrative offset, the VA will apply the recovered amounts to those debts in accordance with the best interests of the United States, as determined by the facts and circumstances of the particular case, paying special attention to applicable statutes of limitation. In accordance with 4 CFR 102.3(b)(3), the VA may not initiate offset to collect a debt more than 10 years after the VA's right to collect the debt first accrued (with certain exceptions as explained in § 102.3(b)(3)).

(Authority: 31 U.S.C. 3716)

11. In § 1.912a, the heading and paragraph (a) are revised to read as follows:

§ 1.912a Collection by offset—from VA benefit payments.

(a) *Authority and scope.* The VA shall collect debts governed by 38 U.S.C. 3101(c) and § 1.911 by offset against any current or future VA benefit payments to the debtor. Unless paragraph (c) or (d) of this section apply, offset shall commence promptly after notification to the debtor as provided in paragraph (b) of this section. The collection by offset of all other debts is governed by Part 102, Chapter II, of Title 4, Code of Federal Regulations, and § 1.912.

* * * * *

12. Section 1.916 is revised to read as follows:

§ 1.916 Liquidation of collateral.

The VA will exercise its rights to liquidate security or collateral and apply the proceeds to debts due it through use of a power of sale in the security instrument or a non-judicial foreclosure if the debtor fails to pay his or her debt, within a reasonable time after demand, unless the cost of disposing of the collateral will be disproportionate to its value or the particular circumstances require judicial foreclosure. The VA must provide the debtor with reasonable notice of the sale, and an accounting of any surplus proceeds, as well as notice of any other procedures required by law or contract. Collection from other sources, including liquidation of security or collateral, is not a prerequisite to requiring payment by a surety or insurance company unless such action is expressly required by statute or contract.

(Authority: 31 U.S.C. 3711)

13. Section 1.917 is revised to read as follows:

§ 1.917 Collection in installments.

(a) Whenever feasible, and except as otherwise provided by law, debts owed to the VA together with any interest and administrative costs assessed under § 1.919, shall be collected in full in one lump sum. Collection in one lump sum is applicable whether the debt is being collected by administrative offset or by another method, including voluntary payment. However, payments may be accepted in regular installments when the debtor is financially unable to pay the debt in one lump sum.

(b) In agreeing to accept regular installment payments to liquidate an outstanding indebtedness, the VA shall obtain a legally enforceable written agreement from the debtor which specifies all of the terms of the agreement and which contains a provision accelerating the debt in the event that the debtor defaults. The size and frequency of installment payments should bear a reasonable relationship to the size of the debt and the debtor's ability to pay. If possible, the installment payments should be sufficient in size and frequency to liquidate the debt in not more than three years. Installment payments of less than $50 per month shall be accepted only if justified on the grounds of financial hardship or for some other reasonable cause.

(c) If the VA is holding an unsecured claim for administrative collection, it shall attempt to obtain from a debtor an executed confess-judgment note in States and jurisdictions where permitted, using Department of Justice Form 1, or another appropriate Department of Justice form, whenever the total amount of the deferred installments will exceed $750. Such notes may also be sought when an unsecured obligation of a lesser amount is involved. When attempting to obtain confess-judgment notes, the VA shall provide debtors with a written explanation of the consequences of signing the note, and shall maintain sufficient documentation to demonstrate that the debtor signed the note

knowingly and voluntarily. Security for deferred payments, other than a confess-judgment note, may be accepted in appropriate cases. The VA may accept installment payments even if the debtor refuses to execute a confess-judgment note or to give other security.

(d) If the debtor owes more than one debt and designates how a voluntary installment payment is to be applied as among these debts, that designation must be followed by the VA. If the debtor does not designate the application of the payment, the VA shall apply payments to the various debts in accordance with the best interests of the Government as determined by the facts and circumstances of the particular case, paying special attention to applicable statutes of limitations.

(Authority: 31 U.S.C. 3711)

14. Section 1.918 is revised to read as follows:

§ 1.918 Exploration of compromise.

The VA will attempt to effect compromises, preferably during the course of personal interviews, in accordance with the standards set forth in §§ 1.930 through 1.938 in all cases in which it is ascertained that the debtor is financially unable to pay the full amount or in which the litigative risks or the costs of litigation dictate such action.

15. In § 1.919, paragraphs (a), (c), (e), and (f) are revised to read as follows:

§ 1.919 Interest.

(a) Except as otherwise provided by statute, contract, or other regulation to the contrary, the VA shall assess:

(1) Interest on all indebtedness to the United States arising as a result of participation in VA benefit programs which are being paid in installments,

(2) Interest and administrative costs of collection on debts where repayment has become delinquent, and

(3) Interest, penalties, and administrative costs on all nonbenefit debts in accordance with 4 CFR 102.13.

* * * * *

(c) The rate of interest charged by the VA shall be based on the rate paid by the United States for its borrowing as published in the Treasury's Cash Management Regulations (ITFM 6–8000). The rate of interest shall be adjusted annually on the first day of the calendar year to reflect the average rate being charged in accordance with the Treasury's Cash Management Regulations. Once the rate of interest has been determined for a particular debt, the rate shall remain unchanged throughout the duration of repayment of that debt.

* * * * *

(e) Interest under this section shall not be charged if the debt is paid in full within 30 days of mailing of the initial notice described in paragraph (b) of this section. Once interest begins to accrue, and after expiration of the time period for payment of the debt in full to avoid assessment of interest and administrative costs, any amount received toward the payment of such debt shall be first applied to payment of outstanding administrative cost charges and then to accrued interest or costs, and then to principal, unless a different rule is prescribed by statute, contract, or other regulation.

(f) All or any part of the interest and administrative costs assessed under this section are subject to consideration for waiver under section 3102 of Title 38, United States Code, and appropriate administrative procedures.

(1) In general, interest and administrative costs may be waived only when the principal of the debt on which they are assessed is waived by a Committee on Waivers and Compromises. However, the VA may forbear collection of interest and administrative costs, exclusive of collection of the principal of the debt on which they are assessed, as well as terminate further assessment of interest and administrative costs when the collection of such interest and costs are determined to be not in the government's best interest. Collection of interest and administrative costs shall not be considered to be in the best interest of the government when the amount of assessed interest and administrative cost is so large that there is a reasonable certainty that the original debt will never be repaid. The determination to forbear collection of interest and administrative cost, exclusive of collection of the principal of the debt, shall be made by the Chief of the Fiscal activity at the station responsible for the collection of the debt. Such a determination is not within the jurisdiction of a Committee on Waivers and Compromises.

(2) When a debtor requests a waiver of collection of the indebtedness, interest and administrative costs shall not be assessed until either

(i) A Committee on Waivers and Compromises has considered the request and rendered an initial decision, or

(ii) The applicable time limit for requesting waiver, as stated in 38 U.S.C. 3102, has expired and the debtor, after notice in accordance with § 1.911, has not made such a request. This subsection does not apply to debts resulting from participation in the loan program administered under Chapter 37 of title 38 of the United States Code.

(Authority: 38 U.S.C. 3102, 3115)

* * * * *

16. In § 1.922, paragraphs (a)(1), (c), and (d)(2)(i) are revised to read as follows:

§ 1.922 Disclosure of debt information to consumer reporting agencies (CRAs).

(a) * * *

(1) obtaining the location of an individual indebted to the United States as a result of participation in any benefits program administered by the VA or indebted in any other manner to the VA;

* * * * *

(c) Subject to the conditions set forth in paragraph (d) of this section, information concerning individuals may be disclosed to consumer reporting agencies for inclusion in consumer reports pertaining to the individual, or for the purpose of locating the individual. Disclosure of the fact of indebtedness will be made if the individual fails to respond in accordance with written demands for repayment, or refuses to repay a debt to the United States. In making any disclosure under this section, the VA will provide consumer reporting agencies with sufficient information to identify the individual, including the individual's name, address, if known, date of birth, VA file number, and Social Security number.

* * * * *

(d) * * *

(2)(i) The VA will notify each individual of the right to dispute the existence or amount of any debt in accordance with §§ 3.101(e) and 19.109, and to request a waiver of the debt in accordance with §§ 1.955 through 1.970 if applicable.

* * * * *

17. Sections 1.923, 1.924, 1.925, 1.926, 1.927, and 1.928 are added to read as follows:

§ 1.923 Contracting for collection services.

(a) The VA has authority to contract for collection services to recover delinquent debts, provided that:

(1) The authority to resolve disputes, compromise claims, suspend or terminate collection and refer the matter for litigation shall be retained by the VA;

(2) The contractor shall be subject to 38 U.S.C. 3301, and to the Privacy Act of 1974, as amended, to the extent specified in 5 U.S.C. 552a(m), and to applicable Federal and State laws and

regulations pertaining to debt collection practices, such as the Fair Debt Collection Practices Act, 15 U.S.C. 1692 et seq.

(3) The contractor shall be required to strictly account for all amounts collected;

(4) Upon returning an account to the VA for subsequent referral to the Department of Justice for litigation, the contractor must agree to provide any data contained in its files relating to § 1.951.

(b) Funding of collection service contracts:

(1) The VA may fund a collection service contract on a fixed-fee basis (i.e., payment of a fixed fee determined without regard to the amount actually collected under the contract). Payment of the fee under this type of contract must be charged to available appropriations;

(2) The VA may also fund a collection service contract on a contingent-fee basis (i.e., by including a provision in the contract permitting the contractor to deduct its fee from amounts collected under the contract). The fee should be based upon a percentage of the amount collected, consistent with prevailing commercial practice;

(3) The VA may enter into a contract under paragraph (b)(1) of this section only if and to the extent that funding for the contract is provided for in advance by an appropriation act or other legislation, except that this requirement does not apply to the use of a revolving fund authorized by statute;

(4) Except as authorized under paragraphs (b)(2) and (b)(5) of this section, or unless otherwise specifically provided by law, the VA shall deposit all amounts recovered under collection service contracts for Loan Guaranty debts into the Loan Guaranty Revolving Fund, and for all other debts in the Treasury as miscellaneous receipts pursuant to 31 U.S.C. 3302.

(5) For benefit overpayments recovered under collection service contract, the VA, pursuant to 31 U.S.C. 3302, shall deposit:

(i) Amounts equal to the original overpayments in the appropriations account from which the overpayments were made, and

(ii) Amount of interest or administrative costs in the Treasury as miscellaneous receipts.

(Authority: 31 U.S.C. 3718)

§ 1.924 Use and disclosure of mailing addresses.

(a) When attempting to locate a debtor in order to collect or compromise a debt in accordance with §§ 1.900 through 1.954, the VA may send a request to the Secretary of the Treasury, or his/her designee, in order to obtain the debtor's most current mailing address from the records of the Internal Revenue Service.

(b) The VA may disclose a mailing address obtained under paragraph (a) of this section to other agents, including collection service contractors hired by the VA, in order to facilitate the collection or compromise of debts. A mailing address obtained under paragraph (a) of this section may be disclosed to a consumer reporting agency under authority of § 1.922 only for the limited purpose of obtaining a commercial credit report on the particular taxpayer.

(c) The VA will insure that procedures established under this section comply with the Privacy Act (5 U.S.C. 552a) and the provisions of 26 U.S.C. 6103(p)(4) and applicable regulations of the Internal Revenue Service.

(Authority: 31 U.S.C. 3711)

§ 1.925 Administrative offset against amounts payable from Civil Service Retirement and Disability Fund, Federal Employees Retirement System (FERS), final salary check, and lump sum leave payments.

(a) Unless otherwise prohibited by law or regulation, the VA may request that money which is due and payable to a debtor from either the Civil Service Retirement and Disability Fund or the Federal Employees Retirement System (FERS) be administratively offset in reasonable amounts in order to collect, in one full payment or a minimal number of payments, debts that are owed to the VA by the debtor. Such requests shall be made to the appropriate officials at the Office of Personnel Management in accordance with such regulations prescribed by the Director of that Office. See 5 CFR Part 831, Subpart R (§§ 831.1801 through 831.1808) and Part 845, Subpart O (§§ 845.401 through 845.408). In addition, the VA may also offset against a Federal employee's final salary check and lump sum leave payment, unless they represent continuation of an offset against current salary initiated in accordance with §§ 1.980 through 1.994. See § 1.912 for procedures for offset against a final salary check and lump sum leave payment.

(b) When making a request to the Office of Personnel Management for administrative offset under paragraph (a) of this section, the VA shall include a written certification that:

(1) The debtor owes the VA a debt, including the amount of the debt;

(2) The VA has complied with the applicable statutes, regulations, and procedures of the Office of Personnel Management; and

(3) The VA has complied with §§ 1.911, 1.912, 1.912a, or 4 CFR 102.3 including any required hearing or review.

(c) Once the VA decides to request administrative offset from the Civil Service Retirement and Disability Fund or Federal Employees Retirement System (FERS) under paragraph (a) of this section, it shall make the request as soon as possible after completion of the applicable procedures in order that the Office of Personnel Management may identify the debtor's account in anticipation of the time when the debtor requests or becomes eligible to receive payments from the Fund or FERS. This will satisfy any requirement that offset be initiated prior to expiration of the applicable statutes of limitations. At such time as the debtor makes a claim for payments from the Fund or FERS, if at least a year has elapsed since the offset request was originally made, the debtor should be permitted to offer a satisfactory repayment plan in lieu of offset upon establishing that such offset will create financial hardship.

(d) If the VA collects all or part of the debt by other means before deductions are made or completed in accordance with paragraph (a) of this section, the VA shall promptly act to modify or terminate its request for offset under paragraph (a) of this section.

(e) The Office of Personnel Management is neither required nor authorized by this section to review the merits of the VA's determination with respect to the amount and validity of the debt' waiver under 5 U.S.C. 5584 or 38 U.S.C. 3102, or providing or not providing an oral hearing.

(Authority: 5 U.S.C. 8461; 31 U.S.C. 3711, 3716)

§ 1.926 Referral of VA debts.

(a) When authorized, the VA may refer an uncollectible debt to another Federal or State agency for the purpose of offsetting the debt from any payment, except salary, (see paragraph (e) of this section), made by such agency to the person indebted to the VA.

(b) The VA must certify in writing that the individual owes the debt, the amount and basis of the debt, the date on which payment became due, and the date the VA's right to collect the debt first accrued.

(c) This certification will also state that the VA provided the debtor with written notice of:

(1) The nature and amount of the debt;

(2) The VA's intention to pursue collection by offset procedures;

(3) The opportunity to inspect and copy VA records pertaining to the debt;

(4) The right to contest both the existence and amount of the debt and to request a waiver of collection of the debt (if applicable), as well as the right to a hearing on both matters;

(5) The opportunity to enter into a written agreement with the VA for the repayment of the debt; and

(6) Other applicable notices required by §§ 1.911, 1.912, and 1.912a.

(d) The written certification required by paragraphs (b) and (c) of this section will also contain (for all debts) a listing of all actions taken by both the VA and the debtor subsequent to the notice, as well as the dates of such actions.

(e) The referral by the VA of a VA debt to another agency for the purposes of salary offset shall be done in accordance with 5 CFR 550.1106.

(Authority: 31 U.S.C. 3711)

§ 1.927 Analysis of costs and prevention of debts.

(a) VA collection procedures should provide for periodic comparison of costs incurred and amounts collected. Data on costs and corresponding recovery rates for debts of different types and various dollar ranges should be used to compare the cost effectiveness of alternative collection procedures, establish guidelines with respect to points at which costs of further collection efforts are likely to exceed recoveries, assist in evaluating compromise offers, and establish minimum debt amounts below which collection efforts need not be taken. Costs and recovery data should also be useful in justifying adequate resources for an effective collection program, evaluating the feasibility and cost effectiveness of contracting for consumer reporting agencies' services (§ 1.922), collection services (§ 1.923), and for determining appropriate charges for administrative costs (§ 1.919).

(b) The VA shall insure that adequate procedures are established which both identify the causes of overpayments, delinquencies, and defaults and also describe the actions necessary to correct such problems.

(Authority: 31 U.S.C. 3711 through 3719)

§ 1.928 Exemptions.

(a) Sections 1.900 through 1.954 do not apply to debts arising under, or to payments made under, the Internal Revenue Code of 1954, as amended (26 U.S.C. 1 *et seq.*), the Social Security Act (42 U.S.C. 301 *et seq.*), or tariff laws of the United States. However, the remedies and procedures described in §§ 1.900 through 1.954 are still authorized with respect to debts which are exempt from the purview of the Debt Collection Act of 1982, to the extent that they are authorized under some other statute or common law.

(b) This section shall not be construed as prohibiting the use of §§ 1.900 through 1.954 when the VA attempts to collect debts owed to this agency by persons employed by the agencies administering the laws cited in paragraph (a) of this section.

(Authority: 31 U.S.C. 3711)

18. Section 1.930 is revised to read as follows:

§ 1.930 Scope and application.

(a) The standards set forth in §§ 1.930 through 1.938 apply to the compromise of claims in accordance with 31 U.S.C. 3711. The VA may exercise such compromise authority where the claim owed to the VA does not exceed $20,000, exclusive of interest or administrative costs. This $20,000 limit does not apply to debts which arise out of participation in the loan program under Chapter 37 of Title 38 of the United States Code. The Comptroller General or his/her designee may exercise compromise authority with respect to claims referred to the General Accounting Office (GAO). Only the Comptroller General or his/her designee may compromise a claim that arises out of an exception made by the GAO in the account of an accountable officer, including a claim against the payer, prior to its referral by the GAO to the Department of Justice for litigation.

(b) When the claim exceeds $20,000, exclusive of interest and administrative costs, the authority to accept a compromise offer rests solely with the Department of Justice. However, approval by the Department of Justice is not required if the VA wishes to reject a compromise offer on a debt in excess of $20,000. If the VA believes that the compromise offer on a debt in excess of $20,000 should be accepted, it shall refer the matter to the Department of Justice by using the Claims Collection Litigation Report (§ 1.951). If the gross amount of the claim is in excess of $100,000, then the claim will be referred to the Commercial Litigation Branch, Civil Division, Department of Justice, Washington, DC 20530. If the gross amount of the claim is $100,000 or less, such claims will be referred to the U.S. Attorney in whose judicial district the debtor can be found. The referral should contain a written memorandum by the local Committee on Waivers and Compromises specifying the exact reason why it is believed that the compromise offer should be accepted.

(Authority: 31 U.S.C. 3711)

19. Section 1.931 is revised to read as follows:

§ 1.931 Inability to pay.

(a) A claim may be compromised by the VA pursuant to §§ 1.930 through 1.938 if the VA cannot collect the full amount of the debt because of:

(1) The debtor's inability to pay the full amount of the debt within a reasonable amount of time; or

(2) The refusal of the debtor to pay the claim in full and the inability of the VA to collect the debt in full within a reasonable time by means of enforced collection.

(b) In determining the debtor's ability to pay, the following factors, among others, may be considered:

(1) Age and health of the debtor;

(2) Present and potential income;

(3) Inheritance prospects;

(4) The possibility that assets have been concealed or improperly transferred by the debtor; and

(5) The availability of assets or income which may be realized by means of enforced collection procedures.

(c) The VA will give consideration to the applicable exemptions available to the debtor under various State and Federal laws in determining the ability to enforce collection. Uncertainty as to the price which collateral or other property will bring at a forced sale may be properly considered in determining the ability to enforce collection. A compromise effected under §§ 1.930 through 1.938 should be for an amount which bears a reasonable relation to the amount which can be recovered by enforced collection procedures, having regard for the exemptions available to the debtor and the time in which collection will take place.

(d) The payment of a compromise in installments is to be discouraged. However, if payment of a compromise in installments is necessary, then a legally enforceble agreement shall be obtained from the debtor for the reinstatement of the original amount of the indebtedness, less any amounts paid there on by the debtor, and also an acceleration of the balance due upon default. Such an agreement, together with security as described in § 1.917, should be obtained in every case possible.

(e) If the VA files do not contain recent credit information as a basis for assessing a compromise proposal, such information shall be obtained from the debtor by obtaining a statement, executed under penalty of perjury, showing the debtor's assets and liabilities, income and expenses. Forms such as VA Form 4–5655 "Financial Status Report" or Department of Justice Forms OBD–500 or OBD–500B shall be used to obtain this information. Similar data may be obtained from corporate

debtors by using a form, such as Department of Justice Form OBD–500C or by resort to balance sheets and such additional data as may be required.

(Authority: 31 U.S.C. 3711)

20. Section 1.932 is revised to read as follows:

§ 1.932 Litigative possibilities.

The VA will attempt to compromise claims when there is a real doubt as to the Government's ability to prove its case in court for the full amount claimed either because of the legal issues involved or bona fide dispute as to the facts. The amount accepted in compromise will fairly reflect the probability of prevailing on the legal question involved, the probabilities with respect to full or partial recovery of a judgment having due regard to the availability of witnesses and other evidentiary support for the Government claim, and related pragmatic considerations. Proportionate weight will be given the court costs and attorney fees which may be assessed against the Government if it is unsuccessful in litigation, having regard for the litigative risks involved. (See 28 U.S.C. 2412.)

§§ 1.934 through 1.937 [Redesignated as §§ 1.935 through 1.938]

21. Section 1.934 is redesignated as § 1.935; § 1.935 is redesignated as § 1.936; § 1.936 is redesignated as § 1.937; and § 1.937 is redesignated as § 1.938. New § 1.934 is added to read as follows:

§ 1.934 Enforcement policy.

Statutory penalties, interest, and administrative costs which are established as an aid to enforcement and to compel compliance may be compromised pursuant to §§ 1.930 through 1.938. However, such additional costs on debts will be considered for compromise only in connection with compromise of the total amount of the debt (original amount of debt plus interest and costs). Interest, administrative costs, and other additional costs will never be considered for compromise separately or exclusively from the original amount of the debt.

(Authority: 31 U.S.C. 3711)

22. Section 1.935 is revised to read as follows:

§ 1.935 Joint and several liability.

When two or more debtors are jointly and severally liable, collection action will not be withheld against one such debtor until the other or others pay their proportionate shares. The VA shall not attempt to allocate the burden of paying such claims as between the debtors, but shall proceed to liquidate the indebtedness as quickly as possible. Proper measures shall be taken to insure that a compromise with one such debtor does not release the VA's claim against the remaining debtor. The amount of a compromise accepted from one debtor shall not be considered as a precedent or as morally binding in determining the amount which will be required from the other debtor held to be jointly and severally liable on the claim.

(Authority: 31 U.S.C. 3711)

23. Section 1.937 is revised to read as follows:

§ 1.937 Further review of compromise offers.

The VA may refer to the GAO or Department of Justice firm written offers, plus supporting data, from debtors when there is doubt whether the offers should be accepted.

24. Section 1.938 is revised to read as follows:

§ 1.938 Restrictions.

The VA will not accept either a percentage of a debtor's profits or stock in a debtor corporation in compromise of a claim. In negotiating a compromise with a business concern, consideration shall be given to requiring a waiver of the tax-loss-carry-forward and tax-loss-carry-back rights of the debtor.

25. Section 1.940 is revised to read as follows:

§ 1.940 Scope and application.

(a) The standards set forth in §§ 1.940 through 1.943 apply to the suspension or termination of collection action pursuant to 31 U.S.C. 3711(a)(3) on claims which do not exceed $20,000, exclusive of interest, penalties (if applicable), and administrative costs, after deducting the amount of partial payments or collections, if any. The VA may suspend or terminate collection action under §§ 1.940 through 1.943 with respect to claims for money or property arising out of this agency's activities prior to the referral of such claims to the GAO or to the Department of Justice for litigation. The Comptroller General may exercise such authority with respect to such claims referred to the GAO by the VA prior to their further referral to the Department of Justice for litigation.

(b) If after deducting the amount of any partial payments or collections, a claim exceeds $20,000, exclusive of interest and administrative costs, then the authority to suspend or terminate further collection action rests solely with the Department of Justice. If the VA determines that suspension or termination is appropriate for such a debt, after evaluation in accordance with the standard set forth in §§ 1.941 and 1.942, then the matter shall be referred to the Department of Justice, using the Claims Collection Litigation Report (see § 1.951). The referral shall contain a written recommendation, which specifies the reasons why suspension or termination is advantageous to the government. If the VA determines that its claim is plainly erroneous or clearly without legal merit, it may terminate collection action regardless of the amount involved, without the concurrence of the Department of Justice.

(Authority: 31 U.S.C. 3711)

26. Section 1.941 is revised to read as follows:

§ 1.941 Suspension of collection activity.

(a) Collection action may be suspended temporarily on a claim when the debtor cannot be located after diligent effort and there is reason to believe that future collection action may be sufficiently productive to justify periodic review and action on the claim. The following sources shall be used to locate missing debtors: Telephone directories, city directories, postmasters, drivers license records, automobile title and registration records, State and local government agencies, the Internal Revenue Service (§ 1.924), other Federal agencies, employers, relatives, credit agency locate reports, and credit bureaus. Suspension as to a particular debtor should not prohibit the early liquidation of any security held for the debt. Every reasonable effort should be made to locate missing debtors sufficiently in advance of the bar of any applicable statute of limitations, in order to permit the timely filing of a suit, if such action is warranted. If the missing debtor has signed a confess-judgment note and is in default, referral of the note for the entry of judgment should not be delayed because of his/her missing status.

(b) Collection action may also be suspended temporarily on a claim when the debtor owns no substantial equity in real or personal property and is unable to make payments on the debt owed to the VA or effect a compromise at the time, but his/her future prospects justify retention of the claim for periodic review and action, and:

(1) The applicable statute of limitations has been tolled or started running again, or

(2) Future collection can be affected by offset, notwithstanding the statute of

limitations, with due regard to the 10 year limitation prescribed by 31 U.S.C. 3716(c)(1), or

(3) The debtor agrees to pay interest on the amount of the debt on which collection action has been suspended temporarily, and such temporary suspension is likely to enhance the debtor's ability to pay the debt in full, with interest, at a later time.

(c) Collection action may also be suspended, in accordance with §§ 1.911,1.912, and 1.912a, pending agency action on requests for administrative review or waiver.

(Authority: 31 U.S.C. 3711)

27. In § 1.942, paragraphs (a), (c) and (f) are revised to read as follows:

§ 1.942 Termination of collection activity.

* * * * *

(a) *Inability to collect any substantial amount.* Collection action may be terminated on a claim when it becomes clear that the VA cannot collect or enforce collection of any significant amount from the debtor, having due regard for the judicial remedies available to the agency, the debtor's future financial prospects, and the exemptions available to the debtor under State and Federal law. In determining the debtor's inability to pay, the following factors, among others, shall be considered: Age and health of the debtor, present and potential income, inheritance prospects, the possibility that assets have been concealed or improperly transferred by the debtor, the availability of assets or income which may be realized by means of enforced collection proceedings.

* * * * *

(c) *Death of debtor.* The debtor is determined to be deceased and the Government has no prospect of collection from his/her estate.

* * * * *

(f) *Claim cannot be substantiated by evidence.* The VA will terminate collection action on once asserted claims because of lack of evidence or unavailability of witnesses only in cases where efforts to induce voluntary payment are unsuccessful.

28. Section 1.943 is revised to read as follows:

§ 1.943 Transfer of claims.

When the VA has doubt as to whether collection action should be suspended or terminated on a claim, it may refer the claim to the GAO for advice. When a significant enforcement policy is involved in reducing a statutory penalty or forfeiture to judgment, or recovery of a judgment is a prerequisite to the imposition of administrative sanctions, such as the suspension or revocation of a license or the privilege of participating in a government sponsored program, the VA may refer such a claim for litigation even though termination of collection activity might otherwise be given consideration. Claims on which the VA holds a judgment by assignment or otherwise shall be referred to the Department of Justice for further actions if renewal of the judgment lien or enforced collection proceedings are justified, except where the VA has authority for handling its own litigation.

(Authority: 31 U.S.C. 3711)

29. The center heading between §§ 1.943 and 1.950 is revised to read as follows:

Referrals to GAO, Department of Justice, or IRS

30. Section 1.950 is revised to read as follows:

§ 1.950 Prompt referral.

(a) Except as provided in paragraphs (b) and (c) of this section, claims on which aggressive collection action has been taken and which cannot be compromised, or on which collection action cannot be suspended or terminated, shall be promptly referred to the Department of Justice for litigation. Claims for which the gross original amount is over $100,000 shall be referred to the Commercial Litigation Branch, Civil Division, Department of Justice, Washington, DC 20530. Claims for which the gross original amount is $100,000 or less shall be referred to the United States Attorney in whose judicial district the debtor can be found. Referrals should be made as early as possible, consistent with aggressive collection action and the observance of §§ 1.900 through 1.954, and well within the time period for bringing a suit against the debtor. Ordinarily, such referrals should be made within one year of the VA's final determination of the fact and amount of the debt.

(b) Claims arising from audit exceptions taken by the GAO to payments made by the VA must be referred to the GAO for review and approval, prior to referral to the Department of Justice, unless the VA has been granted an exception by the GAO.

(c) When the merits of the VA claim, the amount owed on the claim, or the propriety of acceptance of a proposed compromise, suspension, or termination are in doubt, the Veterans Administration shall refer the matter to the GAO for resolution and instructions prior to proceeding with collection action and/or referral to the Department of Justice for litigation.

(d) Once a claim has been referred to the GAO or the Department of Justice pursuant to this section, the VA shall refrain from having any contact with the debtor and shall direct the debtor to the GAO or the Department of Justice, as appropriate, when questions concerning the claim or a request for waiver of the claim are raised by the debtor. The GAO or the Department of Justice, as appropriate, shall be immediately notified by the VA of any payments or requests for administrative remedies, such as waiver, which are received by this agency from the debtor subsequent to referral of a claim under this section.

(e) In accordance with procedures set forth in 26 CFR Part 301, information pertaining to past-due, legally enforceable debts owed to the VA may be referred to the Internal Revenue Service by the VA for the purpose of collection of such debts by means of tax refund offset.

(Authority: 31 U.S.C. 3711)

31. Section 1.951 is revised to read as follows:

§ 1.951 Claims Collection Litigation Report.

(a) Unless an exception is granted by the Department of Justice, the Claims Collection Litigation Report (CCLR) shall be used with all referrals of administratively uncollectible claims made pursuant to § 1.950. As required by the CCLR, the following information shall be included:

(1) *Report of prior collection actions.* A checklist or brief summary of the actions taken to collect or compromise the claim will be forwarded with the claim upon its referral. If any of the administrative collection actions described in §§ 1.900 through 1.954 have been omitted, the reasons for their omission must be provided. The Department of Justice or GAO may return claims at their option when there is insufficient justification for the omission of one or more of the administrative collection actions.

(2) *Current address of the debtor.* The current address of the debtor, or the name and address of the agent for a corporation upon whom service may be made, shall be provided. Reasonable and appropriate steps will be taken to locate missing parties in all cases. Referrals to the Department of Justice, in which the current address of any party is unknown, shall be accompanied by a listing of the prior known addresses of such party and a statement of the steps taken to locate that party.

(3) *Credit data.* Current credit data, when applicable, indicating that there is a reasonable prospect of effecting enforced collection from the debtor, having due regard for the exemptions available to the debtor under State and Federal law and judicial remedies available to the government, shall be included:

(i) Such credit data may take the form of:

(A) A commercial credit report;

(B) An agency investigative report showing the debtor's assets, liabilities, income, and expenses;

(C) The individual debtor's own financial statement executed under penalty of perjury reflecting the debtor's assets, liabilities, income, and expenses; or

(D) An audited balance sheet of a corporate debtor.

(ii) Such credit data may be omitted if:

(A) A surety bond is available in an amount sufficient to satisfy the claim in full;

(B) The forced sale value of the security available for application to the VA claim is sufficient to satisfy the claim in full;

(C) The VA wishes to liquidate the loan collateral through judicial foreclosure but does not desire a deficiency judgment;

(D) The debtor is in bankruptcy or receivership;

(E) The debtor's liability to the VA is fully covered by insurance, in which case the VA will furnish such information as it can develop concerning the identity and address of the insurer and the type and amount of insurance coverage;

(F) The nature of the debtor is such that credit data is not normally available or cannot reasonably be obtained; or

(G) Where it is clearly irrelevant to the Government's case.

(b) The VA shall also use the Claims Collection Litigation Report (CCLR) when referring claims to the Department of Justice in order to obtain approval of that department with respect to compromise, suspension, or termination.

(Authority: 31 U.S.C. 3711)

32. Section 1.952 is revised to read as follows:

§ 1.952 Preservation of evidence.

Care shall be taken to preserve all files, records, and exhibits on claims referred to or to be referred to the Department of Justice for litigation. Under no circumstances should original documents be sent to the Department of Justice or to the U.S. Attorney without their specific prior approval to do so. Copies of relevant documents should be sent whenever necessary.

(Authority: 31 U.S.C. 3711)

33. Section 1.953 is revised to read as follows:

§ 1.953 Minimum amount of referrals to the Department of Justice.

The VA shall not refer claims of less than $600, exclusive of interest, penalties (if applicable), and administrative costs, for litigation unless:

(a) Referral is important to a significant enforcement policy, or

(b) The debtor not only has the clear ability to pay the claim but the government can effectively enforce payment, having due regard for the exemptions available to the debtor under State and Federal law and the judicial remedies available to the government.

(Authority: 31 U.S.C. 3711)

34. Section 1.954 is revised to read as follows:

§ 1.954 Preliminary referrals to GAO.

As required by § 1.950, preliminary referrals to the Government Accounting Office (GAO) will be in accordance with instructions, including monetary limitations, contained in the "General Accounting Office Policy and Procedures Manual for the Guidance of Federal Agencies".

§ 1.955 [Amended]

35. In 38 CFR 1.955(a)(1), remove the words "31 U.S.C. 951–953" and add, in their place, the words "31 U.S.C. 3711".

§ 1.957 [Amended]

36. In 38 CFR 1.957(a)(2)(ii), remove the words "31 U.S.C. 951–953" and add, in their place, the words "31 U.S.C. 3711".

37. In § 1.957, paragraphs (a)(2)(ii) (B), (b) introductory text, and (b)(1) are revised and paragraphs (a)(2)(ii) (C) and (D) are added to read as follows:

§ 1.957 Committee authority.

(a) * * *

(2) * * *

(ii) * * *

(B) Accept or reject a compromise offer on a debt of $1,000 or less, exclusive of interest, which is not disposed of by the Chief, Fiscal activity, pursuant to paragraph (b) of this section.

(C) Reject a compromise offer on a debt which exceeds $20,000, exclusive of interest or administrative costs.

(D) Recommend approval of a compromise offer on a debt which exceeds $20,000, exclusive of interest and administrative costs. The authority to accept a compromise offer on such a debt rests solely within the jurisdiction of the Department of Justice. The Committee should evaluate a compromise offer on a debt in excess of $20,000, using the factors set forth in §§ 1.930 through 1.938. If the Committee believes that the compromise is advantageous to the government, then the Committee members shall so state this conclusion in a written memorandum of recommendation of approval to the Chairperson. This recommendation, along with a Claims Collection Litigation Report (CCLR) completed in accordance with § 1.951, will be referred to the Department of Justice for final approval.

(Authority: 31 U.S.C. 3711)

* * * * *

(b) *Chief of Fiscal Activity.* The Chief of the Fiscal activity at both DVB and DM&S offices has authority as to debts arising within his/her jurisdiction, to:

(1) Suspend or terminate collection action on all debts which do not exceed $20,000, exclusive of interest and administrative costs, after deducting the amount of any payments or collections.

* * * * *

38. In § 1.962, paragraph (b) is revised to read as follows:

§ 1.962 Waiver of overpayment.

* * * * *

(b) In any case where there is an indication of fraud or misrepresentation of a material fact on the part of the debtor or any other party having an interest in the claim, action on a request for waiver will be deferred pending appropriate disposition of the matter. However, the existence of a prima facie case of fraud shall, nevertheless, entitle a claimant to an opportunity to make a rebuttal with countervailing evidence; similiarly, the misrepresentation must be more than non-willful or mere inadvertence. The Committee may act on a request for waiver concerning such debts, after the Inspector General or the District Counsel has determined that prosecution is not indicated, or the Department of Justice has notified the VA that the alleged fraud or misrepresentation does not warrant action by that department, or the Department of Justice or the appropriate United States Attorney, specifically authorized action on the request for waiver.

(Authority: 38 U.S.C. 210(c)(1))

39. In § 1.963a, the last sentence in paragraph (a) and the first sentence in paragraph (b) are revised to read as follows:

§ 1.963a Waiver—erroneous payment of pay and allowances.

(a) * * * It also includes expenses of travel and transportation or expenses of transportation of household goods.

(b) Allowances as they relate to an employee include, but are not limited to, payments for quarters, uniforms, and overseas cost of living expenses, as well as travel and transportation expenses and relocation allowances. * * *

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[FR Doc. 87-25312 Filed 11-2-87; 8:45 am]
BILLING CODE 8320-01-M

38 CFR Part 21

Payments to Dependents of Veterans in Training

AGENCY: Veterans Administration.

ACTION: Final regulatory amendments.

SUMMARY: The purpose of these amendments is to provide more detailed instructions regarding the beginning date of payments for veterans' dependents, particularly dependents the veteran acquires after he or she begins training under chapter 31. The beginning date of payment for dependents the veterans acquires after he or she begins training may not be made earlier than the date the dependent's existence is established. The amendment should eliminate any misinterpretation of this rule.

EFFECTIVE DATE: November 3, 1987.

FOR FURTHER INFORMATION CONTACT: Morris Triestman, Rehabilitation Consultant, Vocational Rehabilitation Policy and Development, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC, (202) 233-5449.

SUPPLEMENTARY INFORMATION: At pages 19174 and 19175 of the **Federal Register** of May 21, 1987, the VA published a proposed regulatory amendment concerning the beginning date of payment for veterans' dependents under 38 CFR 21.322, particularly dependents the veteran acquires after he or she begins training under chapter 31. Interested persons were given 30 days in which to submit their comments, suggestions, or objections to the proposed regulatory amendment. We received one informal comment. The commentor pointed out an error which had not been identified in the editing process. This error has been corrected. Since no other comments, suggestions, or objections were received, the amendment is hereby adopted as final.

These amendments do not meet the criteria for major rules as contained in Executive Order 12291, Federal Regulation. The changes will not have a $100 million annual effect on the economy, will not cause a major increase in costs or prices, and will not have any other significant adverse effects on the economy.

The Administrator certifies that these amendments 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), these rules are therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reason for this certification is that the changes only concern the rights and responsibilities of individual VA beneficiaries under chapter 31. Thus, no regulatory burdens are imposed on small entities by these changes.

The Catalog of Federal Domestic Assistance Number is 64.116.

List of Subjects in 38 CFR Part 21

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

Approved: September 21, 1987.

Thomas K. Turnage,

Administrator.

38 CFR Part 21, *Vocational Rehabilitation and Education*, is amended as follows:

PART 21—[AMENDED]

1. In § 21.260, paragraph (d) is added to read as follows:

§ 21.260 Subsistence allowance.

* * * * * *

(d) *Dependents.* The term "dependent" means a spouse, child or dependent parent who meets the definition of relationship specified in § § 3.50, 3.51, 3.57 or 3.59 of this chapter.

(Authority: 38 U.S.C. 1508(b))

2. In § 21.322, paragraph (c) is revised and a new cross-reference is added to read as follows:

§ 21.322 Commencing dates of subsistence allowance.

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(c) *Increases for dependents*—(1) *Dependency exists at the time of entrance or reentrance into a rehabilitation program.* A veteran may have one or more dependents on or before the date he or she enters or reenters a rehabilitation program. When this occurs, the following rules apply:

(i) The effective date of the increase will be the date of entrance or reentrance if:

(A) The VA receives the claim for the increase within one year of the date of entrance or reentrance; and

(B) The VA receives any necessary evidence within one year of its request.

(ii) The effective date of the increase will be the date the VA receives notice of the dependents existence if:

(A) The VA receives the claim for the increase more than one year after the date of entrance or reentrance; and

(B) The VA receives any necessary evidence within one year of its request.

(iii) The effective date of the increase will be the date the VA receives all necessary evidence if that evidence is received more than one year from the date the VA requested the evidence.

(2) *Dependency arises after entrance or reentrance into a rehabilitation program.* If the veteran acquires a dependent after he or she enters or reenters a rehabilitation program, the increase will be effective on the latest of the following dates:

(i) *Date of claim.* This term means the following listed in order of their applicability:

(A) Date of the veteran's marriage, or birth of his or her child, or his or her adoption of a child, if the evidence of the event is received within one year from the date of the event;

(B) Date notice is received of the dependent's existence if evidence is received within one year from the date of the VA request for this evidence;

(C) Date the VA receives evidence of the dependent's existence if this date is more than one year after the VA request for this evidence;

(ii) *Date dependency arises*—(3) *Increased award not permitted.* No increased award for dependency may be paid prior to the date the law permits benefits for dependents generally.

(Authority: 38 U.S.C. 1508(b))

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Cross-Reference. See § 21.260(c) for definition of dependents.

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