

program for active duty family members accompanying military personnel in overseas assignments, there is a heightened impact on the conduct of affairs peculiar to military functions of the government, and a significant reduced impact on the public. Based on this, it is appropriate, as an exception to our normal practice of providing an opportunity for prior public comment on all CHAMPUS regulations, to issue this rule as an interim final rule, with a subsequent opportunity for public comment. Public comments are invited. All comments will be carefully considered. A discussion of the major issues received by public comments will be included with the issuance of the permanent final rule, anticipated approximately 90 days after the end of the comment period.

List of Subjects in 32 CFR Part 199

Administrative practice and procedure, Claims, Fraud, Health care, Health insurance, Individuals with disabilities, Military personnel.

Accordingly, 32 CFR part 199 is amended as follows:

PART 199—[AMENDED]

1. The authority citation for part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. chapter 55.

2. Section 199.13 is amended by adding paragraph (i) to read as follows:

§ 199.13 Active duty dependents dental plan.

* * * * *

(i) *Extension of the Active Duty Dependents' Dental Plan to areas outside the United States.* The Assistant Secretary of Defense (Health Affairs) (ASD(HA)) may, under the authority of 10 U.S.C. 1076a(h), extend the Active Duty Dependents' Dental Plan to areas other than those areas specified in paragraph(a)(2)(i) of this section for the eligible dependents of members of the uniformed services accompanying the members on permanent assignment to duty in such areas. Action by the ASD(HA) to extend the program to any such area shall be announced through the publication of a notice in the **Federal Register**. In extending the program outside the United States, the ASD(HA) is authorized to establish program elements, methods of administration and payment rates to providers that are different from those in effect under this section in the United States to the extent the ASD(HA) determines necessary for the effective and efficient operation of the plan

outside the United States. One such difference is that in areas other than those areas specified in paragraph (a)(2)(i) of this section, services under the active duty dependents' dental plan must be preauthorized by a designated DOD official, who may deny preauthorization if the needed services are available in a dental treatment facility of the Department of Defense. Other differences may occur based on limitations in the availability and capabilities of that nation's civilian sector providers in certain areas. Another difference is that a waiver of the annual maximum coverage amount for non-orthodontic dental benefits or the lifetime maximum coverage amount for orthodontics is authorized based on extraordinary circumstances governing the cost of dental services in a particular geographic area. Otherwise, rules pertaining to services covered under the plan, beneficiary cost sharing and quality of care standards for providers shall be comparable to those in effect under this section in the United States. In addition, all provisions of 10 U.S.C. 1076a shall remain in effect.

Dated: July 21, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 270

RIN 0790-AG43

Compensation of Certain Former Operatives Incarcerated by the Democratic Republic of Vietnam

AGENCY: Office of Under Secretary of Defense for Personnel and Readiness, DoD.

ACTION: Interim final rule.

SUMMARY: This part implements section 657 of the National Defense Authorization Act for Fiscal Year 1997, which authorizes the Secretary of Defense to make payments to persons captured and incarcerated by the Democratic Republic of Vietnam. This part establishes policy and procedures concerning the payments to these persons.

DATES: This rule is effective May 15, 1997. Comments are requested on or before September 23, 1997.

ADDRESSES: Forward comments to: Directorate of Compensation, Office of the Secretary of Defense, 4000 Defense Pentagon, Washington, D.C., 20301-4000.

FOR FURTHER INFORMATION CONTACT: Peter Ogloblin, or David Pronchick (703) 695-3176.

SUPPLEMENTARY INFORMATION: All comments received will be considered when preparing the final rule.

Executive Order 12866, "Regulatory Planning and Review"

It has been determined that this is not a significant rule as defined under section 3(f)(1) through 3(f)(4) of Executive Order 12866.

Public Law 96-354, "Regulatory Flexibility Act" (5 U.S.C. 601)

It has been determined that this rule will not have a significant economic impact on a substantial number of small entities because it affects only a limited number of Vietnamese Commandos who were incarcerated in North Vietnam, and as such, does not affect small entities.

Public Law 96-511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)

It has been certified that this rule does not impose reporting and recordkeeping requirements under the Paperwork Reduction Act of 1995. The reporting and recordkeeping requirements are exempt from this Act, as it directly involves active litigation in which the U.S. is a party. The specific exemption from the Paperwork Reduction Act is found in 5 CFR Part 1320. The information collection in this interim final rule is exempt from OMB approval under § 1320.4(a)(2), "Controlling Paperwork Burdens on the Public; Regulatory Changes Reflecting Recodification of the Paperwork Reduction Act".

Public Law 104-4, "Unfunded Mandates Report Act of 1995 (UMRA)"

It has been determined that this rule does not contain a federal mandate that may result in expenditures of \$100 million or more for state, local, and tribal governments, in the aggregate, or the private sector in any one year.

List of Subjects in 32 CFR Part 270

Military personnel, Payments, Vietnam.

Accordingly, 32 CFR part 270 is added to read as follows:

PART 270—COMPENSATION OF CERTAIN FORMER OPERATIVES INCARCERATED BY THE DEMOCRATIC REPUBLIC OF VIETNAM

Subpart A—General

Sec.

270.1 Purpose.

270.2 Definitions.

270.3 Effective date.

Subpart B—Commission

270.4 Membership of Commission.

270.5 Staff.

Subpart C—Standards and Verification of Eligibility

270.6 Standards of eligibility.

270.7 Verification of eligibility.

Subpart D—Payment

270.8 Authorization of payment.

270.9 Amount of payment.

270.10 Time limitations.

270.11 Limitation on disbursements.

270.12 Payment in full satisfaction of all claims against the United States.

270.13 No right of judicial review or legal cause of action.

270.14 Limitation on attorneys fees.

Subpart E—Appeal Procedures

270.15 Notice of the Commission's determinations.

270.16 Procedures for filing petitions for reconsideration.

270.17 Action on appeal.

Subpart F—Reports to Congress

270.18 Reports to Congress.

Appendix A to Part 270—Application for payment

Authority: Sec. 657, Pub. L. 104–201, 110 Stat. 2422.

Subpart A—General

§ 270.1 Purpose.

The purpose of this part is to implement section 657 of the National Defense Authorization Act for Fiscal Year 1997 (Pub. L. 104–201), which authorizes the Secretary of Defense to make payments to persons who demonstrate to the satisfaction of the Secretary of Defense that the persons were captured and incarcerated by the Democratic Republic of Vietnam as a result of the participation by the persons in certain operations conducted by the Republic of Vietnam.

§ 270.2 Definitions.

(a) *Applicant.* A person applying for payments under this part.

(b) *Child of an eligible person.* A recognized natural child, an adopted child, or a stepchild who lived with the eligible person in a regular parent-child relationship.

(c) *The Commission.* The Commission authorized to oversee payments to certain persons captured and interned

by the Democratic Republic of North Vietnam, established under this part.

(d) *Eligible person.* A person determined by the Commission as eligible for payment under subpart C of this part.

(e) *OPLAN 34A.* The operation carried out under the auspices of the government of South Vietnam and the U.S. Military Assistance Command Vietnam, Studies and Observations Group (MACV/SOG), starting in 1964, which inserted commandos into North Vietnam for the purpose of conducting intelligence and other military activities. OPLAN 34A also refers to predecessor operations which were precursors to OPLAN 34A operations. OPLAN 35 means a separate but similar operation in which small military units were sent to conduct sabotage, reconnaissance, and other intelligence missions on or around the borders of Vietnam, Laos and Cambodia.

(f) *North Vietnam.* The Democratic Republic of Vietnam.

(g) *OSD.* The Office of the Secretary of Defense.

(h) *The Secretary.* The Assistant Secretary of Defense (Force Management Policy).

(i) *South Vietnam.* The Republic of Vietnam.

(j) *Spouse of an eligible person.*

Someone who was married to that eligible person for at least 1 year immediately before the death of the eligible person.

(k) *Required declaration.* The statements to be signed and notarized in Appendix A to this part. All applicants must sign Part C and either Part A or Part B of Appendix A to this part.

§ 270.3 Effective date.

This part shall become effective on May 15, 1997.

Subpart B—Commission

§ 270.4 Membership.

The Secretary shall establish within OSD a Commission that is composed of the following voting members: One representative from OSD, who shall be the chairman of the Commission, and one representative from the Office of the Secretary of the Army, who shall function as the Staff Director. The Commission shall also be composed of one representative from each of the military departments. Members of the Commission may be either military or civilian and all members must possess, at a minimum, a Secret clearance.

§ 270.5 Staff.

(a) The Commission will have a support staff, which will include staff

members sufficient to expeditiously and efficiently process the applications for payments under this part. All members of the staff will possess, as a minimum, a Top Secret clearance because of the sensitive nature of the information that may require review in determining eligibility of claimants.

(b) The Secretary will ensure that the Commission has all administrative support, including space, office and automated equipment and translation services, needed for the efficient and expeditious review and payment of claims. The Secretary may task appropriate Department of Defense elements to provide such support, either through assignment of personnel or the hiring of independent contractors.

Subpart C—Standards and Verification of Eligibility

§ 270.6 Standards of eligibility.

(a) A person is eligible for payments under this part if such person:

(1) Was an operative captured and incarcerated by North Vietnam as a result of his participation in operations conducted under OPLAN 34A or its predecessor program; or

(2) Served as a Vietnamese operative under OPLAN 35, and was captured and incarcerated by North Vietnamese forces as a result of the participation by the person in operations in Laos or along the Lao-Vietnamese border pursuant to OPLAN 35; and

(3) Remained in captivity after 1973 (or died in captivity) after participation in either OPLAN 34A or its predecessor program or OPLAN 35; and

(4) Has not previously received payment from the United States Government for the period spent in captivity.

(b) In the case of a decedent who would have been eligible for a payment under this part if alive, payment will be made to the survivors of the decedent in the following order:

(1) To the surviving spouse of an eligible person; or

(2) If there is no surviving spouse of an eligible person, to the surviving children of an eligible person, in equal shares.

(c) A payment may not be made under this part to, or with respect to, a person who the Commission determines, based on the available evidence, served in the People's Army of North Vietnam or provided active assistance to the Government of North Vietnam or forces opposed to the Government of South Vietnam or the United States during any period from 1958 through 1975.

(d) The Commission will make reasonable efforts to publicize the

availability of payments involved in this procedure, using existing public affairs channels.

§ 270.7 Verification of eligibility.

(a) All persons applying for payment under this part shall first submit a properly completed, signed and notarized Application for Payment as set out as Appendix A to this part, along with all corroborating documents and informed required, to the Commission on Compensation, Office of the Secretary of Defense, 4000 Defense Pentagon, Washington, D.C. 20301-4000. Submission of an Application for Payment without properly signed and notarized declarations will automatically render the application ineligible for consideration by the Commission for payment. All applicants must sign and have notarized the declarations in Part C of the Application for Payment. In addition, all applicants must sign and have notarized the declaration in either Part A or Part B of the Applicant for Payment. If portions of the Application for Payment are not completed, the Commission may draw adverse inferences from the portions left incomplete.

(b) Staff Functions in the Verification of Eligibility Process. The Staff Director shall:

(1) Establish a database for logging and tracking applications for payments throughout the claims process, including appellate actions and final payment or denial of claims.

(2) Provide on site personnel at the National Archives Center, College Park, Maryland, to organize and translate finance records for review.

(3) Upon receipt of each Applicant for Payment, research cases to verify eligibility of claimant to include reviewing and analyzing existing records.

(4) Forward applications (including support documentation) to other U.S. Government agencies as required (e.g., CIA, INS) for review of their records, as needed to acquire documentation that may aid in determining the eligibility of claimants to receive payments.

(5) Present any information or comments resulting from the research and review of cases, plus any reasonably available and probative information, to the Commission with a recommendation on the eligibility of applicants.

(6) If eligibility is favorably approved by the Commission, forward written request to DFAS to effectuate payments.

(7) Prepare notification letters, on behalf of Commission, for forwarding to claimants notifying them of the final determination concerning approval or disapproval of their applications.

(8) In coordination with the Army Budget Office and OSD, determined appropriate fund cite that will be used for payments.

(9) Assist in the preparation of required Reports to Congress.

(10) Determined administrative budgetary support requirements and submit funding request to OSD.

(11) Provide for clerical and administrative support for the Commission.

(12) Create and maintain a system of records to manage all information generated by the processing of Applications for Payment under this part and to create an administrative record of actions by the Commission. All information received or originated from other Departments and agencies of the U.S. government will be retained, stored, and further disseminated only in accordance with pertinent law (e.g., 5 U.S.C. section 552(FOIA) and 5 U.S.C. section 552a (Privacy Act)) and conditions set by those originating Departments and agencies.

(c) Claims will be processed expeditiously. Within 18 months of actual receipt by the Commission of an Application for Payment, the Commission will determine the eligibility of the applicant. The standard for finding eligibility is whether the information reasonably available to the Commission indicates that the applicant is more likely than not to be eligible for a payment under this part. The burden of making a showing of eligibility shall be on the applicant. Upon determination of eligibility, the payment should be promptly accomplished.

(d) Applicants may request to appear in person before the Commission, which will retain discretion whether to grant such requests. The Commission may request the personal appearance or interview of any applicant as a condition of further consideration of his or her application if such appearance would significantly aid the Commission in its determination. All appearances shall be at the expense of the applicant.

Subpart D—Payment

§ 270.8 Authorization of payment.

Subject to the availability of appropriated funds, upon determination by the Commission of the eligibility of a person for payment, the Commission will authorize the Defense Finance and Accounting Service (DFAS) to make payments out of the funds appropriated for this purpose. Any payment authorized to a person under a legal disability, may, in the discretion of the Commission, be paid for the use of the person, to the natural or legal guardian,

committee, conservator, or curator, or, if there is no such natural or legal guardian, committee, conservator, or curator, to any other person, including the spouse or children of such person, who the Commission determines is charged with the care of the person. The Commission will notify eligible persons of the process for disbursements.

§ 270.9 Amount of payment.

The amount payable to, or with respect to, an eligible person under this part is \$40,000. If an eligible person can demonstrate to the satisfaction of the Commission that confinement or incarceration exceeded 20 years, the Commission may authorize payment of an additional \$2,000 for each full year in excess of 20 (and a proportionate amount for a partial year), but the total amount paid to, or with respect to, an eligible person under this part may not exceed \$50,000.

§ 270.10 Time limitations.

To be eligible for payments under this part, applicant must file Applications for Payments with the Commission within 18 months of the effective date of these regulations, May 15, 1997.

§ 270.11 Limitation on disbursement.

The Commission may, in its discretion, direct that the actual disbursement of a payment under this part be made only to the person who is authorized to receive the payment, and only upon the appearance of that person, in person, at any designated Defense Finance Accounting Service disbursement office in the United States. Upon approval of the Commission, payment may be made at such other location or in such other manner as the person authorized to receive payment may request in writing. In the case of an application authorized for payment but not disbursed as a result of the foregoing, the Secretary will hold the funds in trust for the person authorized to receive payment in an interest bearing account until such time as the person complies with the conditions for disbursement set out in this part.

§ 270.12 Payment in full satisfaction of all claims against the United States.

The acceptance of payment by, or with respect to, an eligible person under this part shall continue full satisfaction of all claims by or on behalf of that person against the United States arising from operations under OPLAN 34A or OPLAN 35.

§ 270.13 No right to judicial review or legal cause of action.

Subject to subpart E of this part, all determinations by the Commission pursuant to this part are final and conclusive, notwithstanding any other regulation. Applicants under this part have no right to judicial review, and such review is specifically precluded. This part does not create or acknowledge any legal right or obligation whatsoever.

§ 270.14 Limitation on attorneys fees.

Notwithstanding any contract or agreement, the representative of a person authorized to receive payment under this part may not receive, for services rendered in connection with the claim of, or with respect to, a person under this part, more than 10 percent of a payment made under this part on such claim.

Subpart E—Appeal Procedures**§ 270.15 Notice of the Commission's determinations.**

Applicants whose claims for payment are denied in whole or in part by the Commission will be notified in writing of the determination. Applicants may petition the Assistant Secretary of Defense, Force Management Policy (or his designee) for a reconsideration of the Commission's determinations, and may submit any documentation in support of such petitions.

§ 270.16 Procedures for filing petitions for reconsideration.

A petition for reconsideration must be made to the Secretary, care of the Staff Director of the Commission at the address of the Commission set out in § 270.7, within 45 days from the receipt of the notice from the Commission of ineligibility. The Commission may waive that time limit for good cause shown.

§ 270.17 Action on appeal.

(a) The Assistant Secretary of Defense, Force Management Policy, (or his designee) will:

(1) Review the Commission's administrative record of the original determination.

(2) Review additional information or documentation submitted by the applicant to support his or her petition for reconsideration.

(3) Determine whether the decision of the Commission should be affirmed, modified, or revised.

(b) When there is a decision affirming the Commission's determinations, the Staff Director will notify the applicant in writing and include a statement of the reason for the affirmance.

(c) A decision of affirmance shall constitute the final action of the Department of Defense. The Secretary (or his designee) may decline to consider any subsequent petitions for reconsideration.

(d) When there is a decision modifying or reversing the Commission's determination, the notification should be immediately made to the Staff Director so as to implement the final action.

Subpart F—Reports to Congress**§ 270.18 Reports to Congress.**

Not later than September 23, 1998, the Commission will prepare and the Secretary will submit to Congress a report on the payment of claims under this part. Subsequent to that initial report, the Commission will prepare and the Secretary will submit to Congress annual reports on the status of payment of claims.

Appendix A to Part 270—Application for Payment**Application for Payment****Privacy Act Statement**

Authority: National Defense Authorization Act for Fiscal Year 1997, Public Law 104–201, section 657.

Principal Purpose: To evaluate applications for cash payments for those individuals, or their surviving spouse or children, who were captured and incarcerated by North Vietnam as a result of participating in specified joint United States-South Vietnamese operations.

Routine Uses: To the Immigration and Naturalization Service and the Central Intelligence Agency for purposes of verifying information relating to the claimant's eligibility for payment. To the Department of Justice for purposes of representing the Department of Defense in *Au Dong Quy, et al./Lost Commandos v. The United States*.

Disclosure: Voluntary. However, if portions are not completed the Commission may draw adverse inferences from the incomplete portions.

Social Security Number: Providing a social security number is voluntary. If one is not provided, the application for payment will still be processed.

Commission on Compensation, Office of the Secretary of Defense, 4000 Defense Pentagon, Washington, D.C. 20301–4000.

This application shall be executed by the person applying for eligibility, or his surviving spouse or children, or designated representatives of such persons.

Part A—Complete the following information on the person whose status as a former operative imprisoned by the North Vietnamese government is the basis for applying for payment:

(1) Current legal name:

(a) Aliases:

(b) Former, or other names used:

(2) Current address:

(3) Telephone Number(s):

(4) United States Social Security Number (optional); United States Immigration and Naturalization Service (INS) identification or similar number(s) (if any); and any equivalent social security or identification numbers (if any) issued to applicant by the Democratic Republic of Vietnam, the Republic of Vietnam, or the current government of Vietnam:

(5) Date of Birth:

(6) Place of birth:

(7) Distinguishing marks (e.g., scars):

(8) Family Identification:

(a) Parents:

(b) Spouse:

(c) Children:

(d) Brothers:

(e) Sisters:

(f) Others:

(9) Team name:

(10) Place of insertion:

(11) Date of launch:

(12) Dates of captivity:

(13) Name, address, and telephone number of counsel or attorney (if any):

(14) Required Declaration—(**Note:** If former operative is deceased, do not sign here; complete and sign Parts B and C below):

I served as an operative pursuant to OPLAN 34A or its predecessor operation, or a Vietnamese operative pursuant to OPLAN 35, and was captured and imprisoned by North Vietnam as a result of those activities. I did not serve in the People's Army of Vietnam or provide active assistance to the Government of the Democratic Republic of Vietnam (North Vietnam). I did not serve in or provide active assistance to forces opposed to the Government of the Republic of Vietnam (South Vietnam) or forces opposed to the United States during the period from 1958 through 1975. I have not previously received payment from the United States Government as compensation for the period of captivity. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Signature _____

Date _____

Sworn to and subscribed before me on _____ (Date).

Notary Public _____

Date _____

My commission expires on _____ (Date).

Part B—In addition to PART A, above, complete the following if applicant is a surviving spouse or child of the deceased person described in PART A, above.

(1) Current legal name of person submitting this application:

(a) Aliases:

(b) Former, or other names used:

(2) Current address:

(3) Telephone numbers:

(4) United States Social Security Number (optional), United States Immigration and Naturalization Service (INS) identification or similar number(s) (if any), and any

equivalent social security or identification numbers (if any) issued to applicant by the Democratic Republic of Vietnam, the Republic of Vietnam, or the current government of Vietnam:

- (5) Date of birth;
- (6) Place of birth;
- (7) Relationship to deceased person;
- (8) Date and place of marriage to deceased person (if you are a surviving spouse);
- (9) If you are a surviving child of a deceased person who would have been eligible for payment and there is no surviving spouse—list the names and addresses (if known) of all other children of the deceased person, including all recognized natural children, step-children who lived with the deceased person, and adopted children. Provide the date of death for any children who are deceased.

(10) Name, address, and telephone number of counsel or attorney (if any):

(11) Required Declaration (**Note:** If former operative is deceased, applicant must sign in this part and Part C below.)

To the best of my information, knowledge, and belief, the deceased person described in Part A, above, served as an operative pursuant to OPLAN 34A or its predecessor operation, or as a Vietnamese operative pursuant to OPLAN 35, and was captured and imprisoned by North Vietnam as a result of those activities. He did not serve in the People's Army of Vietnam or provide active assistance to the Government of the Democratic Republic of Vietnam (North Vietnam). He did not serve in forces opposed to the government of the Republic of Vietnam (South Vietnam) or forces opposed to the United States during the period from 1958 through 1975. He never previously received payment from the United States Government as compensation for the period of captivity, except for any death gratuity that may have been paid. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Signature

Date

Sworn to and subscribed before me on _____ (Date).

Notary Public

Date

My commission expires on _____ (Date).

Part C—Documents Required

All documents submitted in support of an application for payment should be originals. If originals cannot be obtained, official copies of the originals certified by the official custodian of the documents should be submitted. If certified copies cannot be obtained, uncertified copies should be submitted. If uncertified copies cannot be obtained, submit sworn affidavits from two or more persons who have personal knowledge of the information sought.

The commission may waive the requirement for the following documents for

good cause shown. Any such waiver shall not affect the burden on applicants of demonstrating eligibility for payments.

For the Person Described in Part A, Above

(1) *Identification.* A document with his current legal name and address (unless deceased), plus two or more sworn affidavits from individuals having personal knowledge of the person's identity (these should be submitted in addition to the document with current name and address).

(2) *One document of date of birth.* A birth certificate, or if unavailable, other proof of birth (e.g., passport).

(3) *One document of name change.* If the person's current legal name is the same as when sent on the OPLAN 34A or 35 missions, this section does not apply. If the person's current legal name (or name at the time of death) is different than that used when sent on the OPLAN 34A or 35 missions should submit a document or affidavit to corroborate the name change.

(4) *One document of evidence of guardianship.* If you are submitting this document on your own behalf, or if this application is being submitted by the spouse or surviving children of a deceased eligible person, this section does not apply. If you are executing this document as the guardian of the person identified in PART A, above, you must submit evidence of your authority. If you are a legally-appointed guardian, submit a certificate executed by the proper official of the court appointment. If you are not such a legally-appointed guardian, submit an affidavit describing your relationship to the person and the extent to which you are responsible for the care of the person, or your position as an officer of the institution in which the person is institutionalized.

(5) *One document of evidence of imprisonment.* This should be a document issued by the government of North Vietnam showing the dates of the person's imprisonment.

(6) *Any documents of evidence of participation in covered operations.* These documents should be contracts, orders, or other operational documentation corroborating participation in clandestine operations under OPLAN 34A (or its predecessor) or OPLAN 35.

For the Spouse or Surviving Children of a Deceased Person Described in Part A, Above

In addition to the documents described in PART C items (1) through (6) above concerning the deceased person described in PART A, above, submit the following:

(7) *One of the following documents as evidence of the deceased person's death:*

(a) A certified copy or extract from the public records of death, coroner's report of death, or verdict of a coroner's jury;

(b) A certificate by the custodian of the public record of death;

(c) A statement of the funeral director or attending physician, or intern of the institution where death occurred;

(d) A certified copy, or extract from an official report or finding of death made by an agency or department of the United States government; or

(e) If death occurred outside the United States, an official report of death by a United

States Consul or other employee of the State Department, or a copy of public record of death in the foreign country.

If you cannot obtain any of the above evidence of your spouse's death, you must submit other convincing evidence, such as signed sworn statements of two or more persons with personal knowledge of the death, giving the place, date, and cause of death.

For the Spouse of a Deceased Person Described in Part A Above

In addition to the documents described in Part C items (1) through (7) above concerning the deceased person described in Part A above, submit the following:

(8) *One of the following documents as evidence of your marriage to the deceased person:*

(a) A copy of the public records of marriage, certified or attested, or an abstract of the public records, containing sufficient information to identify the parties, the date and place of marriage, and the number of prior marriages by either party if shown on the official record, issued by the officer having custody of the record or other public official authorized to certify the record, or a certified copy of the religious record of marriage;

(b) An official report from a public agency as to a marriage which occurred while the deceased person was employed by such agency;

(c) An affidavit of the clergyman or magistrate who officiated;

(d) The certified copy of a certificate of marriage attested to by the custodian of the records;

(e) The affidavits of two or more eyewitnesses to the ceremony; or

(f) In jurisdictions where "common law" marriages are recognized, an affidavit by the surviving spouse setting forth all of the facts and circumstances concerning the alleged marriage, such as the agreement between the parties at the beginning of their cohabitation, places and dates of residences, and whether children were born as the result of the relationship. This evidence should be supplemented by affidavits from two or more persons who know as the result of personal observation the reputed relationship which existed between the parties to the alleged marriage, including the period of cohabitation, places of residences, whether the parties held themselves out as husband and wife and whether they were generally accepted as such in the communities in which they lived.

If you cannot obtain any of the above evidence of your marriage, you must submit any other evidence that would reasonably support a belief that a valid marriage actually existed.

(9) *In addition, submit the following documents about yourself:*

(a) Identification. A document with your current legal name and address plus two or more sworn affidavits from individuals having personal knowledge of your identity (these should be submitted in addition to the document with current name and address).

(b) One document of date of birth. A birth certificate, or if unavailable, other proof of birth (e.g., passport).

(c) One document of name change. If your current legal name is the same as that during the marriage, this section does not apply. Spouses whose current legal name is different than that used when married should submit a document or affidavits to corroborate the name change.

(d) One document of evidence of guardianship. If you are executing this document as the guardian of the spouse, you must submit evidence of your authority. If you are a legally-appointed guardian, submit a certificate executed by the proper official of the court appointment. If you are not such a legally-appointed guardian, submit an affidavit describing your relationship to the spouse and the extent to which you are responsible for the care of the spouse or your position as an officer of the institution in which the spouse is institutionalized.

For the Surviving Children

In addition to documents described in PART C items (1) through (7), above, each surviving child should submit the following:

(10) *One document as evidence of your relationship to your parent* (the deceased person described in PART A, above), as follows:

If A Natural Child

(a) Birth certificate showing that the deceased person was your parent.

(b) If the birth certificate does not show the deceased person as your parent, a certified copy of:

(i) An acknowledgment in writing signed by the deceased person;

(ii) A judicial decree ordering the deceased person to contribute to your support;

(iii) The public record of birth or a religious record showing that the deceased person was named as your parent;

(iv) Affidavit of a person who knows that the deceased person accepted you as his child; or

(v) Public records, such as records of school or welfare agencies, which show that with the deceased person's knowledge, the deceased individual was named as your parent.

If An Adopted Child

An adopted child must submit a certified copy of the decree of adoption.

If A Step-Child

Submit all three of the following documents as evidence of the step-child relationship:

(a) One document as evidence of birth to the spouse of the deceased person, or other evidence that reasonably supports the existence of a parent-child relationship between you and the spouse of the deceased person;

(b) One document as evidence that you were either living with or in a parent-child relationship with the deceased person at the time of his death; and

(c) One document as evidence of the marriage of the deceased person and the spouse, such as a certified copy of the record of marriage, or an abstract of the public records containing sufficient information to identify the parties and the date and place of marriage issued by the officer having custody

of the record, or a certified copy of a religious record of marriage.

(11) *In addition, submit the following documents about yourself:*

(a) Identification. A document with your current legal name and address plus two or more sworn affidavits from individuals having personal knowledge of your identify (these should be submitted in addition to the document with current name and address).

(b) One document of date of birth. A Birth certificate, or if unavailable, other proof of birth (e.g., passport).

(c) One document of name change. If your current legal name is the same as that shown on documents attesting to your birth, this section does not apply. Persons whose current legal name is different than that used on such documents should submit a document or affidavit to corroborate the name change.

(d) One document of evidence of guardianship. If you are executing this document as the guardian of the person identified as a surviving child of a deceased person, you must submit evidence of your authority. If you are a legally-appointed guardian, submit a certificate executed by the proper official of the court appointment. If you are not such a legally-appointed guardian, submit an affidavit describing your relationship to the child and the extent to which you are responsible for the care of the child, or your position as an officer of the institution in which the child is institutionalized.

Read the following statement carefully before signing this document. A false statement may be grounds for punishment by fine or imprisonment or both.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Signature _____

Date _____

Name (Print or Type) _____

Dated: July 21, 1997.

Patricia L. Toppings,

*Alternate OSD Federal Register, Liaison
Officer Department of Defense.*

[FR Doc. 97-19565 Filed 7-24-97; 8:45 am]

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POSTAL SERVICE

39 CFR Part 111

Changes in Preferred Postage Rates—Periodicals and Standard Mail (A)

AGENCY: Postal Service.

ACTION: Postage rate changes.

SUMMARY: Public Law 103-123 authorizes annual changes in the reduced rates formerly financed by appropriations for revenue forgone. This action implements these changes for FY 1998.

EFFECTIVE DATE: The changes pertaining to postage rates will be implemented effective 12:01 a.m., Sunday, October 5, 1997.

FOR FURTHER INFORMATION CONTACT: Patricia Bennett, (202) 268-6350 or Thomas DeVaughan, (202) 268-4491.

SUPPLEMENTARY INFORMATION: Under 39 U.S.C. 3626(a) and 3642, the Postal Service is authorized to make annual adjustments in the Periodicals Preferred In-County per piece rates, the nonadvertising pound rates and per piece rates for Preferred Nonprofit publications, the nonadvertising pound rates and the per piece rates for Preferred Classroom publications; and postal rates for Nonprofit Standard Mail, Nonprofit Enhanced Carrier Route Standard Mail, and Library Mail. These adjustments are necessary to phase up the institutional-costs contribution of this mail to the levels required by law by FY 1999.

The rates for Periodicals Science-of-Agriculture publications zones 1 and 2 will remain the same at 75 percent of the rates charged on advertising in regular-rate publications, as specified by law. These rates will not change until regular Periodicals advertising rates change through a general rate case.

On June 2, 1997, the Board of Governors of the Postal Service, pursuant to its authority under 39 U.S.C. 3625(f), determined to implement the permanent rate changes for Classroom Periodicals approved by the Governors effective at 12:01 a.m. on October 5, 1997 (Resolution No. 97-9). The Board also determined in Resolution No. 97-9 to exercise its authority under 39 U.S.C. 3642 to establish temporary phased rates for Classroom Periodicals for FY 1998 at Step 5 of phasing schedule attached to the Resolution. The Step 5 rates for Classroom Periodicals will be implemented on October 5, 1997. Due to rounding adjustments, there are no changes to Library Mail rates.

Under both the new permanent and temporary rate schedules for Classroom Periodicals, no discount will be available for ZIP+4 letter mail. In this respect, Classroom will join the other preferred subclasses of Periodicals, for which the ZIP+4 letter discount category was eliminated in the earlier portions of Docket No. MC96-2. In the past, only a minute portion of Classroom mail has qualified for the ZIP+4 letter discount.

All references to Domestic Mail Manual (DMM) are based on DMM Issue 52 (July 1, 1997).

List of Subjects in 39 CFR Part 111

Postal Service.