

and trust companies, credit agencies other than banks, holding companies, other investment companies, collection agencies, brokers and dealers in securities and commodity contracts, as well as carriers of all types of insurance, and insurance agents and brokers.

(1) *Private hospitals and educational institutions industry.* (1) The minimum wage for this industry is \$2.34 an hour for a period of 1 year following the March 1, 1991, effective date specified in § 697.3 and \$2.43 an hour thereafter.

(2) This industry shall include all activities performed in connection with the operation of private hospitals, nursing homes and related institutions primarily engaged in the care of the sick, the aged or the mentally ill or retarded who reside on the premises of such institutions, private schools for the mentally or physically disabled or for gifted children, preschools, elementary or secondary schools, or institutions of higher education: *Provided, however,* That this industry shall not include employees of the Government of American Samoa or employees of any agency or corporation of the Government of American Samoa.

(m) *Government employees industry.* (1) The minimum wage for this industry is \$2.17 an hour effective March 1, 1991.

(2) This industry includes all activities of employees of the Government of American Samoa. This industry does not include any employees of the United States or its agencies.

(n) *Miscellaneous activities industry.* (1) The minimum wage for this industry is \$1.92 an hour for a period of 1 year following the March 1, 1991, effective date specified in § 697.3 and \$2.00 an hour thereafter.

(2) This industry shall include every activity not included in any other industry defined herein.

3. Section 697.3 is revised to read as follows:

#### § 697.3 Effective dates.

The wage rates specified in § 697.1 shall be effective on March 1, 1991.

Signed at Washington, DC, this 6th day of February, 1991.

John R. Fraser,

Acting Administrator, Wage and Hour Division, U.S. Department of Labor.

[FR Doc. 91-3505 Filed 2-13-91; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Minerals Management Service

#### 30 CFR Part 243

RIN 1010-AB37

#### Serving of Official Correspondence Issued By the Royalty Management Program

**AGENCY:** Minerals Management Service (MMS), Interior.

**ACTION:** Final rule.

**SUMMARY:** The Minerals Management Service (MMS) is amending its Royalty Management Program (RMP) appeal regulations to add a new provision establishing requirements for service of official correspondence by MMS. "Official correspondence" means orders and decisions served to lessees, lease operators, reporters, and payors on Federal and Indian leases, and to refiners participating in the Government's Royalty-in-Kind (RIK) program. This rulemaking: (1) Defines official correspondence subject to the regulation; (2) establishes an "addressee of record" to whom official correspondence will be sent; and (3) defines the "date of service," whether the document was physically or constructively delivered. The date of service established in accordance with this rule is the beginning date of the 30-day time period provided for the filing of an administrative appeal of an RMP order or decision.

**EFFECTIVE DATE:** April 1, 1991.

**FOR FURTHER INFORMATION CONTACT:** Dennis C. Whitcomb, Chief, Rules and Procedures Branch, Minerals Management Service, Royalty Management Program, Denver Federal Center, Building 85, P.O. Box 25165, Mail Stop 3910, Denver, Colorado 80225 (303) 231-3432 or (FTS) 326-3432.

**SUPPLEMENTARY INFORMATION:** The principal author of this final rule is Marvin D. Shaver of the Rules and Procedures Branch, Royalty Management Program, Minerals Management Service, Lakewood, Colorado.

#### I. Background

On December 13, 1988, a decision was issued by the Interior Board of Land Appeals (IBLA) (IBLA-87-349) reversing a December 18, 1986, decision by the Director, MMS, that an appeal (MMS 86-473-O&G) by Coastal Oil and Gas Corporation (Coastal) had not been filed timely. The IBLA decision was based on the fact that Coastal had previously provided written notification to RMP

that Agency notices should be sent to a specific individual in the company. The RMP sent the order to Coastal, but not to the attention of the specified individual as directed. The order took several days to reach the specified individual after it was received by Coastal. Although over 30 days has passed between the date that Coastal received the RMP order and the date that RMP received the appeal, the specified individual had filed the notice of appeal within 30 days from the date of his personal receipt of the order. Therefore, in the absence of RMP regulations governing the serving of orders or decisions, IBLA ruled that the appeal had been filed timely and consequently reversed the Director's decision.

The IBLA held:

In the absence of regulations specifically delineating how service of an invoice by MMS is effectuated, a payor engaged in a business relationship with MMS may specify a particular office or official to whom bills for collection should be directed. Service of an MMS bill or collection is not perfected until receipt by the official previously designated by the payor as the official to whom such notices should be directed.

In view of IBLA's decision, MMS published proposed regulations in the *Federal Register* on January 3, 1990 (55 FR 158), to specify how service of official correspondence, including orders, decisions, demands for payment, and notices of noncompliance issued by RMP, is to be effectuated. In response to the proposed rulemaking, MMS received comments from 10 lessees/payors and other interested parties. All of these comments were considered in this final rulemaking and are discussed below.

This rulemaking: (1) Defines official correspondence subject to the regulation; (2) establishes an addressee of record to whom official correspondence will be sent; and (3) defines the date of service. The date of service established in accordance with this rule is the beginning date of the 30-day time period provided in 30 CFR part 290 for the filing of an administrative appeal of an order or decision. It is the responsibility of the addressee of record to ensure that, once received at the address of record, the document is routed to the proper official within the company and that any appeal is filed within 30 days of receipt of an order or decision at the established address of record. In cases where delivery cannot be consummated with the addressee of record, the final rule provides that official correspondence is deemed constructively served 5 days after the date the document is mailed.

## II. Comments Received on Proposed Rule

As stated above, MMS published a Notice of Proposed Rulemaking in the *Federal Register* on January 3, 1990 (55 FR 158). The proposed rule provided for a 60-day public comment period which ended March 5, 1990. Ten commenters (nine industry and one State) submitted comments during the comment period. The comments that were received are addressed in this section according to the principle paragraphs of the proposed rule. The text of the final regulations has been revised to reflect comments as appropriate. No comments were received from Indian representatives.

### (a) Method of Service

Paragraph 243.4(a) of the proposed rule described the method of service of "official correspondence"; *i.e.*, by delivering the document personally or by sending the document certified or registered mail. Comments received on the proposed method of service are discussed below:

(1) One commenter recommended that the final rule include a definition of official correspondence.

*Response:* The MMS agrees with this recommendation and has included the following description of official correspondence in paragraph 243.4(a) of the final rule:

Official correspondence includes all RMP orders that are appealable in accordance with the provisions of this part and 30 CFR part 290.

(2) One commenter recommended that all official correspondence be sent by certified mail, return receipt requested, as it affords the best method of verifying that service occurred as well as the date of service.

*Response:* It is MMS's intention to send all official correspondence by certified or registered mail, return receipt requested. However, MMS may also, instead of certified or registered mail, deliver the document personally to the addressee of record and obtain a signature acknowledging the addressee's receipt of the document. In response to this comment, MMS has revised paragraph 243.4(a) of the final rule to reflect certified or registered mail as the primary method of service.

### (b) Addressee of Record

Paragraph 243.4(b) of the proposed rule provided for a different addressee of record to whom official correspondence would be delivered depending on the subject matter involved. Comments received on the proposed addressee of record are discussed below:

(1) One commenter recommended that the lessee/payor establish a single address to which all correspondence from MMS should be sent. Another commenter recommended that only one address be designated for the service of correspondence if the lack of a response could result in a waiver of rights by the addressee.

*Response:* The majority of the commenters supported the proposed concept of a different addressee of record based on the subject matter involved. Several commenters indicated that it is not practical to have only one addressee of record for all official correspondence because of the many offices involved. They stated that having a specific addressee of record for correspondence of a particular nature would help ensure that the appropriate person received the correspondence in a timely manner. The MMS concurs and has provided for different addressees of record at paragraphs 243.4(b) of the final rule based on the subject matter involved.

There may be situations where official correspondence falls into more than one subject matter category. The MMS has added a new paragraph (b)(9) to the final rule which provides that in such situations, MMS may serve the official correspondence in accordance with any one of the applicable paragraphs.

(2) One commenter recommended that a hierarchy be established for selection of an addressee of record under paragraphs 243.4(b)(1), (b)(2), and (b)(5) of the proposed rule. The commenter suggested that these paragraphs should provide for two addressees of record, a preferred addressee of record and an alternate addressee of record. Consequently, in the absence of a preferred addressee of record, MMS could send correspondence to the alternate addressee of record. Another commenter recommended that a "catchall" address be included in the final rule to be used in a situation where a company has failed to identify or does not have an addressee of record.

*Response:* The identification and maintenance of a data base of alternate and "catchall" addressees of record would place additional administrative burden on MMS, lessees, lease operators, reporters, payors, or other parties. In MMS's opinion, the additional effort required to maintain alternate and "catchall" addressees is not warranted. Therefore, the final rule establishes only one addressee of record based on the subject matter involved. Consistent with the proposed rule, the final rule places the responsibility on the refiner, lease operator, reporter, payor,

lessee, or other party to notify MMS, in writing, of any addressee changes.

(3) One commenter recommended that a separate address of record be established for correspondence relating to differences in reporting to MMS's Production Accounting and Auditing System (PAAS) and Auditing and Financial System (AFS).

*Response:* The MMS disagrees with this recommendation. The lease operator (reporter) is required by 30 CFR 216.21 to submit accurate information regarding production on the lease. If the information reported to PAAS is different from information reported to AFS, the reporter should consult with the royalty payor and explain any differences to MMS. Paragraph 243.4(b)(3) of the final rule establishes the addressee of record for PAAS reporters/payors.

(4) Two comments were received on paragraph 243.4(b)(4) of the proposed rule. One commenter recommended that the specific lessee notices covered by this paragraph be identified. The other commenter noted an apparent overlap between this paragraph and paragraphs 243.4(b)(2), (b)(3), (b)(5), (b)(6), and (b)(7) with respect to notification to lessees. This commenter suggested that all correspondence to lessees be sent to the address established in paragraph 243.4(b)(4) rather than to the address specified in one of the other paragraphs.

*Response:* As stated above in this preamble, MMS has included a definition of official correspondence in paragraph 243.4(a) of the final rule. In view of this definition, MMS believes it is necessary to identify specific lessee notices.

With respect to the apparent overlap noted by the second commenter, the lease operator, reporter, or payor established in paragraphs 243.4(b)(2), (b)(3), (b)(5), (b)(6), and (b)(7) may not be the lessee. Paragraph 243.4(b)(4) establishes an address for the lessee to which applicable official correspondence may be sent. As noted earlier, if there is more than one applicable paragraph, new paragraph (b)(9) provides that MMS may use the addressee under any of the applicable paragraphs for service. The MMS also could use the lessee's address, if desired, to send the lessee copies of correspondence addressed to a different operator, reporter, or payor, established by one of the other paragraphs.

(5) One comment was received on proposed paragraph 243.4(b)(6). The commenter stated that the most recent address known by MMS may not be the proper address for the correspondence. This commenter recommended that the

addressee be based solely on the address specified in writing by the payor.

*Response:* The MMS concurs and has revised paragraph 243.4(b)(6) of the final rule accordingly.

(6) One commenter recommended that the lessee or other party designate an address to which correspondence of a miscellaneous nature, which does not fall in one of the specified categories, should be sent.

*Response:* This rulemaking relates only to official correspondence and is not intended to cover miscellaneous correspondence. As stated above, MMS has included a description of official correspondence in paragraph 243.4(a) of the final rule.

(7) Two commenters recommended that the addressee of record be "payor code" specific. One of these commenters suggested that companies could assign different payor numbers for different locations, etc., having different addresses even though actual payment of royalties and other monies are made utilizing a single payor number.

*Response:* It is MMS's current practice to assign a different payor or reporter code, as appropriate, for different locations. Therefore, the addressees of record are already payor or reporter code specific as recommended by these commenters.

(8) Two commenters recommended that a position title and department name be the addressee of record rather than the name of a specific individual. This approach would eliminate the need for updates resulting from turnover of individuals in the position.

*Response:* The MMS concurs with this recommendation and has provided for either position title, department name and address, or individual name and address as the addressee of record in paragraph 243.4(b) of the final rule for each category of official correspondence.

(9) One commenter recommended that the final rule include an addressee of record to receive official correspondence dealing with bonuses and rentals.

*Response:* The MMS concurs and has included an addressee of record for this purpose in paragraph 243.4(b)(7) of the final regulation.

(10) One commenter recommended the addition of a new general provision under paragraph 243.4(b) of the rule, as follows:

If a party specifies in writing to MMS, Bureau of Land Management, or Bureau of Indian Affairs, as appropriate, a name and address which should constitute its addressee of record under subparagraphs 1, 2, 3, 4, 5, 6, and 7 above, official correspondence must be

personally served or mailed to that addressee to constitute service. Nothing shall preclude a party from specifying different names and addresses as addressees of record under some or all of these subparagraphs.

*Response:* The MMS disagrees that a provision of this nature is needed in the rule because paragraph 243.4(a) specifies that official correspondence will be served by sending the document to the address established in paragraph 243.4(b). Because one objective of paragraph 243.4(b) is to establish a basis for the various addressees of record, MMS is opposed to inclusion of the last sentence of the recommended provision in the rule. This provision would, in MMS's opinion, allow the use of names and addresses other than those established by the final rule. The affected party may, as required by paragraphs 243.4(b)(1) through (b)(8), notify MMS, in writing, of any addressee change if a different addressee is desired.

(11) Several commenters recommended that the names and addresses of governmental departments responsible for receipt of notification of address changes be included in the final rule or otherwise provided to industry.

*Response:* The names, addresses, and telephone numbers of responsible MMS offices are identified in MMS's *AFS Oil and Gas Payor Handbook*, *PAAS Reporter Handbook*, *PAAS Onshore Oil and Gas Reporter Handbook*, and *Solid Mineral Payor Handbook*. A copy of the applicable handbook has been provided to lessees and payors. Because responsible government offices are subject to change, MMS is of the opinion that they should not be specifically identified in its regulations.

#### (c) Date of Service

Paragraph 243.4(c) of the proposed rule established the date that the lessee, lease operator, payor, reporter, RIK refiner, or other party would have been deemed to have been served with official correspondence at the address established in paragraph 243.4(b) of the proposed rule.

Under the proposed rule, official correspondence was to be considered served on the date that it is received by the addressee of record, as evidenced by a signed receipt of any person at that address. Comments received on the proposed date of service are discussed below:

(1) Two commenters expressed opposition to the proposed provision that service would occur upon the receipt of the document by any person at the address of record. This provision establishes delivery as occurring at the address rather than by actual delivery to

the designated addressee. Under this provision, it would be the responsibility of the company to ensure that the document is routed to the proper official within the company and that any appeal be filed within 30 days of the company's receipt of an order or decision.

One commenter argued against the provision on the basis that the current MMS appeal period of 30 days is, in most cases, too short to respond effectively to official notice on complex issues. The commenter recommended that the appeal period be lengthened to 90 days.

*Response:* A 10-day grace period has been provided under certain conditions to the 30-day time period specified in 30 CFR part 290. See 54 FR 52796, December 22, 1989. In response to the commenter's opposition to the establishment of delivery occurring upon receipt by any person at the address of record, it is MMS's opinion that a signed U.S. Postal Service return receipt card is the easiest and most convenient way of establishing evidence of delivery of a document by the U.S. Postal Service. Upon receipt of the document by any person at the address of record, proper internal controls should be in effect to ensure that it is timely routed to the proper official. It would be inefficient to establish a system whereby delivery could not be effected simply because, for example, a particular person is on vacation.

Although 30 CFR 290.3 requires that an appeal be filed within 30 days from service of an order or decision, § 290.5 allows the Director, MMS, upon request, to grant an extension of the time period for filing any document in connection with the appeal. This would include statements of reasons in support of an appeal. Also, MMS has recently amended its appeal regulations to allow, under certain conditions, a 10-day grace period for the timely filing of an appeal (54 FR 52796, December 22, 1989). In view of these provisions in its regulations, MMS considers the time period allowed for filing an appeal to be adequate, including the time that it takes to route the document to the proper official. Therefore, MMS has retained the proposed date of service as being upon "signed receipt of any person at the address."

(2) One commenter recommended that MMS consider adding a provision whereby the signing of a return receipt would constitute a presumption of receipt of official notice, but could be rebutted upon a showing of good faith by the lessee or operator when there is an untimely filed appeal resulting from a delay in communication.

*Response:* As stated in MMS's response to comment (c)(1) in this preamble, MMS considers the time period for filing an appeal allowed in its regulations to be adequate, including the time that it takes to route the document to the proper official. The addressee should be responsible for any delays in communication within its organization.

**(d) Constructive Service**

Paragraph 243.4(d) of the proposed rule provided for the establishment of a "constructive service" date 5 days after the date the document is mailed in cases where delivery cannot be consummated at the addressee of record. Comments received on the proposed constructive service provision are discussed below:

(1) Seven commenters stated that the provision is too vague and/or does not take into consideration the failure of delivery caused by others. Three of these commenters recommended that the provision contain language placing the burden of proof on MMS to show that delivery cannot be consummated at the address of record before it could claim constructive service. Two of these commenters recommended that the following language from the preamble of the Notice of Proposed Rule be included in the final rule:

This provision covers such situations as nondelivery because the addressee has moved without filing a forwarding address, the forwarding order had expired, delivery was expressly refused, or the document was unclaimed where the attempt to deliver is substantiated by U.S. Postal Service authorities.

Two commenters stated that the provision appears to violate the addressee's rights without due process and would therefore be held unconstitutional because the provision could result in the addressee's loss of valuable rights without proper notice and through no fault of its own. Therefore, they argued that it is not unreasonable for lessees and other parties to insist on actual service of official correspondence.

*Response:* The MMS agrees with recommendations that the final rule contain language placing the burden of proof on MMS to show that delivery cannot be consummated before it can claim constructive service. Therefore, MMS has included the recommended language from the preamble of the proposed rule in the final rule. This language describes the situations where constructive service could be claimed and specifies that the attempt to deliver be substantiated by U.S. Postal Service authorities.

Paragraph 243.4(b) of the final rule places responsibility on the lessee, lease

operator, payor, reporter, RIK refiner, or other party to notify MMS, in writing, of any addressee changes. As stated in the Notice of Proposed Rulemaking, the addressee should not, in MMS's opinion, have the ability to postpone service of official correspondence by not accepting delivery. Consequently, a provision establishing a date of constructive service in cases of nondelivery is considered necessary in the final rule.

(2) Two commenters recommended that the 5-day constructive notice period be increased. One commenter stated that, based on its experience, it is not uncommon for certified or registered mail to require between 7 to 10 days for delivery.

*Response:* The MMS agrees with the recommendation that the final rule provide for a longer constructive notice period. We have used a 7-day constructive notice period in the final rule to be consistent with other regulations within the Department at the Bureau of Land Management, and with current experience using certified/registered mail. A sample of the correspondence processed at MMS during January through May 1990 disclosed that 100 percent of the certified/registered mail was delivered within a 7-day period. The MMS believes this information supports a 7-day period.

**III. Procedural Matters**

*Executive Order 12291 and the Regulatory Flexibility Act*

This final rule establishes procedures for the serving of official correspondence. Because the new procedures will not result in any increase or decrease in costs to the Government or to the public, the Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

*Executive Order 12630*

Because there are no additional economic effects, this final rule does not represent a governmental action capable of interference with constitutionally protected property rights. Thus, a Takings Implication Assessment need not be prepared pursuant to Executive Order 12630, "Government Action and Interference with Constitutionally Protected Property Rights."

*Paperwork Reduction Act of 1980*

This final rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 et seq.

*National Environmental Policy Act of 1969*

It is hereby determined that this final rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and a detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is not required.

**List of Subjects in 30 CFR Part 243**

Coal, Continental shelf, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Petroleum, and Public lands-mineral resources.

Dated: January 9, 1991.

James M. Hughes,  
Deputy Assistant Secretary—Land and Minerals Management.

For the reasons set forth in the preamble, 30 CFR part 243 is amended to read as follows:

**PART 243—APPEALS—ROYALTY MANAGEMENT PROGRAM**

1. The authority citation for part 243 continues to read as follows:

Authority: R.S. 463, 25 U.S.C. 2; R.S. 465, 25 U.S.C. 9; sec. 32, 41 Stat. 450, 30 U.S.C. 189; sec. 5, 44 Stat. 1058, 30 U.S.C. 285; sec. 10, 61 Stat. 915, 20 U.S.C. 359; secs. 5, 6, 67 Stat. 464, 465, 43 U.S.C. 1334, 1335; sec. 24, 84 Stat. 1573, 30 U.S.C. 1023, 30 U.S.C. 1701 et seq.

2. A new § 243.3 is added and reserved and a new § 243.4 is added to subpart A of part 243 to read as follows:

**§ 243.3 Exhaustion of Administrative Remedies. [Reserved]**

**§ 243.4 Service of official correspondence.**

(a) *Method of service:* Official correspondence issued by the Royalty Management Program (RMP) will be served by sending the document certified or registered mail, return receipt requested, to the addressee of record established in paragraph (b) of this section. Instead of certified or registered mail, RMP may deliver the document personally to the addressee of record and obtain a signature acknowledging the addressee's receipt of the document. Official correspondence includes all RMP orders that are appealable in accordance with

the provisions of this part and 30 CFR part 290.

(b) *Addressee of record.* (1) The addressee of record for administrative correspondence for refiners participating in the government's Royalty-in-Kind (RIK) Program is the position title, department name and address, or individual name and address identified in the executive royalty oil sale contract. A different position title, department name and address, or individual name and address may be identified, in writing, by the refiner/purchaser for billing purposes. The refiner must notify the Minerals Management Service (MMS), in writing, of all addressee changes.

(2) The addressee of record for Form MMS-4071 (Semiannual Report of RIK Oil Entitlements and Deliveries) correspondence is the position title, department name and address, or individual name and address reported by the operator of leases committed to RIK contracts on its most recent Form MMS-4071. A different position title, department name and address, or individual name and address may be identified, in writing, by the operator for RIK lease status purposes. The operator is responsible for notifying RMP, in writing, of any addressee changes.

(3) The addressee of record for serving official correspondence on anyone required to report energy and mineral resources removed from Federal and Indian leases to the RMP Production Accounting and Auditing System is the most recent position title, department name and address, or individual name and address that RMP has in its records for the reporter/payor. The reporter/payor is responsible for notifying RMP, in writing, of any addressee changes.

(4) The addressee of record for serving official correspondence concerning onshore Federal leases is the current lessee of record with the Bureau of Land Management. For Indian leases, the addressee of record is the current lessee of record with the Bureau of Indian Affairs. For offshore leases, the addressee of record is the current lessee of record with the MMS Offshore Minerals Management Program. The lessee is responsible for notifying the appropriate Government office of any addressee changes.

(5) The addressee of record for serving official correspondence in connection with reviews and audits of payor records is the position title, department name and address, or individual name and address designated, in writing, by the company at the initiation of the audit, or the most recent addressee that was specified, in writing, by the payor.

(6) The addressee of record for serving official correspondence relating to reporting on the "Report of Sales and Royalty Remittance" (Form MMS-2014 for oil, gas and geothermal resources or Form MMS-4014 for solid minerals) is the most recent position title, department name and address, or individual name and address specified, in writing, by the payor. The payor is responsible for notifying RMP, in writing, of any addressee changes.

(7) The addressee of record for serving official correspondence in connection with remittances pertaining to rental and bonuses from nonproducing Federal leases is the most recent position title, department name and address, or individual name and address maintained in RMP records. The payor is responsible for notifying RMP, in writing, of any addressee changes.

(8) The addressee of record for serving official correspondence including orders, demands, invoices, or decisions, and other actions identified with payors reporting to the RMP Auditing and Financial System not identified above is the position title, department name and address or individual name and address for the payor identified on the most recent Payor Confirmation Report (Report No. ARR 29OR) of a Payor Information Form (PIF) (Form MMS-4025 or Form MMS-4030) returned by RMP to the payor for the Federal or Indian lease (see 30 CFR 210.51 and 210.201).

(9) In the event official correspondence is applicable to more than one category identified in paragraphs (b) (1) through (8) of this section, MMS may serve the official correspondence in accordance with the requirements of any one paragraph.

(c) *Dates of service.* Except as provided in paragraph (d) of this section, official correspondence is considered served on the date that it is received at the address of record established in accordance with paragraph (b) of this section, as evidenced by a signed receipt of any person at that address. If official correspondence is served both personally and by registered or certified mail, the date of service is the earlier of the two dates, if they are different.

(d) *Constructive service.* (1) If delivery cannot be consummated after reasonable effort at the address of record established in accordance with paragraph (b) of this section, official correspondence will be deemed to have been constructively served 7 days after the date that the document is mailed.

(2) This provision covers such situations as nondelivery because the addressee has moved without filing a forwarding address, the forwarding

order had expired, delivery was expressly refused, or the document was unclaimed where the attempt to deliver is substantiated by U.S. Postal Service authorities.

[FR Doc. 91-3566 Filed 2-13-91; 8:45 am]

BILLING CODE 4310-MR-M

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 36

#### Decrease in Maximum Permissible Interest Rates on Guaranteed Manufactured Home Loans, Home and Condominium Loans, and Home Improvement Loans

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final regulations.

**SUMMARY:** The Department of Veterans Affairs (VA) is decreasing the maximum interest rates on guaranteed manufactured home unit loans, lot loans and combination manufactured home unit and lot loans. In addition, the maximum interest rates applicable to fixed payment and graduated payment home and condominium loans, and to home improvement and energy conservation loans are also decreased. These decreases in interest rates are possible because of recent improvements in the availability of funds in various credit markets. The decrease in the interest rates will allow eligible veterans to obtain loans at a lower monthly cost.

**EFFECTIVE DATE:** February 5, 1991.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Judy Caden, Loan Guaranty Service (284), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC, (202) 233-3042.

**SUPPLEMENTARY INFORMATION:** The Secretary is required by section 1812(f), title 38, United States Code, to establish maximum interest rates for manufactured home loans guaranteed by VA as he/she finds the manufactured home loan capital markets demand. Recent market indicators—including the prime rate, the general decrease in interest rates charged on conventional manufactured home loans, and the decrease of other short-term and long-term interest rates—have shown that the manufactured home capital markets have improved. It is now possible to decrease the interest rates on manufactured home unit loans, lot loans, and combination manufactured home unit and lot loans while still assuring an