

**Leaves of Absence****§ 21.8340 Leaves of absence.**

(a) *Purpose of leave of absence.* The purpose of the leave system is to enable the child to maintain his or her status as an active program participant.

(Authority: 38 U.S.C. 1804(c))

(b) *Basis for leave of absence.* The VR&C case manager may grant the child leaves of absence for periods during which the child fails to pursue a vocational training program. For prolonged periods of absence, the VR&C case manager may approve leaves of absence only if the case manager determines the child is unable to pursue a vocational training program through no fault of the child.

(Authority: 38 U.S.C. 1804(c))

(c) *Effect on entitlement.* During a leave of absence, the running of the basic 24-month period of entitlement, plus any extensions thereto, shall be suspended until the child resumes the program.

(Authority: 38 U.S.C. 1804(c))

**Satisfactory Conduct and Cooperation****§ 21.8360 Satisfactory conduct and cooperation.**

The provisions for satisfactory conduct and cooperation in §§ 21.362 and 21.364, except as otherwise provided in this section, apply to children under this subpart in a manner comparable to the way they apply to veterans under the 38 U.S.C. chapter 31 program. If a child fails to meet these requirements for satisfactory conduct or cooperation, the VR&C case manager will terminate the child's vocational training program. VA will not grant a child reentrance to a vocational training program unless the reasons for unsatisfactory conduct or cooperation have been removed.

(Authority: 38 U.S.C. 1804(c))

**Transportation Services****§ 21.8370 Authorization of transportation services.**

(a) *General.* VA shall authorize transportation services necessary for a child to pursue a vocational training program. The sections in subpart A of this part that are referred to in this paragraph shall apply to children under this subpart in a manner comparable to the way they apply to veterans under the 38 U.S.C. chapter 31 program. Transportation services include:

- (1) Transportation for evaluation or counseling under § 21.376;
- (2) Intraregional travel under § 21.370 (however, the words "under § 21.282"

in § 21.370(b)(2)(iii)(B) do not apply) and interregional travel under § 21.372;

(3) Special transportation allowance under § 21.154; and

(4) Commuting to and from training and while seeking employment under paragraphs (c) and (d) of this section.

(Authority: 38 U.S.C. 1804(c))

(b) *Reimbursement.* For transportation services that VA authorizes, VA will normally pay in arrears and in the same manner as tuition, fees, and other services under this program.

(Authority: 38 U.S.C. 1804(c))

(c) *Transportation payment.* VA may pay for transportation during the period of vocational training and the first 3 months the child receives employment services. VA may reimburse the child's costs of commuting to and from training and seeking employment if he or she requests this assistance and VA determines, after careful examination of the child's situation and subject to the limitations in paragraph (d) of this section, that the child would be unable to pursue training or employment without this assistance. VA may:

(1) Reimburse the facility at which the child is training if the facility provided transportation or related services;

(2) Reimburse the child for his or her actual commuting expense if the child paid for the transportation.

(Authority: 38 U.S.C. 1804(c))

(d) *Limitations.* Payment of commuting expenses may not be made for any period when the child:

- (1) Is gainfully employed;
- (2) Is eligible for, and entitled to, payment of commuting costs through other VA and non-VA programs; or
- (3) Can commute to school with family, friends, or fellow students.

(Authority: 38 U.S.C. 1804(c))

(e) *Amount that VA may pay.* VA will reimburse the child for his or her actual cost of transportation, not to exceed \$70 per month. VA must receive supportive documentation with each request for reimbursement. The individualized written plan of vocational rehabilitation will specify whether VA will pay monthly or at a longer interval.

(Authority: 38 U.S.C. 1804(c))

(f) *Nonduplication.* A child eligible for reimbursement of transportation services both under this section and under § 21.154 will receive only the benefit under § 21.154.

(Authority: 38 U.S.C. 1804(c))

**Additional Applicable Regulations****§ 21.8380 Additional applicable regulations.**

The following regulations are applicable to children in this program in a manner comparable to that provided for veterans under the 38 U.S.C. chapter 31 program: § 21.380, 21.412, 21.414 (except (c), (d), and (e)), 21.420, and 21.430.

(Authority: 38 U.S.C. 1804, 5112)

**Delegation of Authority****§ 21.8410 Delegation of authority.**

The Secretary delegates authority for making findings and decisions under 38 U.S.C. 1804 and the applicable regulations, precedents, and instructions for the program under this subpart to the Under Secretary for Benefits and to VR&C supervisory or non-supervisory staff members.

(Authority: 38 U.S.C. 512(a))

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**DEPARTMENT OF VETERANS AFFAIRS****38 CFR Part 21**

RIN 2900-AH91

**Veterans Education: Approval of Correspondence Programs or Courses**

**AGENCY:** Department of Veterans Affairs.  
**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to amend the VA-administered educational assistance and educational benefits regulations concerning approval of programs of education pursued exclusively by correspondence and the correspondence portion of correspondence-residence courses for Department of Veterans Affairs (VA) training. A number of changes would be made to conform to statutory changes. Also, it is proposed to require that the educational institution offering a correspondence program or course certify to the State approving agency (SAA) that at least 50 percent of those pursuing the program or course require 6 months or more to complete it based on the 6-month period immediately preceding the educational institution's application for approval. The certification is to enable the SAA to determine whether the program or course meets the statutory requirement that at least 50 percent of those pursuing the program or course require 6 months or more to complete it. The regulations would also be amended to expressly

provide that the SAA may periodically review the program or course approvals already granted and that this determination would be based on the records of the school for a 2-year period reasonably related to the date on which such review is conducted. These periods appear to be appropriate to determine compliance with the statutory requirements. Further, it is proposed to remove, due to the deletion of the statutory basis for its adoption, the requirement that the program or course must require not less than 6 hours preparation per week over any 26-week period and would change related requirements for SAAs. In addition, this document would clarify that the provisions concerning enrollments in the program or course apply not only to eligible veterans, spouses, and surviving spouses, but also to reservists. Other changes would be made for purposes of clarity. This document also requests comments on proposed collections of information under the Paperwork Reduction Act.

**DATES:** Comments must be received on or before September 2, 1997.

**ADDRESSES:** Mail or hand deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to "RIN 2900-AH91." All written comments will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

**FOR FURTHER INFORMATION CONTACT:** June C. Schaeffer, Assistant Director for Policy and Program Administration, Education Service, Veterans Benefits Administration, 202-273-7187.

**SUPPLEMENTARY INFORMATION:** Regulations concerning VA-administered educational assistance and educational benefits are set forth at 38 CFR part 21. The current regulations regarding programs of education pursued exclusively by correspondence and combined correspondence-residence courses that may be approved for VA training are set forth at § 21.4256. The current regulations:

- Provide for approval of courses, whether accredited or nonaccredited;
- Provide that the school offering the course must certify the normal time period required for completion of the course;
- Provide that no more than 20 percent of the students pursuing the course should be able to complete the

course in less than 6 months in order for the course to be certified as requiring 6 months or more to complete, and provide that this determination shall be based on the records of the school for the 2 immediately preceding years; and

- Provide that the course must require at least 6 hours of preparation per week over any 26-week period.

With respect to payment of VA educational assistance, the Veterans' Benefits Improvement Act of 1994, Public Law 103-446, amended statutory provisions to provide that, as to programs of education offered exclusively by correspondence or the correspondence portion of a correspondence-residence course, only programs or courses offered by an educational institution that is accredited may be approved; and negated a prior regulatory requirement providing that the normal period required to complete a program of education by correspondence or the correspondence portion of a combination correspondence-residence course may not be less than 6 months and imposed the requirement that at least 50 percent of those pursuing the program or course shall require 6 months or more to complete it. The regulations at §§ 21.4256 and 21.4279 would be amended to reflect these statutory changes.

Current regulations regarding review of an application for a new program or course approval provide that an SAA reviewing the application must determine whether it meets the completion requirements based on the 2-year period immediately preceding the educational institution's application for approval. It is proposed to change the 2-year period to a 6-month period. This is proposed since it appears that a 6-month period is all that is needed to make a determination under the statutory requirement that at least 50 percent of those pursuing the program or course require 6 months or more to complete it. VA is aware that, in effect, this would require that a correspondence program or course be offered for at least 6 months before it could be approved, but it appears that this is the most reasonable choice available to the Department.

The Department considered, for the programs and courses that are subject to the statutory completion requirement of 6 months or more, allowing the SAA to approve, prior to the end of 6 months, programs or courses that had never been offered before and to evaluate the completion rate after sufficient time had elapsed. If the completion rate were unsatisfactory, approval would be withdrawn. VA decided against this

alternative because such an approach could allow payments to be made to individuals enrolled in courses that subsequently fail to meet the statutory requirement and thereby cause overpayments.

For correspondence course approvals already granted, the current rule provides that the determination of whether the completion requirement has been met shall be based on the records of the school for the 2 immediately preceding years. To make explicit in § 21.4256 the review process that VA believes accords with the statutory scheme concerning the responsibilities of SAAs, it is proposed to permit SAAs to review periodically correspondence program or course approvals already granted and to determine whether the completion requirement was met by examining a prior 2-year period reasonably related to the date on which such review is conducted. It appears that a 2-year period allows for a review of data over a sufficiently long period to verify that a decision to continue an approval would be the correct one. This change would allow for some flexibility. It appears that by application of this rule, ease of administration would be promoted and the cost of data provision for the reviews may be reduced, while retaining an appropriate means of determining compliance with the statutory approval requirement. Thus, this proposal would retain a 2-year period for review of approvals already granted but would reduce to 6 months the review period for new approvals.

VA proposes to remove the current regulatory requirement that a correspondence program or course must require at least 6 hours of preparation per week over any 26-week period because the statutory basis for its adoption was deleted and the amended statute does not include such a restriction.

Currently, section 21.4279 contains specific rules for approval of courses that are offered in part by correspondence and in part by residence. Public Law 103-446 amended the governing statute so that these correspondence-residence courses have to meet the same approval criteria as courses offered exclusively by correspondence. The provisions of section 21.4279 would be amended to conform to the statute. It is also proposed that these courses would have to meet the same course completion criteria as correspondence programs, including the time periods during which the SAA will determine whether course completion criteria have been met. It appears that it would be prudent

to adopt the same rules for these courses as for correspondence courses because the rationale for correspondence courses applies equally to correspondence-residence courses. Furthermore, it appears that approval errors would be reduced if correspondence programs and correspondence-residence courses had to meet the same course completion criteria, including the time period during which the course completion time criteria has to be met.

In addition, this document would clarify that the provisions concerning enrollments in correspondence courses apply not only to eligible veterans, spouses, and surviving spouses, but also to reservists. Other changes also would be made for purposes of clarity.

#### **Paperwork Reduction Act of 1995**

Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520), collections of information are set forth in the proposed 38 CFR 21.4256(a)(1), 21.4256(b)(3), and 21.4279. Accordingly, under section 3507(d) of the Act, VA has submitted a copy of this rulemaking action to the Office of Management and Budget (OMB) for its review of the proposed collections of information.

OMB assigns control numbers to collections of information it approves. VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Comments on the proposed collections of information should be submitted to the Office of Management and Budget, Attention: Desk Officer for the Department of Veterans Affairs, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Washington, DC 20420. Comments should indicate that they are submitted in response to "RIN 2900-AH91."

*Title:* Certification as to the Completion Time of a Correspondence Program or Course.

*Summary of collection of information:* The proposed 38 CFR 21.4256(a)(1) would provide that before an SAA could approve a program of education offered by correspondence or the correspondence portion of a correspondence-residence course, the educational institution offering the program or course would have to certify to the SAA that at least 50 percent of those pursuing the program or course require six months or more to complete it. The proposed rule would add a

provision that the determination of compliance with the statutory requirement that at least 50 percent of those pursuing the program or course require 6 months or more to complete it must be based on the experience of students who completed the program or course during the 6-month period immediately preceding the educational institution's application for approval of the program or course. The proposed rule also would permit the SAA to review periodically the record of an already approved program or course regarding completion time by examining a prior two-year period reasonably related to the date on which such review is conducted.

The provisions of the proposed 38 CFR 21.4279(a) also would require that a program of education could be pursued in a correspondence-residence course only if the course met the requirements of § 21.4256(a) with respect to the length of time it takes students to complete the course. This is a restatement of statute, except that through the reference to § 21.4256(a) the experience of the students in the course during the six-month period immediately preceding the educational institution's application for approval of the course would be required to be considered by the SAA when determining whether the course can be approved.

*Description of need for information and proposed use of information:* VA contracts with various agencies of the State governments to approve courses for VA training. A statute requires that a program of education pursued exclusively by correspondence or the correspondence portion of a combined correspondence-residence course may not be approved unless at least 50 percent of those persons pursuing such a program or course take six months or more to complete it. The SAA needs this information to consider approval of such programs or courses. Although VA occasionally acts as an SAA, VA is not the primary user of this information.

The States would collect this information when an educational institution applies for approval of a new correspondence program or course. The proposed rule would also give States the authority to periodically review the length of time needed to complete a previously approved correspondence program or course. VA believes that this collection of information would be annual or less frequently.

*Description of likely respondents:* Educational institutions that offer correspondence programs or courses or combined correspondence-residence courses and that wish to have those

programs or courses approved for VA training.

*Estimated number of respondents:* 11.

*Estimated frequency of responses:*

Annually. Some educational institutions would have to supply the information several times a year as they develop new programs or courses or as the SAA verifies compliance with the rule for programs or courses already approved. Others would supply the information less frequently than annually if they develop new programs or courses less frequently. VA estimates that the average frequency would be annually.

*Estimated average burden per collection:* 3.27 hours.

*Estimated total annual reporting and recordkeeping burden:* 36 hours. VA

estimates that there would be no additional recordkeeping burden imposed. Officials of schools have records of when the first lesson in a correspondence course is sent to a student and when the last lesson was received. Hence, the officials have records showing how long it took a student to complete the course or program. Usually these records are stored electronically. Therefore, VA estimates that there would be no additional recordkeeping burden imposed by the adoption of this proposed rule. As indicated above, VA anticipates that this information would have to be supplied to an SAA by an educational institution an average of annually. VA estimates that to do a search by computer to determine whether 50 percent of the students over either a 6-month or a 2-year period took 6 months or more to complete a program or course and then to file such a report with the SAA would take 3.27 hours. This estimate is based on informal discussions with officials of educational institutions that offer courses or programs by correspondence. The estimated annual reporting burden is 36 hours.

*Title:* Affirmation of Enrollment Agreement.

*Summary of collection of information:*

The provisions of the proposed 38 CFR 21.4256(b)(3) would restate a statutory provision found in 38 U.S.C. 3686(b). The statute requires that an individual pursuing a correspondence course must submit to VA a written affirmation of the enrollment agreement between the individual and the educational institution offering the course. If VA does not receive this written affirmation, the enrollment agreement is not effective, and VA may not award educational assistance to the individual.

*Description of need for information and proposed use of information:* This statutory provision provides a consumer

protection because, in effect, it provides a 10-day period when the individual can consider whether he or she actually wishes to enroll in the correspondence course. If the individual does not wish to enroll, he or she merely does not send in an affirmation to VA. Consequently, the use this information has for VA is to provide evidence that the individual has carefully considered the step he or she is taking in enrolling and to enable VA to comply with a statutory prerequisite for the awarding of educational assistance for pursuit of a correspondence course.

*Description of likely respondents:* Individuals who enroll in correspondence courses and who wish to receive educational assistance from VA.

*Estimated number of respondents:* 3500 per year.

*Estimated frequency of responses:* Once, upon enrollment in a correspondence course.

*Estimated average burden per collection:* 5 minutes.

*Estimated total annual reporting and recordkeeping burden:* 292 hours. VA estimates that there would be no additional recordkeeping burden imposed. Individuals are not required to keep a record of the fact that they have sent in a written affirmation to VA, although, of course, they may choose to do so. As indicated above, VA anticipates that this information would have to be supplied once upon enrollment in a correspondence course. In recent years, an average of 3500 students per year have enrolled in such courses in all the educational programs VA administers. VA estimates that it would take each individual an average of 5 minutes to sign an affirmation and mail it to VA.  $3500 \times .083 = 291.67$  hours, which rounded gives the estimate of 292 hours.

The Department considers comments by the public on proposed collections of information in—

- Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility;
- Evaluating the accuracy of the Department's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collections of information on those who are to respond, including through the use of appropriate automated,

electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

OMB is required to make a decision concerning the collections of information contained in this proposed rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Department on the proposed regulations.

The Secretary of Veterans Affairs certifies that the adoption of this proposed rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. Although it is possible that small entities could be among the educational institutions affected by this rulemaking, the adoption of this proposed rule would have only a minuscule effect on any educational institution. Pursuant to 5 U.S.C. 605(b), this proposed rule, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

(The Catalog of Federal Domestic Assistance numbers for programs affected by this proposed rule are 64.117, 64.120, and 64.124. This proposed rule will also affect the Montgomery GI Bill—Selected Reserve program, for which there is no Catalog of Federal Domestic Assistance number.)

#### List of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflict of interests, Defense Department, Education, Employment, Grant programs-education, Grant programs-veterans, Health care, Loan programs-education, Loan programs-veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: June 23, 1997.

**Jesse Brown,**

*Secretary of Veterans Affairs.*

For the reasons set out above, 38 CFR part 21 (subpart D) is proposed to be amended as set forth below.

## PART 21—VOCATIONAL REHABILITATION AND EDUCATION

### Subpart D—Administration of Educational Assistance Programs

1. The authority citation for part 21, subpart D, is revised to read as follows:

**Authority:** 10 U.S.C. ch. 1606; 38 U.S.C. 501(a), chs. 30, 32, 34, 35, 36, unless otherwise noted.

2. Section 21.4256 is revised to read as follows:

#### § 21.4256 Correspondence programs and courses.

(a) *Approval of correspondence programs and courses.* (1) An educational institution desiring to enroll veterans under 38 U.S.C. chapter 30 or 32, spouses and/or surviving spouses under 38 U.S.C. chapter 35, and/or reservists under 10 U.S.C. chapter 1606 in a program of education to be pursued exclusively by correspondence, or in the correspondence portion of a combination correspondence-residence course, may have the program or course approved only when the educational institution meets the requirements of §§ 21.4252(e), 21.4253, and 21.4279, as applicable.

(Authority: 38 U.S.C. 3672(e))

(2) The application of an educational institution for approval of a program of education to be pursued exclusively by correspondence or the correspondence portion of a combined correspondence-residence course must demonstrate that the program or course is satisfactory in all elements. The educational institution must certify to the State approving agency that at least 50 percent of those pursuing the program or course require 6 months or more to complete it. For applications for approval that are pending approval by the State approving agency on February 2, 1995, and for applications received by the State approving agency after that date, the required certification shall be based on the experience of students who completed the program or course during the 6-month period immediately preceding the educational institution's application for approval.

(Authority: 38 U.S.C. 3672(e))

(3) State approving agencies have the authority to review periodically the length of time needed to complete each approved correspondence program or approved correspondence-residence course in order to determine whether the program or course should continue to be approved. In implementing this authority, a State approving agency will examine the results over a prior 2-year

period reasonably related to the date on which such a review is conducted.

(Authority: 38 U.S.C. 3672(e))

(b) Enrollment agreement. (1) An educational institution offering a program of education to be pursued exclusively by correspondence must enter into an enrollment agreement with the veteran, spouse, surviving spouse, or reservist who wishes to receive educational assistance from VA while pursuing the program. The enrollment agreement shall disclose fully the obligations of the institution and the veteran, spouse, surviving spouse, or reservist, and shall display in a prominent place on the agreement the conditions for affirmation, termination, refund, and payment of the educational assistance by VA.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3686(a)(1), 3686(b))

(2) A copy of the agreement shall be given to the veteran, spouse, surviving spouse, or reservist when it is signed.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3686(b))

(3) The agreement shall not be effective unless the veteran, spouse, surviving spouse, or reservist after the expiration of 10 days after the agreement is signed, shall have signed and submitted to VA a written statement, with a signed copy to the institution, specifically affirming the agreement.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3686(b))

(c) Mandatory refund policy. (1) Upon notification of the educational institution by the veteran, spouse, surviving spouse, or reservist of an intention not to affirm the enrollment agreement, any fees paid by the individual shall be returned promptly in full to him or her.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3686(c))

(2) Upon termination of enrollment under an affirmed enrollment agreement for training in the accredited course by the veteran, spouse, surviving spouse, or reservist, without having completed any lessons, a registration fee not in excess of 10 percent of the tuition for the course or \$50, whichever is less, may be charged him or her. When the individual terminates the agreement after completion of less than 25 percent of the lessons of the course, the institution may retain the registration fee plus 25 percent of the tuition. When the individual terminates the agreement after completing 25 percent but less than 50 percent of the lessons, the institution may retain the registration

fee plus 50 percent of the tuition for the course. If 50 percent or more of the lessons are completed, no refund of tuition is required.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3686(c))

(3) Where the school either has or adopts an established policy for the refund of the unused portion of tuition, fees, and other charges subject to proration, which is more favorable to the veteran, spouse, surviving spouse, or reservist than the pro rata basis as provided in paragraph (b)(2) of this section, such established policy will be applicable.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3686(c))

(4) Any institution that fails to forward any refund due to the veteran, spouse, surviving spouse, or reservist within 40 days after receipt of a notice of termination or disaffirmance, shall be deemed, prima facie, to have failed to make a prompt refund as required by this section.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3686(c))

3. In § 21.4279, paragraph (a) introductory text and paragraph (a)(4) are revised, and paragraph (a)(5) is added, to read as follows:

**§ 21.4279 Combination correspondence-residence program.**

(a) Requirements for pursuit. A program of education may be pursued partly in residence and partly by correspondence for the attainment of a predetermined and identified objective under the following conditions:

\* \* \* \* \*

(4) The educational institution offering the course is accredited by an agency recognized by the Secretary of Education; and

(5) The State approving agency has approved the correspondence-residence course and has verified compliance with the requirement of 38 U.S.C. 3672(e) and § 21.4256(a) that at least 50 percent of those pursuing the correspondence-residence course require 6 months or more to complete it.

(Authority: 38 U.S.C. 3672(e))

\* \* \* \* \*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 600**

[Docket No. 970527125-7125-01; I.D. 032797B]

RIN 0648-AJ95

**Magnuson Act Provisions; Appointment of Regional Fishery Management Council Members**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS issues this proposed rule to amend the regulations governing the nomination and appointment of members of regional fishery management councils to establish the procedures applicable to the nomination and appointment to the Pacific Fishery Management Council of a representative of an Indian tribe with federally recognized fishing rights from California, Oregon, Washington, or Idaho. The purpose of this rule is to implement certain sections of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) as amended by the Sustainable Fisheries Act (SFA) which require such an appointment.

**DATES:** Comments on the proposed rule must be received on or before July 31, 1997.

**ADDRESSES:** Comments should be sent to Mr. Will Stelle, Jr., Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE., BIN C15700, Seattle, WA 98115-0070; or to Mr. William Hogarth, Acting Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802-4213.

**FOR FURTHER INFORMATION CONTACT:** William L. Robinson at 206-526-6142 or Rodney McInnis at 310-980-4040.

**SUPPLEMENTARY INFORMATION:** On October 11, 1996, President Clinton signed into law the SFA which amended the Magnuson-Stevens Act. The SFA added a seat on the Pacific Fishery Management Council (Pacific Council) exclusively for a representative of an Indian tribe with federally recognized fishing rights from California, Oregon, Washington, or Idaho. Specifically, section 302(b)(5)(A) of the Magnuson-Stevens Act requires that: