

who is either clearly identified in the public communication or a candidate for the same Federal office as the only Federal candidate clearly identified in the public communication, and must be made entirely with Federal funds.

**Paragraph (b)—Alternative 3 (The Greater of a Fixed Percentage or a Space or Time Attribution)**

(b) *Attribution.* Each disbursement for a public communication described in paragraph (a) of this section must be made entirely with Federal funds and must be attributed as follows:

(1) Each disbursement must be attributed to the Federal candidate of the political party making the public communication who is either clearly identified in the public communication or a candidate for the same Federal office as the only Federal candidate clearly identified in the public communication, based on the proportion of the space or time, or number of questions or statements, devoted to all clearly identified Federal candidates as compared to the total space or time, or number of questions or statements, devoted to all clearly identified Federal candidates and all generic references to other candidates, but at least 25 or 50 or 75 percent of each disbursement must be attributed to the Federal candidate of the political party making the public communication; and

(2) The portion of each disbursement not attributed to the Federal candidate described in paragraph (b)(1) of this section is not attributable to any other Federal or non-Federal candidate.

(c) *Treatment of disbursements.* The disbursement described in paragraph (b)(1) of this section may be one or a combination of the following:

(1) An in-kind contribution, subject to the limitations of 11 CFR 110.1 or 110.2;

(2) A party coordinated expenditure, subject to the limitations, restrictions, and requirements of 11 CFR part 109, subpart D; or

(3) Reimbursed by the Federal candidate described in paragraph (b)(1) of this section or the authorized committee of such candidate.

Dated: May 3, 2007.

**Robert D. Lenhard,**

*Chairman, Federal Election Commission.*  
[FR Doc. E7-8956 Filed 5-9-07; 8:45 am]

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**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Part 1**

[REG-156779-06]

RIN 1545-BG27

**Determining the Amount of Taxes Paid for Purposes of Section 901; Correction**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correction to notice of proposed rulemaking.

**SUMMARY:** This document contains a correction to notice of proposed rulemaking that was published in the **Federal Register** on Friday, March 30, 2007 (71 FR 15081) providing guidance relating to the determination of the amount of taxes paid for purposes of section 901.

**FOR FURTHER INFORMATION CONTACT:** Bethany A. Ingwalson, (202) 622-3850 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

The notice of proposed rulemaking (REG-156779-06) that is the subject of this correction is under section 901 of the Internal Revenue Code.

**Need for Correction**

As published, this notice of proposed rulemaking (REG-156779-06) contains an error that may prove to be misleading and is in need of clarification.

**Correction of Publication**

Accordingly, the notice of proposed rulemaking (REG-156779-06), that was the subject of FR Doc. E7-5862, is corrected as follows:

On page 15085, column 3, in the preamble, first full paragraph of the column, under the paragraph heading “3. *Comments and Proposed Regulations*”, lines 1 and 2, the language “The fifth condition is that the counterparty is a person (other than the” is corrected to read “The fifth condition is that the arrangement involves a counterparty. A counterparty is a person (other than the”.

**LaNita Van Dyke,**

*Branch Chief, Publications and Regulations Branch, Legal Processing Division, Office of Associate Chief Counsel (Procedure and Administration).*

[FR Doc. E7-8942 Filed 5-9-07; 8:45 am]

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**DEPARTMENT OF DEFENSE**

**Department of the Army**

**32 CFR Part 571**

[Docket No. USA-2007-0017]

RIN 0702-AA57

**Recruiting and Enlistments**

**AGENCY:** Department of the Army, DoD.

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

**SUMMARY:** The Department of the Army has revised its regulation that prescribes policies and procedures concerning recruiting and enlistment into the Regular Army and Reserve Components.

**DATES:** Consideration will be given to all comments received by July 9, 2007.

**ADDRESSES:** You may submit comments, identified by 32 CFR Part 571, Docket No. USA-2007-0017 and or RIN 0702-AA57, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301-1160.

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** Charles Tench, (703) 695-7520.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

The Administrative Procedure Act, as amended by the Freedom of Information Act, requires publication of certain policies and procedures and other information concerning the Department of the Army in the **Federal Register**. The policies and procedures covered by this part fall into that category. The Army has changed the publications and policies, thus requiring the rules in the **Federal Register** to be updated.

**B. Regulatory Flexibility Act**

The Department of the Army has determined that the Regulatory Flexibility Act does not apply because the proposed rule does not have a significant economic impact on a

substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601–612.

### C. Unfunded Mandates Reform Act

The Department of the Army has determined that the Unfunded Mandates Reform Act does not apply because the proposed rule does not include a mandate that may result in estimated costs to State, local, or tribal governments in the aggregate, or the private sector, of \$100 million or more.

### D. National Environmental Policy Act

The Department of the Army has determined that the National Environmental Policy Act does not apply because the proposed rule does not have an adverse impact on the environment.

### E. Paperwork Reduction Act

The Department of the Army has determined that the Paperwork Reduction Act does not apply because the proposed rule does not involve collection of information from the public.

### F. Executive Order 12630 (Government Actions and Interference With Constitutionally Protected Property Rights)

The Department of the Army has determined that Executive Order 12630 does not apply because the proposed rule does not impair private property rights.

### G. Executive Order 12866 (Regulatory Planning and Review)

The Department of the Army has determined that, according to the criteria defined in Executive Order 12866, this proposed rule is not a significant regulatory action. As such, the proposed rule is not subject to Office of Management and Budget review under section 6(a)(3) of the Executive Order.

### H. Executive Order 13045 (Protection of Children From Environmental Health Risk and Safety Risks)

The Department of the Army has determined that, according to the criteria defined in Executive Order 13045, this proposed rule does not apply.

### I. Executive Order 13132 (Federalism)

The Department of the Army has determined that, according to the criteria defined in Executive Order 13132, this proposed rule does not apply because it will not have a substantial effect on the States, on the relationship between the national

government and the States, or on the distribution of power and responsibilities among the various levels of government.

**Alphonsa D. Green,**  
*Chief, Recruiting Policy Branch.*

### List of Subjects in 32 CFR Part 571

Military personnel.

For reasons stated in the preamble, the Department of the Army proposes to revise 32 CFR part 571 to read as follows:

## PART 571—RECRUITING AND ENLISTMENTS

### Subpart A—Recruiting and Enlistment Eligibility

Sec.

- 571.1 General.
- 571.2 Basic qualifications for enlistment.
- 571.3 Waiver enlistment criteria.
- 571.4 Periods of enlistment.
- 571.5 Enlistment options.

### Subpart B—[Reserved]

**Authority:** 10 U.S.C. 504, 505, 509, 513, 520, 3262.

### Subpart A—Recruiting and Enlistment Eligibility

#### § 571.1 General.

(a) *Purpose.* This part gives the qualifications for men and women enlisting in the Regular Army (RA) or Reserve Components (RC). The procedures simplify and standardize the processing of recruited applicants. The applicant's ability to meet all requirements or exceptions will determine eligibility. This includes obtaining prescribed waivers.

(b) *References*—(1) *Required Publications.* (i) AR 601–210, Active and Reserve Components Enlistment Program. (Cited in §§ 571.2, 571.3, and 571.5).

(ii) AR 40–501, Standards of Medical Fitness. (Cited in §§ 571.2 and 571.3).

(iii) AR 600–9, The Army Weight Control Program. (Cited in §§ 571.2 and 571.3).

(2) *Related Publications.* (i) DOD Directive 1304.26, Qualifications for Enlistment, Appointment, and Induction.

(ii) Army Retention Program.

(c) *Definitions.* The following definitions apply to this part:

(1) *Enlistment.* Voluntary contract (DD Form 4) for military service that creates military status as an enlisted member of the Regular Army or a Reserve Component. This includes enlistment of both non-prior service and prior service personnel.

(2) *Reenlistment.* The second or subsequent voluntary enrollment in the

Regular Army or a Reserve Component as an enlisted member.

(3) *United States Army.* The Regular Army, Army of the United States (AUS), Army National Guard of the United States (ARNGUS), and the United States Army Reserve (USAR).

(4) *Regular Army (RA).* The Regular Army is the component of the Army that consists of persons whose continuous service on active duty in both peace and war is contemplated by law and of retired members of the Regular Army.

(5) *Prior Service (PS).* For persons enlisting in the RA, those who have 180 days or more of active duty in any component; or, for persons enlisting in a Reserve Component, those who have 180 days of active duty in any component of the armed forces and who have been awarded an MOS; or former members of an armed forces academy who did not graduate and who served 180 days or more.

(6) *Non-Prior Service (NPS).* Those persons who have never served in any component of the armed forces or who have served less than 180 days of active duty as a member of any component of the armed forces. Reserve Component applicants must not have been awarded an MOS; or have enlisted illegally while underage and been separated for a void enlistment; or be a former member of a service academy who did not graduate and who served fewer than 180 days; or have completed ROTC and served only Active Duty for Training as an officer.

(7) *Delayed Entry Program (DEP).* A program in which Soldiers may enlist and are assigned to a United States Army Reserve (USAR) Control Group until they enlist in the Regular Army. The Commanding General, United States Army Recruiting Command (USAREC) is authorized by 10 U.S.C. 513 to organize and administer DEP.

#### § 571.2 Basic qualifications for enlistment.

(a) Age requirements for non-prior service and prior service personnel are defined in AR 601–210.

(b) Applicants must meet citizenship requirements as defined in AR 601–210.

(c) Non-prior and prior service applicants must meet medical fitness standards prescribed in AR 40–501. Height and weight standards for non-prior service personnel AR 40–501 and in AR 600–9 for prior service personnel.

(d) Education standards, dependency criteria, and trainability requirements are prescribed in AR 601–210.

#### § 571.3 Waiver enlistment criteria.

(a) *Waiver criteria*—(1) All persons who process applicants for enlistment in the Army use the utmost care to procure qualified personnel. Eligibility

of personnel for enlistment will be based upon their ability to meet all requirements, including procurement of prescribed waivers.

(2) Applicants applying for moral or medical waivers will document their waiver requests, as prescribed by AR 601-210 or AR 40-501.

(3) The approval authorities for various types of waiver requests are set forth in AR 601-210. Commanders at levels below the approval authority may disapprove waivers for applicants who do not meet prescribed standards and who do not substantiate a meritorious case.

(4) Unless otherwise stated in AR 601-210, waivers are valid for 6 months.

(b) Nonwaiver medical, moral, and administrative disqualifications are defined in AR 601-210.

#### **§ 571.4 Periods of enlistment.**

Enlistments are authorized for periods of 2, 3, 4, 5, 6, 7, or 8 years.

#### **§ 571.5 Enlistment options.**

Personnel who enlist in the Regular Army for 2 or more years may select certain initial assignments or classifications, provided they meet the criteria set forth in AR 601-210 and valid Army requirements exist for the assignments and skills.

#### **Subpart B—[Reserved]**

[FR Doc. E7-8793 Filed 5-9-07; 8:45 am]

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## **DEPARTMENT OF AGRICULTURE**

### **Forest Service**

#### **36 CFR Part 261**

**RIN 0596-AC38**

#### **Amend Certain Paragraphs in 36 CFR 261.2 and 261.10 To Clarify Issuing a Criminal Citation for Unauthorized Occupancy and Use of National Forest System Lands and Facilities by Mineral Operators**

**AGENCY:** Forest Service, USDA.

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

**SUMMARY:** This proposed rule would allow, if necessary, a criminal citation to be issued for unauthorized mineral operations on National Forest System lands. The Forest Service invites written comments on this proposed rule.

**DATES:** Comments on this proposed rule must be received in writing by July 9, 2007.

**ADDRESSES:** Send written comments to Forest Service, USDA, Attn: Director,

Minerals and Geology Management (MGM) Staff, (2810), at Mail Stop 1126, Washington, DC 20250-1126; by electronic mail to [36cfr228a@fs.fed.us](mailto:36cfr228a@fs.fed.us); or by fax to (703) 605-1575; or by the electronic process available at Federal e-Rulemaking portal at <http://www.regulations.gov>. If comments are sent by electronic mail or by fax, the public is requested not to send duplicate written comments via regular mail. Please confine written comments to issues pertinent to the proposed rule; explain the reasons for any recommended changes; and, where possible, reference the specific wording being addressed. All comments, including names and addresses when provided, will be placed in the record and will be available for public inspection and copying. The public may inspect comments received on this proposed rule in the Office of the Director, MGM Staff, 5th Floor, Rosslyn Plaza Central, 1601 North Kent Street, Arlington, Virginia 22209, Monday through Friday (except for Federal holidays) between the hours of 8:30 a.m. and 4 p.m. Those wishing to inspect comments are encouraged to call ahead at (703) 605-4545 to facilitate entry into the building.

#### **FOR FURTHER INFORMATION CONTACT:**

Janine Clayton, Minerals and Geology Management Staff, (703) 605-4788, or electronic mail to [jclayton01@fs.fed.us](mailto:jclayton01@fs.fed.us).

#### **SUPPLEMENTARY INFORMATION:**

#### **Public Notification and Request for Comments**

The Department is making every effort to ensure that all interested parties, including mineral operators, minerals-related organizations and associations, are informed of the availability of the proposed rule. To ensure the widest distribution, the proposed rule will be distributed by paper copy mailings, e-mail notices, posting on the Forest Service Minerals and Geology Management Staff internet web site, as well as published notices in local newspapers. Copies of the proposed rule also will be provided to the appropriate Congressional committee members.

#### **Background and Need for Proposed Rule**

The Forest Service uses two enforcement options, civil and criminal, to enforce its mining regulations at 36 CFR part 228, subpart A. Criminal enforcement (36 CFR part 261) is often used in situations that are factually uncomplicated and where immediate action is needed, or other resolutions have failed.

In 1984, a Federal district judge ruled that the prohibitions at 36 CFR 261.10

did not apply to mineral operations. As a result, the Forest Service amended §§ 261.10(a) and 261.10(l) to directly tie the wording to locatable mineral operations by adding “or approved operating plan” to both of these paragraphs. Unfortunately, the wording was not added to §§ 261.10(b) and 261.10(k), and that omission makes these paragraphs less clearly applicable to mineral operations.

Two recent court decisions have prompted the Forest Service to amend the prohibitions at 36 CFR 261.10. In California, the Forest Service cited a suction dredge operator under the criminal regulations at 36 CFR 261.10(k) for use or occupancy without a special use permit authorization. The magistrate court judge dismissed the charge in *U.S. v. McClure*, 364 F. Supp. 2d 1183 (E.D.Cal., 2005), and cited in support of the ruling another recent California Eastern District Court decision, *U.S. v. Lex*, 300 F. Supp. 2d 951 (E.D.Cal., 2003). In summary, these decisions found that special-use authorizations and the application of 36 CFR 261.10(b) and 261.10(k) do not apply to mineral operations.

As a result of the *McClure* and *Lex* court decisions, it is advisable to again amend certain paragraphs in 36 CFR 261.10 to clearly tie them to locatable mineral operations and other mineral operations. The Regions dealing with suction dredge operators are particularly concerned about the effects of the two adverse ruling on their use of provisions in 261.

#### **Clarification for Issuing a Criminal Citation for Unauthorized Occupancy and Use of National Forest System Lands and Facilities by Mineral Operators**

The technical amendments to 36 CFR part 261 clarify that a criminal citation can be issued for unauthorized occupancy and use of National Forest System lands and facilities by mineral operators when such authorization is required. The technical amendments to 36 CFR part 261 also clarify what constitutes residential occupancy as well as show there is a clear distinction between a special-use authorization and an operating plan.

#### **Exemption From Notice and Comment**

Comments received on this proposed rule will be considered in adoption of a final rule, notice of which will be published in the **Federal Register**. The final rule will include a response to comments received and identify any revisions made to the rule as a result of the comments.