

manufacturers have chosen to take voluntarily. Only if there is a safety need can the agency adopt additional requirements.

The petitioner has argued that there is a safety need to ensure that all air brake tubing manufactured for sale in this country meet SAE J1131. NHTSA has been unable to substantiate this claim. Because there are no data or other information available to support amending Standard No. 106 in the manner requested by the petitioner, the agency denies the first part of the petition. We note, however, that the agency carefully reviews any new developments in brake hose manufacture. If new information indicates a safety need to consider amending the requirements of Standard No. 106, the agency will not hesitate to take appropriate action.

Marking Requirement

The second part of the petition requested NHTSA to set a marking requirement for hoses used with "push-in" fittings to ensure that fittings would be properly inserted (i.e., pushed deep enough) into the hoses. According to the petitioner, one of the factors affecting the compliance of an air brake assembly with Standard No. 106's tensile requirement is the "insertion force." Parker Hannifin believed that an "indicator mark" was needed on the outside of the hose that would act as a "visual gage" to assure proper insertion depth. The petitioner suggested that, "All suppliers of air-brake tubing must be compelled to supply this visual gauge, and/or information relating to its use."

NHTSA has found no data indicating a need for the marking requirement requested by the petitioner. Our review of consumer complaint and defect records found no significant problems with air brake tubing separating from their end fittings that would support petitioner's claim that an "indicator mark" is necessary to assure proper insertion of the end fitting. Further, air brake hoses typically are capable of being used with several different types of fittings. NHTSA believes it is likely that it would be impractical, therefore, to require marking the hose with an "indicator mark" that might be appropriate only for a certain type of fitting. For these reasons, the agency denies the second part of the petition.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 40 CFR 1.50 and 501.8)

Issued on December 1, 1987.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 87-28078 Filed 12-7-87; 8:45 am]

BILLING CODE 4910-59-M

49 CFR Part 571

Federal Motor Vehicle Safety Standards; Denial of Petition for Rulemaking

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Denial of petition for rulemaking.

SUMMARY: This notice denies the petition of General Motors Corporation (GM) for an amendment to Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment* to exempt center highmounted stop lamps from the 5 degree down photometric test points if the lamp is mounted on a vehicle at less than 35.5 inches above the pavement. GM argued that an amendment of this nature would relax a design restriction without reducing the effectiveness of the lamp. The petition is being denied because GM has not supported its argument that the effectiveness of the lamp would not be reduced in certain driving situations.

FOR FURTHER INFORMATION CONTACT: Kevin Cavey, Office of Rulemaking, NHTSA, (202-366-5271).

SUPPLEMENTARY INFORMATION: Figure 10 of Motor Vehicle Safety Standard No. 108 specifies minimum photometric requirements for center highmounted stop lamps, that must be met at specified test points, including certain points at a position 5 degrees below the horizontal. After this requirement was adopted on October 18, 1983 (48 FR 48235), GM petitioned for reconsideration of the 5 degree down requirement, stating that there may be some current vehicle configurations and mounting locations where these test points might not be visible. This could exist when a lamp is mounted at the bottom of the glazing, and a spoiler or luggage rack is mounted on the deck lid. It therefore requested an amendment that these test points need not be met if the lamp "is visible at a point 10 feet from its lens and 35.5 inches above ground but is not visible at the 5 degree down test point." According to GM, 35.5 inches above the ground is the driving eye height for 95% of the operators of GM's vehicles. The agency denied GM's petition for reconsideration on May 17, 1984 (49 FR 20818) with these words:

Such an amendment, as NHTSA interprets it, would eliminate all photometric requirements below the horizontal for all vehicles whose high-mounted lamps were mounted less than 46 inches from the ground. Visibility of the lamp from this angle could be important for viewing vehicles from the rear when coming over a hill. The agency has reduced its restrictions regarding mounting location, and if a lamp mounted in the lowest permissible position would not meet the 5 degree test points, the lamp could be located to a higher height where the requirements may be met.

Further, the photometric requirements do not specify that the entire lens must be visible from each 5 degree down test point. Instead, they specify the intensity of light that must be visible from those points. Therefore, the requirement can be met with a lamp whose lens is partially obscured by a portion of the vehicle when viewed from some of the test points.

On March 23, 1987, GM again petitioned NHTSA for rulemaking to amend the requirements for meeting the 5 degree down test points. Specifically, the company stated that if the lamp were mounted at a height between 35.5 inches and 46 inches the 5 degree down specifications should "be applied at the down angle formed by a line extending from the geometric center of the * * * lens through a point located horizontally 10 feet from the lens and 35.5 inches above the ground." If the lamp were mounted below 35.5 inches, the specifications would not apply.

GM supported its petition with the observation that the nonobstruction requirement had caused it to raise the height of the lamp on certain carlines, and in some cases to develop more than one version of the lamp. An example of the latter is the optional luggage rack for which a specialized lamp has been developed. It believes its proposed revision to Standard No. 108 "will permit motor vehicle manufacturers increased design and packaging flexibility without compromising the intended function of the device."

The agency has carefully reviewed GM's petition. It did not address in any manner the reason its earlier petition was denied, and therefore has presented no plausible reason why the existing requirements should be modified. Under GM's suggested approach, a lamp at 35.5 inches mounting height would have no effective downward directed light. As a result, when the following car is at any lower elevation, even on a very slight hill crest, a driver whose driving eye height is 35.5 inches would not be able to see the light. Expressed in another manner, on a hill with an 8 percent grade, a center lamp mounted at 35.5 inches on a car at the crest needs to produce sufficient light at 1.3 degrees

below horizontal for a driver (whose driving eye height is 35.5 inches) to see it when he is 50 feet behind it; at 2.6 degrees for him to see it at 100 feet, etc. According to GM's own data, at least 5 percent of the operators of GM's vehicles have a driving eye height of 35.5 inches or less. Therefore, visibility of the light would be reduced under GM's requested amendment.

Furthermore, NHTSA does not encourage mounting the lamp at lower locations. It has been found to be especially effective in reducing rear end collisions involving more than two vehicles, probably because in higher locations the lamp on a leading vehicle can be viewed by the driver of a trailing vehicle through the windows of a vehicle between the two. Mounting the lamp lower than the top of a typical deck lid would reduce its effectiveness in this mode of crash prevention.

At the conclusion of its technical review, NHTSA has determined that there is not a reasonable possibility that at the end of a rulemaking proceeding Standard No. 108 would be amended in the manner petitioned for, and the petition is hereby denied.

The program official and attorney principally responsible for the development of this agency position are Kevin Cavey and Taylor Vinson, respectively.

(Secs. 103, and 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, and 1407); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on December 1, 1987.

Barry Felrice,
Associate Administrator for Rulemaking.

[FR Doc. 87-28080 Filed 12-7-87; 8:45 am]

BILLING CODE 4910-59-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1002, 1007, 1103, 1150, 1160, 1162, 1169, 1171, 1177, 1180, and 1182

[Ex Parte No. 246; Sub-No. 5]

Regulations Governing Fees for Services Performed in Connection With Licensing and Related Services; 1987 Update

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: In this decision the Commission adopts modifications of its costing and update formulas for calculating fees, as proposed at 52 FR 32573 (8-28-87) and as corrected at 52

FR 34819 (9-15-87). The 1987 user fee update is adopted. The fee for self-insurance applications at 49 CFR 1002.2(f)(77) is recalculated and a new fee for petitions for substitution of applicant at 49 CFR 1002.2(f)(15) is adopted.

EFFECTIVE DATE: February 1, 1988.

FOR FURTHER INFORMATION CONTACT:

Kathleen M. King, 202-275-7428.

For Costing Information:

William W. England, 202-275-7472

TDD for the hearing impaired: 202-275-1721.

SUPPLEMENTARY INFORMATION: The Commission is required by its regulations at 49 CFR 1002.3 to update user fees annually. After a review of the comments submitted by the National Motor Freight Traffic Association, the Household Goods Carrier Bureau and the American Bus Association, the Commission has determined that the proposed modifications of its fee costing and update formula, the 1987 fee update, and the proposed fee item modifications should be adopted.

Further information is contained in the Commission's decision which may be purchased from Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 202-289-4357. (Assistance for the hearing impaired is available through TDD services, 202-275-1721.)

This decision will not have a significant impact upon the quality of the human environment or conservation of energy resources. Nor will it have a significant effect on a substantial number of small entities.

List of Subjects in 49 CFR Parts 1002, 1007, 1103, 1150, 1160, 1162, 1169, 1171, 1177, 1180, and 1182

Administrative practice and procedure.

It is ordered:

Title 49 of the Code of Federal Regulations is amended as set forth below. These rule changes will be effective on February 1, 1988.

Decided: November 30, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre and Simmons. Commissioner Sterrett dissented in part with a separate expression.

Noreta R. McGee,

Secretary.

Title 49 of the Code of Federal Regulations is amended as follows:

PART 1002—FEES

1. The authority citation for Part 1002 continues to read as follows:

Authority: 5 U.S.C. 552(a)(4)(A), 5 U.S.C. 553, 31 U.S.C. 9701 and 49 U.S.C. 10321.

§ 1002.1 [Amended]

2. In § 1002.1, the dollar amount of "\$3.00" in paragraph (a) is revised to read "\$5.00".

3. In § 1002.1, the dollar amount of "\$11.00" in paragraph (c) is revised to read "\$12.00".

4. In § 1002.1, the table in paragraph (f)(6) is revised to read as follows:

GS-1.....	\$5.22
GS-2.....	5.69
GS-3.....	6.41
GS-4.....	7.20
GS-5.....	8.05
GS-6.....	8.97
GS-7.....	9.97
GS-8.....	11.04
GS-9.....	12.20
GS-10.....	13.43
GS-11.....	14.76
GS-12.....	17.69
GS-13.....	21.03
GS-14.....	24.85
GS-15 & above.....	29.23

5. In § 1002.2, paragraph (f) is revised to read:

§ 1002.2 Filing fees.

* * * * *

(f) Schedule of filing fees.

Type of proceedings	Fees
Part I: Non-Rail Applications for Operating Authority or Exemptions	
(1) An application for motor carrier operating authority; a certificate of registration including a certificate of registration for certain foreign carriers; broker authority; water carrier operating or exemption authority; or household goods freight forwarder authority.	\$200
(2) A fitness only application for motor common carrier authority under 49 U.S.C. 10922(b)(4)(E) or motor contract authority under 49 U.S.C. 10923(b)(5)(A) to transport food and related products.	100
(3) A petition to interpret or clarify an operating authority under 49 CFR 1160.64.	2,000
(4) A request seeking the modification of operating authority only to the extent of making a ministerial correction, when the original error was caused by applicant, a change in the name of the shipper or owner of a plantsite or the change of a highway name or number.	30
(5) A petition to renew authority to transport explosives under 49 U.S.C. 10922 or 10923.	30
(6) An application to remove restriction or broaden unduly narrow authority under 49 CFR 1160.107-1160.114.	200
(7) An application for authority to deviate from authorized regular route authority 49 U.S.C. 10923(a).	100
(8) An application for motor carrier or water carrier temporary authority under 49 U.S.C. 10928(b).	90
(9) An application for motor carrier emergency temporary authority under 49 U.S.C. 10928(c)(1).	70
(10) An extension of the time period during which an outstanding application for emergency temporary authority as defined in 49 U.S.C. 10928(c)(1) may continue.	17

Type of proceedings	Fees	Type of proceedings	Fees	Type of proceedings	Fees
(11) Request for name change of carrier, broker, or household goods freight forwarder.	7	(40) Abandonments filed by bankrupt railroads. 49 CFR 1152.40.	650	(56) An application for forced sale of bankrupt railroad lines. 49 CFR 1180.40-49, 45 U.S.C. 915.	1,400
(12) A notice required by 49 U.S.C. 10524(b) to engage in compensated intercorporate hauling including an updated notice required by 49 CFR 1167.4.	60	(41) Exempt abandonments. 49 CFR 1152.50.	750	(57)-(59) [Reserved]	
(13) A notice of intent to operate under the agricultural co-operative exemption in 49 U.S.C. 10526(a)(5).	60	(42) A notice or petition to discontinue passenger train service.	8,100	Part VII: Formal Proceedings	
(14) [Reserved]		(43) [Reserved]		(60) A complaint alleging unlawful rates or practices of carriers, property brokers or freight forwarders of household goods.	500
(15) A joint petition to substitute applicant in a pending operating rights proceeding.	20	Part VI: Rail Applications To Enter Upon a Particular Financial Transaction or Joint Arrangement		(61) A complaint seeking or a petition requesting institution of an investigation seeking the prescription or division of joint rates, fares or charges. 49 U.S.C. 10705(f)(1)(A).	1,500
(16) [Reserved]		(44) An application for use of terminal facilities or other applications under 49 U.S.C. 11103.	6,800	(62) A petition for declaratory order:	
Part II: Non-Rail Applications To Discontinue Transportation		(45) An application for the pooling or division of traffic. 49 U.S.C. 11342.	4,700	(i) A petition for declaratory order involving dispute over an existing rate or practice which is comparable to a complaint proceeding.	500
(17) A notice or petition to discontinue ferry service 49 U.S.C. 10908.	8,100	(46) An application for two or more carriers to consolidate or merge their properties or franchises or a part thereof, into one corporation for ownership, management, and operation of the properties previously in separate ownership. 49 U.S.C. 11343.		(ii) All other petitions for declaratory order.	850
(18) A petition to discontinue motor carrier of passenger transportation in one state.	500	(i) Major transaction	100,000	(63) Requests for nationwide and regional collectively filed general rate increases and major rate restructures accompanied by supporting cost and financial information justifying the increase.	5,500
(19) [Reserved]		(ii) Significant transaction	20,000	(64) A petition for exemption from filing tariffs by water and bus carriers.	150
Part III: Non-Rail Applications To Enter Upon a Particular Financial Transaction or Joint Arrangement		(iii) Minor transaction	2,200	(65) An application for shipper antitrust immunity. 49 U.S.C. 10706(a)(5)(A).	2,500
(20) An application for the pooling or division of traffic.	1,500	(iv) Exempt transaction [49 CFR 1080.2(d)].	550	(66) Petition for review of state regulations of intrastate rates, rules or practices filed by interstate rail carriers. 49 U.S.C. 11501.	500
(21) An application involving the purchase, lease, consolidation, merger, or acquisition of control of a motor or water carrier or carriers under 49 U.S.C. 11343.	750	(v) Responsive application	2,200	(67) Petition for review of state regulations of intrastate rates, rules or practices filed by interstate bus carriers. 49 U.S.C. 11501.	500
(22) An application for approval of a non-rail rate association agreement. 49 U.S.C. 10706.	9,900	(47) An application for a noncarrier to acquire control of two or more carriers through ownership of stock or otherwise. 49 U.S.C. 11343.		(68)-(71) [Reserved]	
(23) An application for approval of an amendment to a non-rail rate association agreement.		(i) Major transaction	100,000	Part VIII: Informal Proceedings	
(i) Significant Amendment	4,700	(ii) Significant transaction	20,000	(72) An application for authority to establish released value rates or ratings under 49 U.S.C. 10730 (Except that no fee will be assessed for applications seeking such authority in connection with reduced rates established to relieve distress caused by drought or other natural disaster).	400
(ii) Minor Amendment	30	(iii) Minor transaction	2,200	(73) An application for special permission for short notice or the waiver of other tariff publishing requirements.	40
(24) An application for temporary authority to operate a motor or water carrier. 49 U.S.C. 11349.	150	(iv) Exempt transaction [49 CFR 1080.2(d)].	550	(74) The filing of tariffs, rate schedules and contracts including supplements.	7 per series transmitted.
(25) An application to transfer or lease a certificate or permit, including a certificate of registration, and a broker license or change of control of companies holding broker's license 49 U.S.C. 10926, or a transfer of a water carrier exemption authorized under 49 U.S.C. 10542 and 10544.	200	(v) Responsive application	2,200	(75) Special docket application from rail and water carriers. (There is no fee for requests involving sums of \$25,000 or less).	50
(26) An application for approval of a motor vehicle rental contract. 49 CFR 1057.41(d).	150	(49) An application of a carrier or carriers to purchase, lease, or contract to operate the properties of another, or to acquire control of another by purchase of stock or otherwise. 49 U.S.C. 11343.		(76) Informal complaint about rail rate application.	100
(27) A petition for exemption under 49 U.S.C. 11343(e).	200	(i) Major transaction	100,000	(77) An application for original qualification as self-insurer.	250
(28)-(32) [Reserved]		(ii) Significant transaction	20,000	(78) A service fee for insurer, surety or self-insurer accepted certificate of insurance, surety bond or other instrument submitted in lieu of a broker surety bond. The fee is based on a formula of \$10 per accepted certificate of insurance or surety bond as indication of ICC insurance activity. (There is a \$50 annual minimum; but the minimum does not apply to an instrument submitted in lieu of a surety bond).	10 per accepted certificate or instrument submitted in lieu of a broker surety bond)
Part IV: Rail Applications for Operating Authority		(iii) Minor transaction	2,200	(79) A petition for waiver of any provision of the lease and interchange regulations. 49 CFR Part 1057.	300
(33) (i) An application for a certificate authorizing the construction, extension, acquisition, or operation of lines of railroad. 49 U.S.C. 10901.	2,600	(iv) Exempt transaction [49 CFR 1080.2(d)].	550	(80) A petition for reinstatement of revoked operating authority.	40
(ii) Exempt transaction under 49 CFR 1150.31.	550	(v) Responsive application	2,200	(81)-(82) [Reserved]	
(34) Feeder Line Development Program application filed under 49 U.S.C. 10910(b)(1)(A)(i).	3,200	(50) An application for a determination of fact of competition. 49 U.S.C. 11321(a)(2) or (b).	20,000	(83) Petition for reinstatement of a dismissed operating rights application.	200
(35) A Feeder Line Development Program application filed under 49 U.S.C. 10910(b)(1)(A)(ii).	1,800	(51) An application for approval of a rail rate association agreement. 49 U.S.C. 10706.	25,100	(84) Filing of documents for recordation. 49 U.S.C. 11303 and 49 CFR 1177.3(c).	13 per document.
(36)-(37) [Reserved]		(52) An application for approval of an amendment to a rail rate association agreement. 49 U.S.C. 10706.		(85) Valuations of railroad lines in conjunction with purchase offers in abandonment proceedings.	1,000
Part V: Rail Applications To Discontinue Transportation Services		(i) Significant Amendment	4,700	(86) Informal opinions about rate applications (all modes).	40
(38) An application for authority to abandon all or a portion of a line of railroad or operation thereof filed by a railroad (except applications filed by Consolidated Rail Corporation pursuant to the North East Rail Service Act, bankrupt railroads or exempt abandonments under 49 CFR 1152.50).	2,100	(ii) Minor Amendment	30	(87)-(95) [Reserved]	
(39) An application for authority to abandon all or a portion of a line of railroad or operation thereof filed by Consolidated Rail Corporation pursuant to North East Rail Service Act.	150	(53) An application for authority to hold a position as officer or director. 49 U.S.C. 11322.	250		
		(54)(i) An application to issue securities; an application to assume obligation or liability in respect to securities of another; an application or petition for modification of an outstanding authorization; or an application for exemption from competitive bidding requirements of Ex Parte No. 158, 49 CFR 1175 49 U.S.C. 11301.	1,200		
		(ii) An exempt transaction under 49 CFR 1175.	550		
		(55) A petition for exemption (other than a rulemaking) filed by rail carriers. 49 U.S.C. 10505.	650		

Type of proceedings	Fees
Part IX: Services	
(96) Messenger delivery of decision to a railroad carrier's Washington, DC, agent.	10 per delivery.
(97) Request for service list for proceedings.	7 per list.
(98) Requests for copies of the one-percent carload waybill sample.	100
(99) Verification of surcharge level pursuant to Ex Parte No. 389, Procedures for Requesting Rail Variable Cost & Revenue Determination for Joint Rates Subject to Surcharge or Cancellation.	14 per movement verified.
(100) Application fee for Interstate Commerce Commission Practitioners' Exam.	50

6. In § 1002.3, paragraphs (d)(2) through (d)(4) are revised to read as follows:

§ 1002.3 Updating user fees.

* * * * *

(d) * * *

(2) Operations overhead shall be developed each year on the basis of current relationships existing on a weighted basis, for indirect labor applicable to the first supervisory work centers directly associated with user fee activity. Actual updating of operations overhead will be accomplished by applying the current percentage factor to updated direct labor, including current governmental overhead costs.

(3)(i) Office general and administrative costs shall be developed each year on the basis of current level costs, i.e., dividing actual office general and administrative costs for the current fiscal year by total office costs for the Offices and Bureaus directly associated with user fee activity. Actual updating of office general and administrative costs will be accomplished by applying the current percentage factor to updated direct labor, including current governmental overhead and current operations overhead costs.

(ii) Commission general and administrative costs shall be developed each year on the basis of current level costs; i.e., dividing actual Commission general and administrative costs for the current fiscal year by total agency expenses for the current fiscal year. Actual updating of Commission general and administrative costs will be accomplished by applying the current percentage factor to updated direct labor, including current governmental overhead, operations overhead and office general and administrative costs.

(4) Publication costs shall be adjusted on the basis of known changes in the costs applicable to publication of material in the **Federal Register** or ICC Register.

* * * * *

PART 1007—RECORDS CONTAINING INFORMATION ABOUT INDIVIDUALS

7. In Part 1007, the authority citation is revised to read:

Authority: 5 U.S.C. 552, 553, and 559.

§ 1007.5 [Amended]

8. In § 1007.5 paragraph (f), the phrase "of 10 cents per letter size or legal-size exposure duplicated electrostatically" is revised to read "set forth in 49 CFR § 1002.1(d)".

PART 1103—PRACTITIONERS

9. The authority citation for Part 1103 continues to read:

Authority: 49 U.S.C. 10308 and 10321; 5 U.S.C. 559.

10. In § 1103.3 paragraphs (d), (k), (l), and (m) are revised to read as follows:

§ 1103.3 Persons not attorneys-at-law—qualifications and requirements for practice before the Commission.

* * * * *

(d) *Application fee.* Each application filed pursuant to this rule must be accompanied by the non-refundable fee in the amount set forth in 49 CFR 1002.2(f)(100). Payment must be made either by check or money order payable to the Interstate Commerce Commission. Cash payment will not be accepted.

* * * * *

(k) Failing or postponing the examination. Applicants who fail the examination may reapply by submitting a request in writing with an additional filing fee in the amount set forth in 49 CFR 1002.2(f)(100). Applicants who postpone taking the examination three times without showing good cause will have their applications returned.

(l) The filing fee in the amount set forth in 49 CFR 1002.2(f)(100) is not refundable.

(m) Any application resubmitted to the Commission after being returned must be accompanied by a filing fee in the amount set forth in 49 CFR 1002.2(f)(100).

* * * * *

PART 1150—CERTIFICATE TO CONSTRUCT, ACQUIRE OR OPERATE RAILROAD LINES

11. The authority citation for Part 1150 is revised to read:

Authority: 49 U.S.C. 10321, 10326, 10901, 10903, and 10505; 5 U.S.C. 553 and 559.

§ 1150.10 [Amended]

12. In § 1150.10, paragraph (b) is amended by removing the sentence "A \$700 fee is required to file an application. (49 CFR 1002.2(d)(1).)" and

substituting in its place "A filing fee in the amount set forth in 49 CFR 1002.2(f)(33) is required to file an application."

PART 1160—HOW TO APPLY FOR OPERATING AUTHORITY

13. The authority citation for Part 1160 continues to read:

Authority: 49 U.S.C. 10101, 10305, 10321, 10921, 10922, 10923, 10924, and 11102; 5 U.S.C. 553 and 559; and 16 U.S.C. 1456.

14. In § 1160.64, paragraph (b) is revised to read as follows:

§ 1160.64 Petition to clarify or interpret formally an operating authority.

* * * * *

(b) No application form need be used. Petitioner shall file its entire argument with the petition, with the fee in the amount set forth in 49 CFR 1002.2(f)(3). The petition shall be sent to the Office of the Secretary.

* * * * *

PART 1162—TEMPORARY AUTHORITY (TA) AND EMERGENCY TEMPORARY AUTHORITY (ETA) PROCEDURES UNDER 49 U.S.C. 10928

15. The authority citation for Part 1162 continues to read:

Authority: 49 U.S.C. 10321, 10928; 5 U.S.C. 559.

16. In § 1162.2, paragraph (c) is revised to read as follows:

§ 1162.2 Filing of applications.

* * * * *

(c) *Filing fees.* A filing fee in the amount set forth in 49 CFR 1002.2(f)(8) shall accompany each temporary authority application. The filing fee for ETA applications is set forth in 49 CFR 1002.2(f)(9). If applicant seeks any extension of the ETA, a filing fee in the amount set forth in 49 CFR 1002.2(f)(10) is required.

* * * * *

§ 1162.2 [Amended]

17. In § 1162.2 paragraph (e)(4)(ii), the first sentence of that paragraph is revised to read: "Any request for extension of ETA, not conforming to the rules in paragraph (e)(4)(i) of this section shall be made by filing an original and two (2) copies of form OCCA-19 and shall be accompanied by the fee set forth in 49 CFR 1002.2(f)(10)." The rest of the text of the paragraph remains unchanged.

PART 1169—RULES GOVERNING DISCONTINUING BUS TRANSPORTATION IN ONE STATE

18. The authority citation for Part 1169 continues to read:

Authority: 49 U.S.C. 10321 and 10935; 5 U.S.C. 553.

§ 1169.3 [Amended]

19. In § 1169.3, the last sentence of the section is revised to read "The filing fee is set forth in 49 CFR 1002.2(f)(67)."

PART 1171—RULES GOVERNING APPLICATIONS FOR CERTIFICATES OF REGISTRATION BY FOREIGN MOTOR CARRIERS AND FOREIGN MOTOR PRIVATE CARRIERS UNDER 49 U.S.C. 10530

20. The authority citation for Part 1171 continues to read:

Authority: 49 U.S.C. 10922 and 10530; 5 U.S.C. 553.

21. In § 1171.5, paragraph (a) is revised to read as follows:

§ 1171.5 Where to send the application.

(a) The original and one copy shall be sent to the Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423, with the filing fee set forth in 49 CFR 1002.2(f)(1). A check or money order for that amount payable to the Interstate Commerce Commission in United States dollars must be submitted.

* * *

PART 1177—RECORDATION OF DOCUMENTS

22. The authority citation for Part 1177 continues to read:

Authority: 49 U.S.C. 10321 and 11303; 5 U.S.C. 559.

23. In § 1177.3, paragraph (c) is revised to read:

§ 1177.3 Requirements for submission.

* * *

(c) Be accompanied by the fee set forth in 49 CFR 1002.2(f)(84). However, assignments which are executed prior to the filing of the primary document and which are submitted concurrently will be treated along with the primary document as one for fee purposes and will be assessed only one fee. A lease and agreement (Philadelphia Plan) shall be similarly treated.

* * *

PART 1180—RAILROAD ACQUISITION, CONTROL, MERGER, CONSOLIDATION PROJECT, TRACKAGE RIGHTS, AND LEASE PROCEDURES

24. The authority citation for Part 1180 continues to read:

Authority: 49 U.S.C. 10321, 10505, 10903-10906, 11341, 11343-11346; 5 U.S.C. 553 and 559; 45 U.S.C. 904 and 915.

25. In § 1180.4, paragraph (c)(1) is revised to read as follows:

§ 1180.4 Procedures.

* * *

(c) * * *

(1) The fee to file a primary application with the Commission under these procedures is set forth at 49 CFR 1002.2(f) (46) through (49). There is no filing fee for a directly related application filed by a party that filed the primary application. The fee for a directly related or responsive application filed by another party is set forth in 49 CFR 1002.2(f) (46) through (49). For finance-related exemption filed by a party, the fee is set forth in 49 CFR 1002.2(f) (46) through (49).

* * *

26. In § 1180.41, paragraph (d) is revised to read as follows:

§ 1180.41 Submission and contents of offer.

* * *

(d) Applications shall be accompanied by a filing fee in the amount set forth in 49 CFR 1002.2(f)(56).

* * *

PART 1182—MOTOR CARRIER OF PASSENGERS APPLICATIONS TO CONSOLIDATE, MERGE OR ACQUIRE CONTROL UNDER 49 U.S.C. 11343-11344

27. The authority citation for Part 1182 continues to read:

Authority: 49 U.S.C. 10321, 11343, 11344 and 11345; 5 U.S.C. 559.

§ 1182.1 [Amended]

28. In § 1182.1 paragraph (b), the third sentence beginning with the words "The filing fee" and ending with the words "Interstate Commerce Commission" is removed and the following sentence substituted in its place "The filing fee set forth at 49 CFR 1002.2(f)(21) must be paid at the time and place of application with a check or money order made payable to the Interstate Commerce Commission."

29. In § 1182.5, paragraph (c)(1) is revised to read as follows:

§ 1182.5 Processing temporary authority applications filed under 49 U.S.C. 11349 corresponding to applications filed under 49 U.S.C. 11343-11344 or 10926.

* * *

(c) *Starting the application process.*

(1) Persons seeking temporary authority under this section shall properly complete application form OP-F-46. The application fee is set forth in 49 CFR 1002.2(f)(46).

* * *

[FR Doc. 87-28091 Filed 12-7-87; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 675

[Docket No. 61225-7052]

Groundfish of the Bering Sea and Aleutian Islands Area; Correction

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure and request for comments; correction.

SUMMARY: This document removes a coordinate that was inadvertently published in two places in the notice to close the Bering Sea area to fishing for sablefish and "other rockfish" that was published November 20, 1987 (52 FR 44597).

DATES: The closure is effective November 16, 1987, until December 31, 1987.

FOR FURTHER INFORMATION CONTACT: Janet E. Smoker (Resource Management Specialist), 907-586-7230.

In rule document 87-26811 beginning on page 44597 in the issue of November 20, 1987, make the following corrections:

1. On page 44597, under the "SUMMARY" heading, column 3, line 10 from the top of the page, remove "south of 55° north latitude and".

2. On page 44598, under the "Notice of Closure" heading, column 3, beginning on line 24 from the bottom of the page, remove the same coordinate, "south of 55 degrees north latitude and".

Dated: December 2, 1987.

Bill Powell,

Executive Director, National Marine Fisheries Service.

[FR Doc. 87-28087 Filed 12-7-87; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 650**[Docket No. 70618-7241]****Atlantic Sea Scallop Fishery****AGENCY:** National Marine Fisheries Service (NMFS), NOAA, Commerce.**ACTION:** Final rule.

SUMMARY: NOAA issues this final rule to amend the regulations implementing the Fishery Management Plan for the Atlantic Sea Scallop Fishery (FMP) by revising the expiration date of fishing permits issued for this fishery. The intended effect is to provide consistency with annual permitting procedures recently adopted in the Northeast Region, NMFS.

EFFECTIVE DATE: Midnight on December 31, 1987.

FOR FURTHER INFORMATION CONTACT: Carol J. Kilbride (Resource Policy Analyst), 617-281-3600, ext. 331.

SUPPLEMENTARY INFORMATION: The FMP was developed by the New England Fishery Management Council in consultation with the Mid-Atlantic Fishery Management Council. A complete discussion on the history of this FMP can be found in the preamble of the proposed rule to implement this regulatory amendment (52 FR 25041, July 2, 1987) and is not repeated here.

All final regulations implementing management programs for the various fisheries under the management jurisdiction of the Northeast Region, NMFS, contain a fishing permit requirement. In 1987, the Region began to implement a system of renewing fishing permits annually. Annual permits provide a more accurate accounting of fishery participants and assist in monitoring the effectiveness of an FMP.

Language contained in the FMP only specifies that a permit is required to fish for Atlantic sea scallops; it is silent regarding the expiration date of such permit. The frequency of issuing fishing permits is left to the administrative discretion of NOAA. NOAA has determined that an annual permit requirement for the Atlantic sea scallop fishery is a reasonable measure to implement the approved FMP.

The public was invited to comment on the proposed rule until August 3, 1987. No written comments were received.

Classification

The Assistant Administrator for Fisheries, NOAA, has determined that this rule is necessary and appropriate for the conservation and management of the sea scallop resource and that it is consistent with the Magnuson Fishery Conservation and Management Act and other applicable law.

This action is categorically excluded, by NOAA Directive 02-10, from the requirement to prepare an environmental assessment because it makes no significant change in the impacts identified and analyzed relative to the regulations implementing the FMP.

The Administrator of NOAA has determined that this rule is not a major rule requiring a regulatory impact analysis under Executive Order 12291. The current regulatory measures of the FMP and their impacts are not changed by this action.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities because minimal time is required for annual

renewal of a permit. As a result, a regulatory flexibility analysis was not prepared. The Assistant Administrator for Fisheries, NOAA, has determined that this rule does not directly affect the coastal zone of any State with an approved coastal zone management plan.

Information collection required for the vessel permit application has been approved by the Office of Management and Budget, under OMB Control Number 0648-0097, in accordance with the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 650

Fisheries, Reporting and recordkeeping requirements.

Dated: December 3, 1987.

James E. Douglas, Jr.,

Deputy Assistant Administrator For Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR Part 650 is amended as follows:

PART 650—[AMENDED]

1. The authority citation for 50 CFR Part 650 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 650.4, paragraph (d) is revised to read as follows:

§ 650.4 Vessel permits.

(d) *Expiration.* A permit expires on December 31, or when the owner or name of the vessel changes.

FR Doc. 28128 Filed 12-3-87; 4:20 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register

Vol. 52, No. 235

Tuesday, December 8, 1987

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 52

United States Standards for Grades of Pickles

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: In compliance with the requirements for periodic review of existing regulations and in response to a petition from the pickle industry, the Agricultural Marketing Service (AMS) reviewed and proposed to revise the United States Standards for Grades of Pickles. The proposed rule would change the U.S. grade standards for pickles by: (1) Removing minimum salt requirements; (2) establishing, under "Types of Pack," the "Refrigerated" type; (3) changing size designations; (4) reducing or eliminating the analytical requirements for acid, sugar, or salt for some types of pack; (5) eliminating the "length variation" in determining uniformity of size for whole style; (6) expanding the table for sizes of whole pickles in gallon containers to include other container sizes; (7) increasing the allowance for stems by changing the classifications; (8) simplifying the U.S. grade standard by condensing the various tables; (9) replacing dual grade nomenclature with single letter grade designations; and (10) incorporating minor editorial changes. The effect of this proposed rule would be to improve the standards and encourage uniformity in commercial practices which would facilitate the trading of pickles.

DATE: Comments must be received on or before February 8, 1988.

ADDRESS: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the Docket Clerk, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 2085, South Building,

P.O. Box 96456, Washington, DC 20090-6456. Comments should reference the date and page number of this issue of the Federal Register and will be made available for public inspection in the office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Harold A. Machias, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 0709, South Building, P.O. Box 96456, Washington, DC 20090-6456, Telephone (202) 447-6247.

SUPPLEMENTARY INFORMATION:

This action has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been designated as a "nonmajor" rule. It will not result in an annual effect on the economy of \$100 million or more. There will be no major increase in cost or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. It will not result in significant effects on competition, employment, investments, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Agencies are required to periodically review existing regulations. An objective of the regulatory review is to ensure that the grade standards are serving their intended purpose, the language is clear, and the standards are consistent with AMS policy and authority.

The Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601), because it reflects current marketing practices. In addition these standards are voluntary. A small entity may avoid incurring any additional economic impact by not applying for an inspection.

The United States Department of Agriculture (USDA) received a petition from Pickle Packers International, Incorporated (PPI), a trade association of the pickle industry, requesting changes in the United States Standards for Grades of Pickles. The PPI requested these changes to reflect procedural, processing, and marketing changes in

the pickle industry during the last thirty years. The U.S. grade standards for pickles were last revised, except for minor changes, in 1954.

Consumer patterns have indicated preferences for foods containing lower levels of sodium. In response to these preferences, the pickle industry is producing lower-salt pickles. The proposed standards permit lower-salt pickles to receive a higher grade by eliminating the minimum salt requirements in the standards.

During the last decade, a new type of pickles known as "Refrigerated Type" has become popular among American consumers. The industry has requested a revision of the grade standards to include this type of pack.

PPI also requested the requirements in the grade standards for salt, acid, and Baumé (density) levels be changed to meet consumer preferences for a milder pickle, both in terms of salinity and acidity. The pickle industry has expressed concern about the public health aspects of sodium and has responded to consumer preference for reduced sodium levels in foods. In their view, there is no reason to require that pickles contain the current minimum of salt, and there is a need to allow for production to pickles containing as little sodium as is technologically feasible. The acid level should also be minimal but should be sufficient to achieve an equilibrated pH of 4.6 or below as required by the Food and Drug Administration (FDA) Good Manufacturing Practices for acidified foods.

Baumé levels should also be reduced since the three components (salt, acid, and sugar) are balanced by each manufacturer to maintain the desired characteristics for taste and flavor. These changes are reflected in Table V of the proposed standards.

PPI states that in most modern pickle processing plants, pickles are being sized solely by diameter rather than by length and diameter. Hand sorting pickles by length is not economically feasible and would add to processing costs. Data indicate that pickles are being marketed efficiently without hand sorting according to length and therefore "length" should not be part of the criteria for determining uniformity of size. PPI also requested that the table designating sizes for whole pickles in

gallon containers be expanded to include other common container sizes.

PPI also recommended that stems not be considered a defect in these U.S. grade standards, citing that stems are not listed as a defect in the USDA grade standards for fresh cucumbers. Presently, the PPI states, the industry makes no effort to remove stems from cucumbers except when preparing pickles for acceptance by the military or the school lunch program. PPI stated that one member, in reviewing complaint letters dating back 10 years, found no letters concerning attached stems affecting the quality of pickles. They also claim that, with the advent of mechanical harvesting, a restrictive requirement on stems is not economical and places an unreasonable burden on the processor. According to data reviewed by the USDA, consumer demand for pickles has been increasing over the last five years even though most processors are not attempting to remove stems.

In reviewing this request, the USDA has determined that stems are a defect and affect the appearance and eating quality when they exceed a specified length. For this reason, the USDA proposes that stems over 2.5 centimeters (.98 inch) in length be considered a minor defect. Stems that are 2.5 centimeters or less in length would be considered "insignificant" for the purposes of these grade standards.

The proposed rule follows a uniform format consistent with recent revisions of other U.S. grade standards. The proposed format is designed to provide industry personnel and agricultural commodity graders with simpler and more comprehensive standards. Definitions of terms and easy-to-read tables replace, where appropriate, some of the textual description in existing standards. These changes would promote better understanding and more uniform application of the standards. Modifications to appropriate sections of the current standards have been proposed to conform with these changes.

This proposal also replaces dual grade nomenclature with single letter designations. Under this proposal, "U.S. Grade A" (or "U.S. Fancy") and "U.S. Grade B" (or "U.S. Extra Standard") become "U.S. Grade A" and "U.S. Grade B" respectively. During the period from February 1983 to the present, the USDA evaluated the comments received from industry regarding the recommended changes and began drafting this proposed rule. After reviewing all the information, the USDA has determined that this proposed rule would facilitate

trade between processors and buyers and improve the marketing of pickles.

List of Subjects in 7 CFR Part 52

Fruits, Vegetables, Food grades and standards.

For the reasons set forth in the preamble, it is proposed that 7 CFR Part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: Agricultural Marketing Act of 1946, secs. 203, 205, 60 Stat. 1087, 1090 as amended; 7 U.S.C. 1622, 1624.

2. The subpart—United States Standards for Grades of Pickles, is revised to read as follows:

Subpart—United States Standards for Grades of Pickles

Sec.

- 52.1681 Product description.
- 52.1682 Styles of pickles.
- 52.1683 Types of pack.
- 52.1684 Sizes of whole pickles.
- 52.1685 Definitions of terms.
- 52.1686 Recommended fill of container.
- 52.1687 Quantity of pickle ingredient.
- 52.1688 Sample unit size.
- 52.1689 Grades.
- 52.1690 Factors of quality.
- 52.1691 Requirements for grades.
- 52.1692 Determining the grade of a lot.

Subpart—United States Standards For Grades of Pickles

§ 52.1681 Product description.

Pickles means the product prepared entirely or predominantly from cucumbers (*Cucumis sativus* L.). Clean, sound ingredients are used that may or may not have been previously subjected to fermentation and curing in a salt brine. The prepared pickles are packed in an acid medium solution that may contain other vegetables, nutritive sweeteners, vinegar or other food grade acids, seasonings, flavorings, spices, and other ingredients permissible under the Federal Food, Drug, and Cosmetic Act. The product is packed in commercially suitable containers and may be heat treated, or otherwise processed, to assure preservation.

§ 52.1682 Styles of pickles.

(a) *Whole style* means the pickles are whole and are relatively uniform in diameter as indicated in Table II.

(b) *Whole, mixed sizes, style* means the pickles are whole pickles of mixed sizes.

(c) *Sliced lengthwise style* means the pickles are cut longitudinally into halves, quarters, or other triangular shapes (spears, strips, or fingers), or

otherwise into units with parallel surfaces with or without ends removed.

(d) *Sliced crosswise, Crosscut, or Waffle cut style* means the pickles are cut into slices transversely to the longitudinal axis. The cut surfaces may have flat-parallel or corrugated-parallel surfaces.

(e) *Cut style* means the pickles are cut into chunks or pieces that are of various sizes and shapes.

(f) *Relish style* means finely cut or finely chopped pickles containing no less than 60 percent of cucumber ingredient and may contain other vegetable ingredients (cauliflower, onions, pepper, tomatoes, cabbage, olives, mustard or any other suitable vegetable).

§ 52.1683 Types of pack.

(a) *Cured type*. The pickles are cured by natural fermentation in a brine solution that may or may not contain salt (NaCl) and may contain the dill herb or extracts thereof. The pickle ingredient may be partially desalted and then processed or preserved in an equilibrated acidic solution (acetic, lactic, or other suitable food grade acid) with other ingredients (spices, flavorings, firming and preserving agents) that constitute the characteristics of the particular type of pickle. The characteristics of the various types of cured pickles are as follows:

(1) *Dill pickles* (natural or genuine) are cucumbers that are cured in a brine solution with dill herb and other flavoring agents.

(2) *Dill pickles* (processed) are brine-cured pickles that have undergone a freshening process and are packed in an acidic solution with dill flavoring and other flavoring agents.

(3) *Sour pickles* are cured pickles that are packed in an acidic solution with or without spices.

(4) *Sweet pickles and mild sweet pickles* are cured pickles that are packed in an acidic solution with suitable nutritive sweetening ingredients(s).

(5) *Sour mixed pickles* are cured pickles that are packed in an acidic solution. The pickles may be of any style or combination of styles other than relish and contains other vegetable ingredients as outlined in Table I or any other suitable vegetable.

(6) *Sweet mixed pickles and mild sweet mixed pickles* are cured pickles that are packed in an acidic solution with suitable nutritive sweetening ingredients(s). The pickles may be of any style or combination of styles other than relish and may contain other

vegetable ingredients as outlined in Table I or any other suitable vegetable.

(7) *Sour mustard pickles or sour chow chow pickles* are cured pickles of the same styles and ingredients as sour mixed pickles except the pickles are packed in a prepared mustard sauce of proper consistency with or without spices and flavorings.

(8) *Sweet mustard pickles or sweet chow chow pickles* are cured pickles of the same styles and ingredients as sweet mixed pickles except the pickles are packed in a sweetened, prepared mustard sauce of proper consistency with or without spices and flavorings.

(9) *Sour pickle relish* consists of finely cut or chopped cured pickles that are packed in an acidic solution. Sour pickle relish may contain other chopped or finely cut vegetable ingredients as listed in Table I, and may contain a stabilizer such as a starch or gum.

(10) *Sweet pickle relish and mild sweet pickle relish* are finely cut or chopped cured pickles that are packed in an acidic solution with a suitable nutritive sweetening ingredient(s). Sweet pickle relish may contain other chopped or finely cut vegetable ingredients as listed in Table I and may contain a stabilizer such as a starch or gum.

(11) *Hamburger relish* consists of relish style pickles and other chopped or finely cut vegetable ingredients as listed in Table I with tomato product added.

(12) *Mustard relish* consists of sweet pickle relish with mustard and other chopped or finely cut vegetable ingredients as listed in Table I.

(13) *Dill relish* consists of relish style pickles containing dill flavoring and other chopped or finely cut vegetable ingredients as listed in Table I.

(b) *Fresh-pack type.* The pickles are prepared from uncured, unfermented cucumbers and are packed in an acidic solution (acetic, lactic, or other suitable food grade acid) with other ingredients to produce the characteristics of the particular type of pack. The pickles are sufficiently processed by heat to assure preservation of the product in hermetically sealed containers. The distinguishing characteristics of the various types of fresh-pack pickles are as follows:

(1) *Fresh-pack dill pickles* are pickles that are packed in an acidic solution with dill favoring.

(2) *Fresh-pack sweetened dill pickles* are pickles that are packed in an acidic solution with nutritive sweetening ingredient(s) and dill flavoring.

(3) *Fresh-pack sweetened dill relish* consists of finely cut or chopped pickles packed in an acidic solution with suitable nutritive sweetening ingredient(s) and dill flavoring. The relish may contain other finely cut or chopped vegetable ingredients as listed in Table I.

(4) *Fresh-pack sweet pickles and fresh-pack mild sweet pickles* are pickles that are packed in an acidic solution with nutritive sweetening ingredient(s).

(5) *Fresh-pack sweet pickle relish and fresh-pack mild sweet pickle relish* consists of finely cut or chopped pickles that are packed in an acidic solution with suitable nutritive sweetening ingredient(s). The relish may contain other finely cut or chopped vegetable ingredients as listed in Table I.

(6) *Fresh-pack hamburger relish* consists of relish style pickles and other chopped or finely cut vegetable ingredients as listed in Table I with tomato product added.

(7) *Fresh-pack mustard relish* consists of sweet pickle relish with mustard and other chopped or finely cut vegetable ingredients as listed in Table I.

(8) *Fresh-pack dill relish* consists of relish style pickles containing dill flavoring and other chopped or finely cut vegetable ingredients as listed in Table I.

(9) *Fresh-pack dietetic pickles* are pickles that are packed with or without the addition of sweetening ingredient(s), salt (NaCl), or other suitable ingredient(s) as declared and permitted under the Federal Food, Drug, and Cosmetic Act for foods purporting to be for special dietary uses.

(c) *Refrigerated type.* The pickles are prepared from fresh cucumbers and are packed in an acidified brine (acetic, lactic, or other suitable food grade acid) with other ingredients to produce the fresh crisp characteristic of refrigerated type pack. The pickles are preserved by acidification to a pH of 4.6 or below. They are stored, distributed, and displayed under refrigeration and may or may not contain one or more chemical preservatives. The various types of refrigerated pickles are the same as the types listed for fresh-pack

type in paragraph (b) of this section with respect to ingredients except that they conform to the requirements for refrigerated type.

TABLE I.—PROPORTIONS OF PICKLE INGREDIENTS IN CERTAIN TYPES AND STYLES

Pickle ingredients and style	Cured; fresh-pack; and refrigerated types	
	Sour mixed; sweet mixed; and mild sweet mixed; sour mustard or sour chow chow; sweet mustard or sweet chow chow	Sour pickle relish; sweet pickle relish; dill relish; hamburger relish; mustard relish
	Percent by weight of drained weight of product	
Cucumbers—any style other than relish.	60% to 80%.	60% to 100%.
Cucumbers—chopped or finely cut.		
Cauliflower—pieces.....	10% to 30%.	30% maximum (Optional).
Cauliflower—chopped or finely cut.		
Onions—whole (maximum diameter of 1½ inch) or sliced or cut.	5% to 12%.	12% maximum (Optional).
Onions—chopped or finely cut.....		
Green tomatoes—whole or pieces.	(Optional) 10% maximum.	10% maximum (Optional).
Green tomatoes—chopped or finely cut.		
Red, green, or yellow peppers, or pimientos—cut, finely cut, or pieces.	Optional.....	Optional.
Celery.....	Optional.....	Optional.
Cabbage.....	Optional.....	Optional.
Olives.....	Optional.....	Optional.
Tomato Paste.....		Required in hamburger relish.
Mustard or prepared mustard.....	Required in chow chow and mustard pickles.	Required in mustard relish—optional in hamburger relish.

§ 52.1684 Sizes of whole pickles.

Sizes of whole pickles are based on the diameter and the relationship of diameter to the count per gallon. Size designations, applicable counts, and diameters are outlined in Table II of this subpart. The diameter of a whole cucumber is the shortest diameter at the greatest circumference measured at right angles to the longitudinal axis of the cucumber.

TABLE II.—SIZES OF PROCESSED WHOLE PICKLES

Word designation	Diameter	Approximate counts in—				
		Glass			Metal	
		1 qt.	½ gal.	1 gal.	No. 10	No. 12 (1 gal)
Midget	19 mm (.75 in) or less	67 or more	135 or more	270 or more	202 or more	270 or more
Small Gherkin	Up to 2.4 cm (.94 in)	33-66	67-134	135-269	101-201	135-269
Large Gherkin	Up to 2.7 cm (1.06 in)	16-32	32-66	65-134	48-100	65-134
Small	Over 2.7 cm (1.06 in) but not over 3.5 cm (1.38 in)	10-15	20-31	40-64	30-47	40-64
Medium	Over 3.5 cm but not over 3.8 cm (1.50 in)	6-9	13-19	26-39	19-29	26-39
Large	Over 3.8 cm but not over 4.4 cm (1.73 in)	4-5	9-12	18-25	13-18	18-25
Extra Large	Over 4.4 cm (1.73 in)	2-3	6-8	12-17	9-12	12-17

§ 52.1685 Definitions of terms.

As used in these U.S. standards, unless otherwise required by the context, the following terms shall be construed, respectively, to mean:

(a) *Analytical definitions* refer to analytical laboratory requirements.

(1) *Acid* means total acidity of a safe and suitable organic acid(s) calculated as acetic acid in accordance with the Official Methods of Analysis of the Association of Official Analytical Chemists.

(2) *Brix value (Brix)* means the percent sugar, by weight, corrected to 20°C. (68°F.), as determined with a Brix hydrometer or other instrument that gives equivalent results.

(3) *Degrees Baumé* means the density of the packing medium determined with a Baume' hydrometer (modulus 145) corrected to 20°C. (68°F.).

(4) *Equalization* means the natural (osmotic) or simulated blending between the soluble solids of the pickle ingredient and the packing medium.

(i) *Natural equalization* means equalization brought about after a period of time has elapsed after processing as follows:

(A) Sweetened pickles are considered to be equalized 15 days or more after processing. If the pickles have been sweetened in a tank prior to packing, the pickles will be considered equalized 15 days after the sweetening process began.

(B) Sour and dill pickles are considered to be equalized 10 days or more after processing.

(ii) *Simulated equalization* means a method of simulating equalization by comminuting the finished product in a mechanical blender, filtering the suspended material from the comminuted mixture and making the required tests on the filtrate.

(5) *Total chlorides* or *salt* means the salt content expressed as grams NaCl (sodium chloride) per 100 milliliters packing medium; except that total chlorides in mustard pickles and chow chow is determined and expressed in grams NaCl per 100 grams of product.

(b) *Blemished* means any unit that is affected by discoloration, pathological injury, insect injury, or similar causes to the extent that the appearance or edibility of the product is adversely affected:

(1) *Slightly*—those blemishes which detract only slightly from the appearance of the unit;

(2) *Seriously*—those blemishes which strongly detract from the appearance or edibility of the unit.

(c) *Color*—(1) *Good color in cured type* means the typical skin color of the pickles ranges from a translucent light green to dark green and is practically free from bleached areas. Not more than 10 percent, by weight, of the pickles may vary markedly from such typical color. In mixed pickles, chow chow pickles, and pickle relish, all of the ingredients possess a practically uniform color typical for the respective ingredient. The pickles and other vegetable ingredients shall be free of off-colors.

(2) *Good color in fresh-pack and refrigerated types* means the typical skin color of the pickles ranges from an opaque yellow-green to green. Not more than 15 percent, by weight, of the pickles may vary markedly from such typical color. In pickle relish, all of the ingredients possess a good uniform color typical for the respective ingredient. The pickles and other vegetable ingredients shall be free of off-colors.

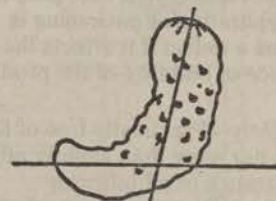
(3) *Reasonably good color in cured type* means the typical skin color of the pickles ranges from light green to dark green and is reasonably free from bleached areas. Not more than 25

percent, by weight, of the pickles may vary markedly from such typical color. In mixed pickles, chow chow pickles, and pickle relish, all of the ingredients possess a reasonably uniform color typical for the respective ingredient. The pickles and other vegetable ingredients shall be free of off colors.

(4) *Reasonably good color in fresh-pack and refrigerated types*, means the typical skin color of the pickles ranges from light yellow-green to green. Not more than 30 percent, by weight, of the pickles may vary markedly from such typical color. In pickle relish, all of the ingredients possess a good, fairly uniform color typical for the respective ingredient. The pickles and other vegetable ingredients shall be free of off-colors.

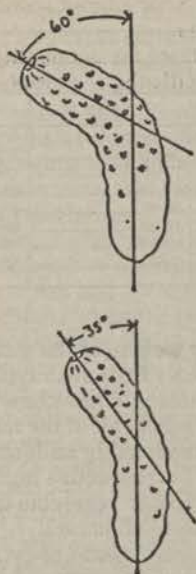
(5) *Poor color in all types of pickles* means the pickles fail to meet the requirements for good or reasonably good color for the respective type.

(d) *Crooked pickles* mean whole pickles that are curved at an angle greater than 60 degrees as illustrated by the following:



Also see the definition of misshapen.

(e) *Curved pickles* mean whole pickles that are curved at an angle of 35 to 60 degrees when measured as illustrated by the following:



(f) *Diameter* in whole style means the shortest diameter measured transversely to the longitudinal axis at the greatest circumference of the pickle. Diameter in cross-cut style is the shortest diameter of the largest cut surface.

(g) *Defect* means an imperfection such as curved, misshapen, mechanically damaged, discolored, and other imperfection that affects the appearance or edibility of the product.

(h) *End Cut* means a pickle unit intended for crosscut (sliced crosswise) style that has only one cut surface.

(i) *Extraneous Vegetable Material* (EVM) means any harmless vegetable material, other than stems, that is not normally part of the pickle ingredient. EVM such as leaves or other vegetable material not associated with proper pickle preparation or packaging is considered a defect if it affects the appearance or edibility of the product either:

(1) *Slightly*—Practically free of EVM and does not more than slightly affect the appearance or edibility; or

(2) *Materially*—Reasonably free of EVM and does not more than materially affect the appearance or edibility.

(j) *Flavor and odor*—(1) *Good flavor and odor* means characteristic flavor (e.g. characteristic dill flavor or the like) typical of properly processed pickles, for the type, that is free from objectionable flavor and odor of any kind.

(2) *Reasonably good flavor and odor* means flavor that may be lacking in characteristic flavor for the type but is free from objectionable flavor and odor.

(3) *Poor flavor and odor* means flavor that fails to meet the requirements for reasonably good flavor.

(k) *Length* in sliced lengthwise style means the longest straight measurement at the approximate longitudinal axis.

(l) *Mechanical damage* refers to crushed or broken units that affect the appearance of the units. In relish, mechanical damage refers to units which are poorly cut and have a ragged or torn appearance.

(m) *Misshapen pickles* mean whole pickles that are crooked or otherwise deformed (such as nubbins). Also see the definition for crooked pickles.

(n) *Nubbin* is a misshapen pickle that is not cylindrical in form, is short and stubby, or is not well developed.

(o) *Texture* means the firmness, crispness, and condition of the pickles and any other vegetable ingredient(s) that may be present. The following terms also relate to texture:

(1) *Hollow centers* in whole style, means the pickles, when cut transversely to the longitudinal axis, are missing $\frac{1}{3}$ or more of the seed cavity.

(2) *Soft, shriveled, and slippery units* refers to pickles that are wrinkled, not crisp, slick, flabby, or lack firmness.

(3) *Good texture* means the pickle units have been properly processed and possess a texture that is firm and crisp.

(4) *Reasonably good texture* means the pickle units have been properly processed but lack some of the firmness and crispness that is characteristic for style and type of pack.

(5) *Poor texture* means the pickle units do not meet the requirements for reasonably good texture.

(p) *Uniformity of size* (relish style only)—(1) *Practically uniform in size* means the size of the units may vary moderately in size but not to the extent that the appearance or the eating quality is seriously affected.

(2) *Poor uniformity of size* means the units fail the requirements for practically uniform.

(q) *Unit* means one whole, half, slice, or piece of pickle as applicable for the style.

(r) *Units missing $\frac{1}{3}$ or more of the seed cavity* in crosscut style means pickles that have lost a substantial portion of the seed cavity such as a crosscut unit missing $\frac{1}{3}$ or more of the seed cavity portion.

§ 52.1686 Recommended fill of container.

The recommended fill of container is not a factor of quality for the purposes of these grades. Each container of pickles should be filled with pickle ingredient, as full as practicable, without impairment of quality. The

product and packing medium occupy not less than 90 percent of the total capacity of the container.

§ 52.1687 Quantity of pickle ingredient.

(a) The recommendation minimum quantity of pickle ingredient is designated as the percentage of the declared volume of product in the container for all items except pickle relish. Minimum quantity of pickle relish is designated as a relationship of the drained weight of the pickle ingredient to the declared volume of the container. The minimum quantities recommended in Tables III and IV are not factors of quality for the purposes of these grades.

(b) The percent volume of pickle ingredient is determined for all styles, except relish, by one of the following methods in accordance with the procedures prescribed by the Processed Products Branch, Fruit and Vegetable Division:

(1) Direct displacement (overflow-can method);

(2) Displacement in a graduated cylinder;

(3) Measurement of pickle liquid;

(4) Any other method that gives equivalent results and is approved by the Processed Products Branch, Fruit and Vegetable Division.

(c) *Drained weight/volume*. The percentage weight/volume (w/v) of relish shown in Table III, is determined as follows. The drained weight of pickle relish of all types is determined by emptying the contents of the container upon a U.S. Standard No. 8 circular sieve of proper diameter containing 8 meshes to the inch (0.0937 inch $\pm$ 3 percent, square openings) so as to distribute the product evenly, inclining the sieve slightly to facilitate drainage, and allowing to drain for 2 minutes. The drained weight is the weight of the sieve and the pickles less the weight of the dry sieve. A sieve 8 inch in diameter is used for 1 quart and smaller size containers and a sieve 12 inches in diameter is used for containers larger than 1 quart in size.

TABLE III.—RECOMMENDED PICKLE INGREDIENT; ALL STYLES EXCEPT RELISH

Type of Pack	Minimum fill (Volume)
Cured.....	55 percent.
Fresh-Pack.....	57 percent.
Refrigerated.....	57 percent.

TABLE IV.—RECOMMENDED DRAINED WEIGHT BY VOLUME; RELISH

Type of Pack	Minimum fill (Weight/Volume)
Cured:	
Sweet.....	92 percent.
Other than sweet ..	88 percent.
Fresh-pack:	
Sweet.....	85 percent.
Other than sweet ..	80 percent.

§ 52.1688 Sample unit size.

For all styles of pickles and types of

§ 52.1691 Requirements for grades.

pack, the sample unit used in analyzing the quality factors is the entire contents of the container unless otherwise specified in 7 CFR 52.1 through 52.83.

§ 52.1689 Grades.

(a) *U.S. Grade A* is the quality of pickles that meets the applicable requirements of Table V and Table VI, VII, VIII, IX, X, or XI and scores not less than 90 points.

(b) *U.S. Grade B* is the quality of pickles that meets the applicable requirements of Table V and Table VI,

VII, VIII, IX, X, or XI and scores not less than 80 points.

(c) *Substandard* is the quality of pickles that fails the requirements of U.S. Grade B.

§ 52.1690 Factors of quality.

The grade of pickles is based on the following quality factors:

(a) Analytical requirements in Table V;

(b) Flavor and odor;

(c) Color;

(d) Uniformity of size;

(e) Defects; and

(f) Texture.

TABLE V.—ANALYTICAL REQUIREMENTS CURED TYPE, ALL STYLES ¹

	Total acidity expressed as acetic acid g/100 ml, unless otherwise indicated (maximum)	Total chlorides expressed as NaCl grams/100 ml, unless otherwise indicated (maximum)	Degrees Brix (minimum)	Degrees Baume' (minimum)
Dills (natural, genuine, or processed)	1.1	5.0		
Sour, sour mixed, dill pickle relish, sour relish	2.7	5.0		
Sweet whole, sweet mixed, and sweet relish	2.7	3.0	27.0	15.0
Mild sweet, mild sweet mixed, mild sweet relish			20.0	12.0
Sour mustard or sour chow chow	² 2.7	² 3.0		
Sweet mustard or sweet chow chow	² 2.7	² 3.0	28.0	15.5

¹ All pickle products must have an equilibrated pH of 4.6 or below.

² Expressed as "grams/100 grams."

TABLE V.—(CONTINUED) ANALYTICAL REQUIREMENTS ¹ FRESH PACK AND REFRIGERATED TYPES, ALL STYLES

	Total acidity expressed as acetic acid g/100 ml [maximum]	Total chlorides expressed as NaCl grams/100ml, unless otherwise indicated [maximum]
Dills	1.1	4.25
Sweetened dills	1.1	4.25
Sweetened dills relish	1.1	4.25
Sweet and mild sweet relish	1.65	2.75
Sweet and mild sweet pickles	1.65	2.75
Dietetic		

¹ All pickle products must have an equilibrated pH of 4.6 or below.

TABLE VI.—Quality Requirements Whole Style

	Grade A		Grade B	
	Maximum (by count)	Score	Maximum (by count)	Score
Flavor & Odor	Good		Reasonably Good ¹ ..	
Color	Good	18-20	Reasonably Good ¹ ..	16-17
Uniformity of Size ²		18-20		16-17

TABLE VI.—Quality Requirements Whole Style—Continued

	Grade A		Grade B	
	Maximum (by count)	Score	Maximum (by count)	Score
Diameter variation:				
Midget & Gherkin [over 8 mm (.31 in)]	10%		20%	
Small & Medium [over 10 mm (.39 in)]	10%		20%	
Large & Extra Large [over 12 mm (.47 in)]	10%		20%	
Defects:				
Blemished (Slightly & Seriously)	15%		25%	
Blemished (Seriously)	5%		10%	
Curved pickles	10%		20%	
Misshapen	5%		15%	
Mechanical damage	10%		15%	
Attached stems [over 2.5 cm (.98 in)]	10%		20%	
EVM	Practically Free	27-30	Reasonably Free ¹	24-26
Texture	Good	27-30	Reasonably Good ¹	24-26
Soft, Shriveled, & slippery units	5%		10%	
Hollow centers	15%		25%	
Total Score (minimum)		90 points		80 points

¹ Cannot be graded above U.S. Grade B, regardless of the total score.² Pickles that are Substandard for uniformity of size cannot be graded above U.S. Grade B, regardless of the total score.

TABLE VII.—QUALITY REQUIREMENTS, WHOLE STYLE, MIXED SIZES

	Grade A		Grade B	
	Maximum (by count)	Score	Maximum (by count)	Score
Flavor and odor	Good		Reasonably good ¹	
Color	Good	18-20	Reasonably good ¹	16-17
Defects:				
Blemished (slightly and seriously)	15 percent		25 percent	
Blemished (seriously)	5 percent		10 percent	
Curved pickles	10 percent		20 percent	
Misshapen	5 percent		15 percent	
Mechanical damage	10 percent		15 percent	
Attached stems [over 2.5 cm (.98 in)]	10 percent		20 percent	
EVM	Practically free		Reasonably free ¹	
Texture	Good	27-30	Reasonably good ¹	24-26
Soft, shriveled, and slippery units	5 percent		10 percent	
Hollow centers	15 percent		25 percent	
Total score (minimum) ²		90 points		80 points

¹ Cannot be graded above U.S. Grade B, regardless of the total score.² Total score is adjusted by dividing the total score by .80 to allow for the absence of the quality factor of uniformity of size in whole mixed sizes style.

TABLE VIII.—QUALITY REQUIREMENTS, SLICED LENGTHWISE

	Grade A		Grade B	
	Maximum (by count)	Score	Maximum (by count)	Score
Flavor and odor	Good		Reasonably good ¹	
Color	Good	18-20	Reasonably good ¹	16-17
Uniformity of size ²		18-20		16-17
Length variation over 2.6 cm (1.02 in)	10 percent		20 percent	
Defects:				
Blemished (slightly and seriously)	15 percent		25 percent	
Blemished (seriously)	5 percent		10 percent	
Mechanical damage	10 percent		15 percent	
Attached stems [over 2.5 cm (.98 in)]	10 percent		20 percent	
EVM	Practically free		Reasonably free ¹	
Texture	Good	27-30	Reasonably good ¹	24-26
Soft, shriveled, and slippery units	5 percent		10 percent	
Total score (minimum)		90 points		80 points

¹ Cannot be graded above U.S. Grade B, regardless of the total score.² Pickles that are Substandard for uniformity of size cannot be graded above U.S. Grade B, regardless of the total score.

TABLE IX.—QUALITY REQUIREMENTS, SLICED CROSSWISE OR CROSSCUT STYLE

	Grade A		Grade B	
	Maximum (by count)	Score	Maximum (by count)	Score
Flavor Odor	Good.....		Reasonably good ¹	
Color.....	Good.....	18-20	Reasonably good ¹	16-17
Uniformity of Size ²		18-20		16-17
Diameter over 5.4 cm (2.13 in).....	10 percent		20 percent	
Defects.....	Practically free.....	27-30	Reasonably free ¹	24-26
Blemished (slightly and seriously).....	15 percent		25 percent	
Blemished (seriously).....	5 percent		10 percent	
Mechanical damage.....	15 percent		25 percent	
Broken pieces and end cuts.....	10 percent		15 percent	
Thickness over 10 mm (.38 in).....	10 percent		15 percent	
Attached stems over 2.5 cm (.98 in).....	10 percent		15 percent	
Units missing 1/3 seed cavity.....	10 percent		15 percent	
EVM.....	Practically free.....		Reasonably free ¹	
Texture.....	Good.....	27-30	Reasonably good ¹	24-26
Soft, shriveled, and slippery units.....	5 percent		10 percent	
Large objectionable seeds, detached seeds, and tough skins.....	Practically free.....		Reasonably free ¹	
Total score (minimum).....		90 points		80 points

¹ Cannot be graded above U.S. Grade B, regardless of the total score.² Pickles that are Substandard for uniformity of size cannot be graded above U.S. Grade B, regardless of the total score.

TABLE X.—QUALITY REQUIREMENTS, CUT STYLE

Grade A	Grade B			
	Maximum (by count)	Score	Maximum (by count)	Score
Flavor and odor.....	Good.....		Reasonably good ¹	
Color.....	Good.....	18-20	Reasonably good ¹	16-17
Uniformity of Size ²		18-20		16-17
Small pieces 5g. or less.....	5 percent		10 percent	
Defects.....	Practically free.....	27-30	Reasonably free ¹	24-26
Blemished (slightly and seriously).....	15 percent		25 percent	
Blemished (seriously).....	5 percent		10 percent	
Mechanical damage.....	10 percent		15 percent	
Attached stems over 2.5 cm (.98 in).....	10 percent		15 percent	
EVM.....	Practically free.....		Reasonably free ¹	
Texture.....	Good.....	27-30	Reasonably good ¹	24-26
Soft, shriveled, and slippery units.....	5 percent		10 percent	
Large objectionable seeds, detached seeds, and tough skins.....	Practically free.....		Reasonably free ¹	
Total score (minimum).....		90 points		80 points

¹ Cannot be graded above U.S. Grade B, regardless of the total score.² Pickles that are Substandard for uniformity of size cannot be graded above U.S. Grade B, regardless of the total score.

TABLE XI.—QUALITY REQUIREMENTS, RELISH

	Grade A		Grade B	
	Maximum (by weight)	Score	Maximum (by weight)	Score
Flavor and odor.....	Good.....		Reasonably good ¹	
Color.....	Good.....	18-20	Reasonably Good ¹	16-17
Uniformity of Size ²		18-20		16-17
Overall appearance.....	Good.....		Reasonably Good ¹	
Defects.....	Practically free.....	27-30	Reasonably free ¹	24-26
Blemished (slightly and seriously).....	15 percent		25 percent	
Blemished (seriously).....	5 percent		10 percent	
Poorly cut.....	10 percent		15 percent	
Loose stems over 3 mm (.12 in).....	10 percent		15 percent	
EVM.....	Practically free.....		Reasonably Free ¹	

TABLE XI.—QUALITY REQUIREMENTS, RELISH—Continued

	Grade A		Grade B	
	Maximum (by weight)	Score	Maximum (by weight)	Score
Texture.....	Good.....	27-30	Reasonably good ¹ ...	24-26
Soft, shriveled, & slippery units.....	5 percent.....		10 percent.....	
Large objectionable seeds, detached seeds, & tough skins.....	Practically free.....		Reasonably free ¹	
Total score (minimum).....		90 points		80 points

¹ Cannot be graded above U.S. Grade B, regardless of the total score.

² Pickles that are Substandard for uniformity of size cannot be graded above U.S. Grade B, regardless of the total score.

§ 52.1692 Determining the grade of a lot.

The grade of a lot of pickles covered by these standards is determined by the procedures found in the "Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, and Related Products" (7 CFR 52.1 through 52.83).

Done at Washington, DC, on: December 4, 1987.

William T. Manley,
Deputy Administrator, Marketing Programs.

[FR Doc. 87-28088 Filed 12-7-87; 8:45 am]

BILLING CODE 3410-02-M

VETERANS ADMINISTRATION

38 CFR Part 21

Veterans Education; Clarification of Administrative Error

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

SUMMARY: The law provides that the Veterans Administration (VA) will not create an overpayment against the account of a veteran or eligible person if the overpayment is created as a result of an erroneous award of benefits based solely upon administrative error or error in judgment. Increasingly, users of the regulations have relieved veterans of overpayments when the overpayments resulted from administrative errors by third parties such as school officials rather than from such errors in the award of benefits by the VA. This is contrary to the way in which the law has been implemented for several decades. Accordingly, the regulation which implements this provision of law for the education programs which the VA administers is amended to make it clear that the law applies only to administrative error by the VA.

DATES: Comments must be received on or before January 7, 1988. Comments will be available for public inspection until January 21, 1988.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs

(271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, Room 132 of the above address, between the hours of 8 a.m. to 4:30 p.m., Monday through Friday (except holidays) until January 21, 1988.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Education Policy and Program Administration, Vocational Rehabilitation and Education Service, Department of Veterans Benefits, (202) 233-2092.

SUPPLEMENTARY INFORMATION: The VA is proposing an amendment to 38 CFR 21.4135(p) to make clear that when an overpayment of educational assistance allowance is due solely to an administrative error or error in judgment on the part of the VA, the veteran's or eligible person's award of educational assistance allowance will be terminated as of the date of last payment. The VA will use the facts found to apply the other paragraphs in § 21.4135 to overpayments of educational assistance allowance due to administrative error on the part of schools or other third parties.

The VA has determined that this proposed amended regulation does not contain a major rule as that term is defined by E.O. 12291, entitled Federal Regulation. The regulation will not have a \$100 million annual effect on the economy, and will not cause a major increase in costs or prices for anyone. It will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of Veterans Affairs has certified that this proposed amended regulation, if promulgated, 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 amended regulation, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because the proposed amended regulation affects only individuals. It will have no significant economic impact on small entities, i.e., small businesses, small private and nonprofit organizations and small governmental jurisdictions.

The Catalog of Federal Domestic Assistance number for the program affected by this proposed amended regulation is 84.111.

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: November 16, 1987.

Thomas K. Turnage,
Administrator.

PART 21—[AMENDED]

In 38 CFR Part 21, Vocational Rehabilitation and Education, § 21.4135 is proposed to be amended by revising paragraph (p)(2) and adding an authority citation to read as follows:

§ 21.4135 Discontinuance dates.

* * *

(p) * * *

(2) Date of last payment on an erroneous award based solely on administrative error by the VA or error in judgment by the VA.

(Authority: 38 U.S.C. 3012(b)(10) and 3013)

* * *

[FR Doc. 87-28089 Filed 12-7-87; 8:45 am]

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