DOD 7000.14-R

DEPARTMENT OF DEFENSE

FINANCIAL MANAGEMENT REGULATION

VOLUME 7B

MILITARY PAY POLICY AND PROCEDURES FOR RETIRED PAY

SEPTEMBER 1999

★ WITH CHANGES THROUGH APRIL 2000 ★

UNDER SECRETARY OF DEFENSE (COMPTROLLER)

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FOREWORD

This volume of the "Department of Defense Financial Management Regulation" is issued under the authority of DoD Instruction 7000.14, "DoD Financial Management Policy and Procedures," dated November 15, 1992. It governs financial management by establishing and enforcing requirements, principles, standards, systems, procedures, and practices necessary to comply with financial management statutory and regulatory requirements applicable to the Department of Defense. It directs financial management requirements, systems, and functions for all appropriated, working capital, revolving, and trust fund activities. In addition, it directs statutory and regulatory financial reporting requirements.

Volume 7 of the "DoD Financial Management Regulation" establishes policies and procedures for military pay. The volume is divided into three volumes: Volume 7A, "Military Pay Policy and Procedures Active Duty and Reserve Pay;" Volume 7B, "Military Pay Policy and Procedures for Retired Pay;" and Volume 7C, "Special Military Pay/Personnel Programs and Operating Procedures Manual." Volume 7B, specifically details entitlements for retired personnel, survivor annuitants, and victims of abuse.

This volume of the Regulation applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Inspector General of the Department of Defense, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as "DoD Components").

This volume of the Regulation is effective immediately and is mandatory for use by all DoD Components. Heads of DoD Components shall ensure that the provisions of this Volume are adhered to in day-to-day operations and in the design, modification, and maintenance of their Components' financial management and reporting system or systems. The Heads of DoD Components shall not issue supplementary directives and/or regulations without the prior written approval of the Office of the Under Secretary of Defense (Comptroller).

The reporting requirements in this Regulation are exempt from licensing in accordance with paragraph E.4.f of DoD 8910.1-M, "DoD Procedures for Management of Information Requirements," November 1986.

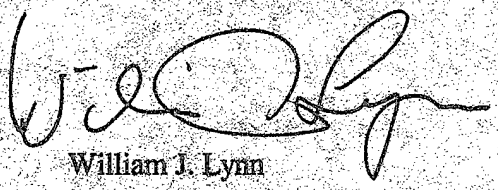
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William J. Lynn

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INTRODUCTION TO THE DoD FINANCIAL MANAGEMENT REGULATION

GENERAL

The DoD Financial Management Regulation provides all DoD Components with policies, and procedures within the area of responsibility of the Under Secretary of Defense (Comptroller) (USD(C)). The Regulation consists of the following 15 volumes:

1. General Financial Management Information, Systems, and Requirements
2. Budget Formulation and Presentation
3. Availability and Use of Budgetary Resources, Policy and Procedures
4. Accounting Policy and Procedures
5. Disbursing Policy and Procedures
6. Reporting Policy and Procedures
7. Military Pay Policy and Procedures
8. Civilian Pay Policy and Procedures
9. Travel Policy and Procedures
10. Contract Payment Policy and Procedures
11. Reimbursable Operations, Policy and Procedures
12. Special Accounts, Funds and Programs, Policy and Procedures
13. Nonappropriated Funds Policy and Procedures
14. Administrative Control of Appropriations, Policy and Procedures
15. Security Assistance Policy and Procedures

AUTHORIZATION

This Regulation is issued by the USD(C) under authority of Department of Defense Instruction 7000.14, "DoD Financial Management Policy and Procedures," dated November 15, 1992.

PARAGRAPH NUMBERING SYSTEM

The paragraph numbering system of this Regulation is consistent for all 15 Volumes. The six digit paragraph number and its subparagraph designators are formulated as follows:

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SUMMARY OF MAJOR CHANGES TO DoD 7000.14-R VOLUME 7B MILITARY PAY POLICY AND PROCEDURES FOR RETIRED PAY

PAGE	PARA	EXPLANATION OF CHANGE/REVISION	PURPOSE
1-9, 1-11, 1-28, 1-31	010107.B.3, 010108.A.2, 010301.B.4, 010301.F	Increase in annual limit on inactive duty training points-Reserve Retirement DFAS Item F-79, IC R3-97	Law change, Clarification
1-11, 1-55	010108.B.3, Table 1-4	Minimum required Reserve service change from 8 years to 6 years - Non-Regular Service Retirement eligibility DFAS Item F-89, IC R5-97	law change
34, 1-35,	010501.B through 010501.F,	Retired Grade-Commissioned Officers and members serving in special positions revision DFAS Item F-87, IC R7-97	law change
3-8, 3-12, 3-13	030301.D., 030301.E., 030503.A., 030504		
5-1, 5-14	050101, 050102, 050401.D.1., 050402.A	Repeal on Defense-Related Employment reporting requirements DFAS Item G-9, IC R12-97	law change
5-26, 7-1, 7-4, 7-11, 7-18, 7-20, 7-21, 8-1, 8-8, 8-33 49-5 M-1 U-1	Table 5-4, 070102, 070601, Table 7-1, Rules 71-74 and Notes 8, 9 Table 7-2, Rules 69-73 and Notes 6, 7 Table 7-3, #37 Table 7-4, 080201.B., 080322, 080482, 080483, Table 49-1, Rules 22-24 Appendix M Appendix U	Military Retired Pay and Survivor Annuity Cost-of-Living Increase for Dec 1996 DFAS Item F-80, IC R6-97	update, clarification, and law change,

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6-1, 6-2, 6-3, 6-4	060101, 060301, 060301.A., 060402, 060501, 060503, Table 6-1, #2, #4	Clarification of policy on foreign citizenship for retirees DFAS Item G-5, IC R9-97	clarification
12-1	120101.B.	Revision of provisions on renouncement of retired pay and the tax treatment DFAS Item F-64, IC R12-96	revision
24-4, 42-4, 45-9, 52-1, 52-2, 57-3	241001, 420230, sec. 4508, 520301, 520303, sec. 5703	Clarification of taxability of Survivor Benefit Plan/Reserve Component Survivor Benefit Plan premiums and annuity payments DFAS Item E-41, IC R8-96	law change clarification
28-4	280601 through 280603	Designation of Agent for all collections under the DoD Salary Offset Program DFAS Item F-83, IC R8-97	update
29-3, 29-6	290501, 290607	Change to manner of service and inclusion of out-of-state court order modifications on Former Spouse Payments from Retired Pay DFAS Item F-88, IC R4-97	law change
29-4	290504.A.	Update to designated officials for processing garnishments from military retired pay DFAS Item F-72, IC R11-96	update
43-4, 43-7, 43-13 through 43-15, 45-7, 45-8, 45-13, 54-5, 56-6, 56-9	430401.F., 430503.C.1., 430801, 430802, 450501, 450504, Table 45-4, Rule 9, 540301.I., 560305, 560502.D.	Addition of provisions for voluntary termination of Survivor Benefit Plan coverage for a natural person with an insurable interest DFAS Item F-36, IC R5-96	law change, law change and realignment
45-8, 49-2, 56-11	450503.G., 490301, 490302, 560505.B.	Coordination of increase in SBP costs with the payment of an increase in military retired pay DFAS Item G-6, IC R11-97	law change, clarification

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46-9	460203.B., 460203.B.3	Clarification of social security offset calculation for annuitant for social security benefit computed under transitional guarantee method DFAS Item F-39, IC R7-96	correction
52-2	520302	Change in Tax Exclusion on Certain Survivor Benefit Plan annuities DFAS Item G-11, IC R13-97	law change
52-2	sec. 5205	Change of Address-Internal Revenue Service DFAS Item F-56, IC R9-96	Update
59-1 through 59-6	Chapter 59	Technical amendment to original provisions for Victims of Abuse-Non-Retirement Eligible Members DFAS Item D-59, IC R6-96	law change, update
R-1	Appendix R	Addition of MIW Rate DFAS Item G-4, IC R10-97	Update

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DEFINITIONS

1. Active Duty. Full-time duty in the active service of a Uniformed Service, including full-time training duty, annual training duty, and attendance while in the active service at a school designated as a Military Service school by law or by the Secretary concerned.

2. Active Duty List. A single list for the Army, Navy, Air Force, or Marine Corps which contains the names of all officers of that Armed Force, other than officers described in 10 U.S.C. 641 (reference (c)), who are serving on active duty.

3. Active Saved Pay. Special pay provisions that allow members under certain circumstances, to retain entitlement to pay authorized under prior laws or for a lower grade from which promoted.

4. Amendatory Birth Certificate. A birth certificate that has been corrected, changed, or revised.

5. Annuitant. A person receiving an annuity.

6. Annuity. A monthly payment made to a person as a result of a specific survivorship plan.

7. Armed Forces of the United States. Includes the Army, Navy, Air Force, Marine Corps, and Coast Guard, and all Components thereof.

8. Basic Pay. The active duty pay rates prescribed for an officer or enlisted member according to pay grade and years of service.

9. Beneficiary. The recipient of certain benefits due as a result of relationship to or designation by a member.

10. Benefits. Compensation or pension (Department of Veterans Affairs definition only).

11. Common Law Marriage. A marriage not solemnized by religious or civil ceremony as defined in pertinent State law.

12. Compensation. A monthly payment made by the Department of Veterans Affairs to a veteran because of service-connected disability or to a surviving spouse, child, or parent of a veteran because of the service-connected death of the veteran occurring before Jan 1, 1957 (Department of Veterans Affairs definition only).

13. Cost of Living Adjustment. Percentage change applied to retired pay and SBP annuities based on laws using the Consumer Price Index (CPI), as published by the Bureau of Labor Statistics, to determine the amount of income.

14. Currency Blocked Country. A country specified by the Treasury Department to which dollar instruments may not be transmitted.

15. Dependency and Indemnity Compensation (DIC). Compensation paid by the Department of Veterans Affairs to the widow or widower of a member who dies after Dec 31, 1956 from a service-connected or compensable disability.

16. Entitlement. The legal right to receive items of retired pay or annuities.

17. Fiduciary. A person, legally designated, who holds something in trust for another.

18. Fleet Reserve or Fleet Marine Corps Reserve. A Component of the Regular service to which members may be transferred and released from active duty after obtaining 20 or more years of active federal service.

19. Foreign Address. An address outside of United States, its possessions and territories.

20. Inactive Duty Training:

a. Duty prescribed for members of a Reserve Component by the Secretary concerned.

b. Special additional duties authorized for members of a Reserve Component by an authority designated by the Secretary concerned and performed by them on a voluntary basis in connection with prescribed training or maintenance activities of the units to which they are assigned.

21. Missing Status. Includes missing, missing-in-action, interned in a foreign country, captured, beleaguered, besieged by a hostile force, or detained in a foreign country against a member's will.

22. Non-Service-Connected. With respect to disability or death, such disability was not incurred or aggravated, or the death did not result from a disability incurred or aggravated, in line of duty in the active military, naval, or air service (Department of Veterans Affairs definition only).

23. Overpayment. An amount paid to a retiree, annuitant, or legal fiduciary which is more than that to which entitlement exists.

24. Parent. A father, mother, father through adoption, mother through adoption; or an individual who for not less than 1 year stood in the relationship of a parent of a veteran at any time before the veteran's entry into active military, naval, or air service for 1 year or more; or the person who last stood in the relationship of father or mother before the veteran's last entry into active military, naval, or air service (Department of Veterans Affairs definition only).

25. Pay Grade. The step or degree in a graduated scale to which members of the Uniformed Services are assigned or distributed for military pay and allowances purposes. See Appendix I, Comparable Grades.

26. Pension. A monthly payment made by the Department of Veterans Affairs to a veteran because of service, age, or non-service-connected disability, or to a surviving spouse, or child of a

veteran because of the non-service-connected death of the veteran (Department of Veterans Affairs definition only).

27. Reserve Component. With respect to the Armed Forces, the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air Force Reserve, the Coast Guard Reserve, the National Guard of the United States, and the Air National Guard of the United States (Department of Veterans Affairs definition only).

28. Retainer Pay. Pay received by a member of the Fleet Reserve/Fleet Marine Corps Reserve.

29. Retired List. Any one of several lists of military members retired from the Regular or Reserve Components of the Armed Forces.

30. Retired Pay (Includes Fleet Reserve and FMCR Retainer Pay). The gross entitlement for a member based on conditions of the retirement law, pay grade, years of service for basic pay, years of service for percentage multiplier, percentage of disability, if applicable, and date of retirement (transfer).

31. Retired Saved Pay. Special pay provisions that allow retired members, under certain conditions, to retain entitlement to pay under prior laws when beneficial to the member.

32. Retirement Date. The first day of entitlement to retired pay, not a day of active duty.

33. Service-Connected. With respect to disability or death, such disability was incurred or aggravated or the death resulted from a disability incurred or aggravated in line of duty in the active military, naval, or air service (Department of Veterans Affairs definition only).

34. Surviving Spouse. A person of the opposite sex who was the spouse of a veteran at the time of the veteran's death, who lived with the veteran continuously from the date of marriage to the date of the veteran's death (except when there was a separation due to the misconduct of, or procured by, the veteran without the fault of the spouse). In addition, the person who was not remarried or has not lived with another person and held himself or herself out openly to the public to be the spouse of such other person since the death of the veteran, and after Sep 19, 1962 (Department of Veterans Affairs definition only).

35. Tower Amendment (reference (c)). The law provided that a member retiring after Jan 1, 1971 may not receive less retired pay than the monthly retired or retainer pay to which he or she would be entitled if the member had become entitled to retired or retainer pay at an earlier date.

36. Transfer Date. (Fleet Reservists, Fleet Marine Reservists) Date of release from active duty, a day of entitlement to active duty pay and allowances.

37. Uniformed Services. The Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanic and Atmospheric Administration, and Public Health Service.

38. United States. The 50 states and the District of Columbia.

39. VA. Department of Veterans Affairs.

40. Veteran. A person who served in the active military naval, or air service, and who was discharged or released under honorable conditions. (Department of Veterans Affairs definition only)

41. Widow. The surviving wife of the deceased member.

42. Widower. The surviving husband of the deceased member.

SUMMARY OF MAJOR CHANGES TO CHAPTER 01
DOD 7000.14-R, VOLUME 7B
MILITARY PAY POLICY AND PROCEDURES FOR RETIRED PAY

New and revised instructions are indicated by a star placed immediately before the new or revised section, paragraph, subparagraph, decision logic table, etc.

Page	Paragraph	Explanation of Change/Revision	Effective Date
1-53	Table 1-2	IC 13-99 revises Table 1-2, Mandatory Retirement	Nov 17, 1999
1-2 1-12 1-13 1-36 1-63, 1-64 66,69	010101.A, 010108.B.3 010108.E 010501.B Table 1-4	IC 14-99 pertains to 2-Year Extension on Certain Drawdown Transition Authorities	Nov 17, 1999
1-37 1-37 1-37	010501.E.3.d 010501.E.3.e 010501.E.5	IC 15-99 pertains to Retired Pay Grade Determinations under 10 U.S.C. 1370	Nov 17, 1999

NOTE: Interim Changes 13-99, 14-99, and 15-99 are incorporated into this chapter.

CHAPTER 1

INITIAL ENTITLEMENTS-RETIREMENTS

0101 SERVICE CREDITABLE FOR RETIREMENT PURPOSES

★ *010101. General*

A. A computation of creditable service, for the purpose of retirement, may be required at any time during a member's military career. A warrant officer or an enlisted member may be retired voluntarily after completion of 20 years of creditable service. An enlisted member of the Army or Air Force, who retires upon completion of 20 years of creditable service, becomes a member of the Reserve force. A commissioned officer may voluntarily be retired after completion of 20 years of active service, at least 10 years of which is active commissioned service. (The Secretary concerned may reduce the 20 years of creditable service requirement to 15 years for the period beginning October 23, 1992, and ending on October 1, 2001.) The Secretary concerned may reduce the 10-year active commissioned service requirement to 8 years during the period beginning on October 1, 1990, and ending on September 30, 2001. A member who continues on active duty after completion of 20 years of service may be retired for voluntary or involuntary reasons. Members who incur a disability while serving on active duty or while called to active duty for training for 30 days or less in the military services may be retired, at which time a service computation is required. (IC 14-99)

B. Service creditable for the purpose of determining retirement eligibility varies with each type of retirement. Retirement types and the specific service creditable for each type are found in paragraphs 010102 through 010108, below. Service that is not creditable is cited in paragraph 010109, below.

010102. Voluntary Retirement-Enlisted Members. (Table 1-1)

A. All active service in the Uniformed Services.

B. Active service in the Army or Navy Nurse Corps as it existed at any time before April 16, 1947.

C. Active service performed under appointment under the Act of December 22, 1942 (reference (a)), or the Act of June 22, 1944 (reference (b)).

D. Active full-time service, except as a student or apprentice, with the Medical Department of the Army as a civilian employee in the dietetic or physical therapy categories, if that service was performed after April 6, 1917 and before April 1, 1943.

E. Active full-time service, except as a student or apprentice, in the occupational therapy category, if that service was performed before appointment in the Army Nurse Corps or Women's Medical Specialist Corps or before appointment in the Air Force with a view to designation as an Air Force nurse or medical specialist and before January 1, 1949.

F. Service as a cadet or midshipman at Service academy.

010103. Voluntary Retirement-Regular and Reserve Commissioned Officers. (Table 1-1)

A. Active service in the Uniformed Services.

B. The following service, computed under 10 U.S.C. 3683 (repealed) (reference (c)) in addition to any other service that may be credited:

1. Active service performed in the Army Nurse Corps and Navy Nurse Corps as they existed at any time before April 16, 1947.

2. Active service performed under appointment under the Act of December 22, 1942 (reference (a)) or the Act of June 22, 1944 (reference (b)).

3. Active full-time service, except as a student or apprentice, with the Medical Department of the Army as a civilian employee in the dietetic or physical therapy categories, if the service was performed after April 6, 1917, and before April 1, 1943.

4. Active full-time service, except as a student or apprentice, in the occupational therapy category, if that service was performed before appointment in the Army Nurse Corps or Women's Specialist Corps and before January 1, 1949.

C. If an officer of the Regular Army or Air Force, all active service performed as an officer of the Philippine Constabulary.

D. If an officer of the Regular Army or Regular Air Force in the Medical Corps, in addition to the above service, all full-time service performed as a:

1. Contract surgeon

2. Active assistant surgeon

3. Contract physician, under a contract to serve full-time and to take and change station as ordered.

E. If retiring as an officer of the Regular Army or Regular Air Force in the Dental Corps, in addition to the above service, all full-time service performed as a:

1. Contract dental surgeon or

2. Acting dental surgeon.

F. To determine whether a commissioned officer of the Army Nurse Corps or the Army Medical Specialist Corps may be retired under 10 U.S.C. 3911 (reference (c)), and whether an Air Force nurse or medical specialist may be retired under 10 U.S.C. 8911 (reference (c)), treat all service credited under subparagraphs 010103.B.1, 2, 3, and 4, above, as commissioned officer service.

010104. Voluntary or Mandatory Retirement-Warrant Officers. (Table 1-1)

A. Active service in the Uniformed Services.

B. All service as a:

1. Nurse or contract nurse before February 2, 1901

2. Reserve nurse after February 2, 1901

3. Contract surgeon

4. Contract dental surgeon

5. Acting dental surgeon

6. Veterinarian in the quartermaster department, cavalry, or field artillery.

C. Service on the active list, or on active duty, or while participating in full-time training or other full-time duty provided for or authorized under the National Defense Act of 1916 (reference (d)), or the Naval Reserve Act (reference (e)), as a:

1. Army field clerk

2. Field clerk, Army Quartermaster Corps.

010105. Mandatory Retirement-Regular Commissioned Officers, Army, and Air Force. (Table 1-2) Years of service credited at the time of original appointment in the Regular Army for the purpose of determining eligibility for promotion, except that in subparagraph 010109.B, below, plus all years of active commissioned service in the Regular Army after that appointment, or years of service computed as in subparagraphs 010105.A through L, below, whichever applies:

A. Reserve judge advocate appointed in the Regular Army in grade of captain in the Judge Advocate General's Department:

1. Years of active commissioned service in the Army after becoming 21 years of age, after December 7, 1941 and before date of that appointment, or the number of days, months, and years by which the member's age at the time of appointment exceeded 25 years, whichever is greater, plus

2. Years of active commissioned service in the Regular Army after that appointment.

B. Officer appointed in the Regular Army, except the Army Nurse Corps or Army Medical Specialist Corps before December 31, 1947, other than an officer covered by subparagraph 010105.A, above, or appointed in the Regular Army under the Act of December 28, 1945 (reference (f)):

1. Years of active commissioned service in the Regular Army after that appointment, plus

2. Years of active commissioned service in the Army after becoming 21 years of age and after December 7, 1941, under any earlier appointment.

C. Officer appointed in the Regular Army, except the Army Nurse Corps or Army Medical Specialist Corps after December 31, 1947, other than an officer appointed in the Women's Army Corps, Regular Army, under section 108 of the Women's Armed Services Integration Act of 1948 (reference (g)):

1. Years of active commissioned service in the Regular Army after that appointment, plus:

2. Years of active commissioned service in the Army after becoming 21 years of age and after December 31, 1947, under any earlier appointment.

D. Officer of the Regular Air Force appointed in the Regular Air Force before January 1, 1948, under the Act of December 28, 1945 (reference (f)), the sum of:

1. The years credited under that Act at the time of appointment,

2. The years of active commissioned service in the Regular Army or Regular Air Force after that appointment, plus

3. The service, but not more than 2 years, by which the member's service on July 20, 1956, was authorized to be increased under section 27, Public Law 85-861 (reference (h)) for the purpose of determining grade, position on the promotion list, seniority, eligibility for promotion, and mandatory retirement.

E. Officer appointed in the Regular Air Force under section 308 of the Women's Armed Services Integration Act of 1948 (reference ((g)), the sum of:

1. The years of service credited under that section at the time of appointment,

2. The years of active commissioned service in the Regular Air Force after that appointment, plus

3. The service credited under subparagraph 010105.D.3, above.

F. Reserve judge advocate appointed in the Regular Army in the grade of captain in the Judge Advocate General's Department under section 24e of the National Defense Act (reference (d)), as amended:

1. The years of active commissioned service in the Army after becoming 21 years of age, after December 7, 1941, and before the date of that appointment, or the number of days, months, and years by which the member's age at the time of that appointment exceeded 25 years, whichever is greater, plus:

2. The years of active commissioned service in the Regular Army or Regular Air Force after that appointment plus the service credited under subparagraph 010105.D.3, above.

G. Air Force nurse or medical specialist:

1. The period of service credited under the Army-Navy Nurses Act of 1947 (reference (i)), as amended, or commissioned service in the Armed Forces, not to exceed 14 years, after December 6, 1941, performed after becoming 21 years of age and before appointment, plus

2. The years of active commissioned service in the Regular Air Force after appointment in the Regular Air Force.

H. Officer of the Regular Air Force appointed in the Regular Army or Regular Air Force before December 31, 1947, other than an officer covered by subparagraphs 010105.D, F, and G above, the sum of:

1. The years of active commissioned service in the Regular Army and Regular Air Force after that appointment,

2. The years of active commissioned service in the Army and Air Force after becoming 21 years of age and after December 7, 1941, under any earlier appointment, plus

3. The service credited under subparagraph 010105.D.3, above.

I. Officer of the Regular Air Force appointed in the Regular Army or Regular Air Force after December 31, 1947, under section 506 of the Officer Personnel Act of 1947 (reference (j)), the sum of:

1. The years of active commissioned service in the Regular Army or Regular Air Force after that appointment,

2. The years of active commissioned service in the Armed Forces after becoming 21 years of age and after December 6, 1941, under any earlier appointment, plus

3. The service credited under subparagraph 010105.E.3, above.

J. Officer of the Air Force who was appointed in the Regular Army or Regular Air Force after December 31, 1947, other than an officer covered by subparagraphs 010105.E, G, I, above, or K, below:

1. The years of active commissioned service in the Regular Army or Regular Air Force after that appointment,

2. The years of active commissioned service in the Air Force after becoming 21 years of age and after December 31, 1947, under any earlier appointment, plus

3. The service credited under subparagraph 010105.D.3, above.

K. Officer of the Regular Air Force who was appointed in the Regular Air Force after July 19, 1956, other than an officer covered by subparagraphs 010105.G or I, above, or who is designated as a medical or dental officer, the sum of:

1. The years of active commissioned service in the Regular Air Force after that appointment,

2. The years of active commissioned service in the Armed Forces after becoming 21 years of age and before appointment, plus

3. The years credited for the purpose of determining grade, position on a promotion list, seniority, and eligibility for promotion under one of the following conditions.

a. Three years, if appointed in the Regular Air Force with a view to designation as a medical service officer, and if holding a degree of doctor of philosophy or comparable degree in science allied to medicine,

b. Not more than 8 years, if one of not more than 100 persons in any calendar year who are appointed from civil life or from Reserves of the Air Force who have qualifications not otherwise available from members of the Air Force on active duty,

c. Not more than 2 years, if appointed while on active duty in the Air Force.

L. An officer of the Army or Air Force under the Defense Officer Personnel Management Act (reference (k)) is credited with:

1. The years of active service.

2. The years of service, other than active service in subparagraph 010105.1, above, with which member was entitled to be credited on May 31, 1958, in computing basic pay.

010106. Mandatory Retirement-Regular Officers-Navy and Marine Corps. (Table 1-2)

A. The total commissioned service of a male officer on the active list in the line of the Navy or of the Marine Corps is computed from June 30 of the fiscal year in which the officer accepted that appointment. The computation applies when the officer has served continuously on the active list since appointment in the grade of ensign or second lieutenant either upon graduation from the Naval Academy or under 10 U.S.C. 2106, 2107, or 6909 (repealed) (reference (c)).

B. Every other male officer on the active list in the line of the Navy or Marine Corps is considered to have the same service as in subparagraph 010106.A, above, who:

1. Has not lost numbers or precedence, and

2. Is, or at any time has been, junior to the other officer for the purposes of eligibility for promotion and selection for promotion during the other officer's latest period of continuous service on the active list.

C. The total commissioned service of each officer on the active list of the Navy in the Supply Corps or the Civil Engineer Corps who originally was appointed as a Regular or as a

Reserve in the grade of ensign in the line, or any staff corps, or in the grade of lieutenant (junior grade) in the Civil Engineer Corps, and who has served continuously on active duty since that appointment, is computed from June 30 of the fiscal year in which the officer accepted that appointment, beginning August 7, 1947.

D. The total commissioned service of each officer originally appointed in the grade of lieutenant (junior grade) or ensign in any staff corps of the Navy, except the Supply Corps and the Civil Engineer Corps, who since that appointment has served continuously on the active list of the Navy, is computed from June 30 of the fiscal year in which the officer accepted that appointment. This provision does not apply, however, to officers appointed under the Act of April 18, 1946 (reference (l)).

E. Every other commissioned officer on the active list of the Navy in any staff corps is considered to have the same total commissioned service as the officer in the same corps described in subparagraphs 010106.C and D, above, having the maximum total commissioned service who:

1. Has not lost numbers or precedence; and

2. Is, or at any time has been, junior to the other officer for the purposes of eligibility for promotion and selection for promotion during that other officer's latest period of continuous service on the active list.

F. Notwithstanding the provisions of subparagraph 010106.E, above, officers on the active list of the Navy in the Medical Service Corps, appointed under the Act of April 18, 1946 (reference (l)), are considered to have total commissioned service equivalent to that of their running mate.

G. Officers on the active list of the Navy in the Nurse Corps are credited with:

1. Active service in the Nurse Corps and the Nurse Corps Reserve, and

2. Active service in the Nurse Corps and the Nurse Corps Reserve, which was abolished by the Army-Navy Nurses Act of 1947 (reference (i)).

H. An officer of the Navy or Marine Corps under the Defense Officer Personnel Management Act (reference (k)) is credited with:

1. The years of active service;

2. The years of service, other than the service included in subparagraph 010106.H.1, above, with which member was entitled to be credited on May 31, 1958, in computing basic pay.

010107. Disability Retirement. (Table 1-3)

A. A member of a Regular Component of the Armed Forces is credited with the greater of all service he or she is considered to have for the purpose of separation or mandatory elimination from the active list, or the sum of:

1. All active service as a member of the Armed Forces as a nurse, Reserve nurse after February 2, 1901, contract surgeon, contract dental surgeon, or acting dental surgeon;

2. Active service as a commissioned officer of the National Oceanic and Atmospheric Administration (NOAA), or the Public Health Service (PHS). See subparagraph 010201.C, below, for information regarding NOAA and its two predecessor organizations (i.e., the Environmental Science Services Administration and the Coast and Geodetic Survey).

3. Service while participating in exercises or performing active duty training and drills in the National Guard, under 32 U.S.C. 502, 503, 504, and 505 (reference (m)).

B. A member who is not a member of a Regular Component of the Armed Forces is credited with service calculated as the sum of subparagraphs 010107.B.1 through 4, below and divided by 360:

1. All days of active service;

2. All days of full-time service while performing annual training duty or attending prescribed periods of instruction designated as a Military Service school by law or by the Secretary concerned;

3. One day for each point, but not more than 75 days in any one-year period after September 22, 1996, credited for attendance at a drill or a period of equivalent instruction prescribed for that year by the Secretary concerned that conform to requirements by law or credited as service in the Health Professions Scholarship and Financial Assistance Program under 10 U.S.C. 2126 (reference (c)). The maximum number was 60 days in any one-year period ending before September 23, 1996. Credit includes points at the rate of 15 per year for membership in a Reserve Component of an Armed Force, in the Army or Air Force without component, or service in the following categories before July 1, 1949:

a. Federally recognized National Guard before June 15, 1933.

b. Federally recognized status in the National Guard before June 15, 1933.

c. The National Guard after June 14, 1933, if service was continuous from date of enlistment in the National Guard, or federal recognition as an officer, to date of enlistment or appointment in the National Guard of the United States, the Army National Guard of the United States, or the Air National Guard of the United States.

d. The Naval Reserve Force.

e. The Naval Militia that conformed to standards prescribed by the Secretary of the Navy.

f. The National Naval Volunteers.

g. The Army or Navy Nurse Corps, or the Nurse Corps Reserve of the Army or Navy, as it existed any time after February 2, 1901.

4. Fifty days for each year before July 1, 1949, and proportionately for each fraction for a year, for service (other than active service) in a Reserve Component of the Armed Forces, in the Army or Air Force without component, or in any other category covered by 10 U.S.C. 12732(a)(1) (reference (c)).

010108. Age and Service Retirement- Non-Regular Member

A. Creditable service for retirement includes:

1. Years of service before July 1, 1949 in:

a. The Uniformed Services

b. Federally recognized National Guard before June 15, 1933

c. Federally recognized status in the National Guard before June 15, 1933

d. National Guard after June 14, 1933, if service was continuous from date of enlistment in the National Guard or federal recognition as an officer therein, to date of enlistment or appointment in the National Guard of the United States, the Army National Guard of the United States, or the Air National Guard of the United States

e. Naval Reserve force

f. Naval militia that conformed to the standards prescribed by the Secretary of the Navy

g. National naval volunteers

h. Army or Navy Nurse Corps, Reserve of the Army or Navy as it existed at any time after February 2, 1901

i. The Army under appointment under the Act of December 22, 1942 (reference (a))

j. Active full-time status, except as a student or apprentice with the Medical Department of the Army as a civilian employee in:

(1) The dietetic or physical therapy categories if the service was performed after April 6, 1917, and before April 1, 1943 or

(2) The occupational therapy category, if the service was performed before appointment in the Army Nurse Corps or Women's Medical Specialist Corps and before January 1, 1949, or before appointment in the Air Force before January 1, 1949, with a view to designation as an Air Force nurse or medical specialist.

2. Each 1-year period after July 1, 1949, in which the member earned at least 50 days on this basis:

a. One point for each day of active service. Service as a cadet or midshipman at a Service academy is active service for non-regular enlisted members only.

b. One point for each day of full-time service, while performing annual training or attending a prescribed course of instruction at a school designated as a Service school by law or by the Secretary concerned.

c. One point for each attendance at a drill or period of equivalent instruction prescribed for that year by the Secretary concerned.

d. Points at the rate of 15 per year for membership in a Reserve Component of the Armed Forces, in the Army or Air Force without component, or in any other category covered by 10 U.S.C. 12732(a)(1) (reference (c)), except a Regular Component.

NOTE: For the purpose of subparagraphs 010108.B.1, 2, and 3, below, all service in the National Guard is treated as if it were service in a Reserve Component, if the member later was appointed in the National Guard of the United States or Air National Guard of the United States, or as a Reserve of the Army or Air Force and served continuously in the National Guard from date of federal recognition to date of that appointment.

e. Members whose anniversary year closed on or after September 23, 1996 may be credited with up to 75 inactive duty points (vice 60 inactive duty training points for anniversary years that closed before that date).

f. Points credited as service in the Health Professions Scholarship and Financial Assistance Program under 10 U.S.C. 2126 (reference (c)).

B. A member of the Armed Forces or National Guard is entitled to retired pay computed under rule 14, Table 3-1, for non-regular service upon application if he or she:

1. Is at least 60 years of age;

2. Has performed at least 20 years of service (see subparagraph 010108.E, below) as shown in subparagraphs 010108.A, above, or this subparagraph;

★ *3. Has performed the last 8 years of qualifying service as a member of any category named in 10 U.S.C. 12732(a)(1) (reference (c)) but not while a member of a Regular Component, the Fleet Reserve or the Fleet Marine Corps Reserve (NOTE: The 8-year period is reduced to 6 years for the period October 5, 1994 through September 30, 2001.); and (IC 14-99)*

4. Is not entitled, under any other provision of law, to retired pay from the Armed Forces or retainer pay as a member of the Fleet Reserve or the Fleet Marine Corps Reserve.

C. A member who has been notified that the years of service requirement has been met for eligibility for retired pay at age 60, may not have that eligibility denied or revoked on the basis of any error, miscalculation, misinformation, or administrative determination of years of service performed, unless it resulted directly from fraud or misrepresentation of the person.

1. The notification of eligibility, which is based on the member's completion of the service requirement, conforms to applicable Military Department regulations. A nonconforming written notice, administratively issued, which shows completion of service requirements of eligibility for retired pay at age 60 may not result in the denial of retired pay, unless evidence shows that the member caused the service record to be altered or confused.

2. The number of years of creditable service upon which retired pay is computed may be adjusted to correct any error, miscalculation, misinformation, or administrative determination. When a correction is made, the retiree is entitled to retired pay in accordance with the number of years of creditable service, as corrected, from the date the retiree is granted retired pay.

3. Notwithstanding subparagraph 010108.C.2, above, the granting of retired pay to a retiree under 10 U.S.C., Chapter 1223 (reference (c)) is conclusive as to that retiree's entitlement to such pay only if the payment of retired pay began after October 14, 1966. A notification

that a person has completed the years of service required for eligibility for retired pay under 10 U.S.C., Chapter 1223 (reference (c)) is conclusive as to that person's subsequent entitlement to such pay only if the notification is made after October 14, 1966.

D. Under 10 U.S.C. 12731 (reference (c)), members of a Reserve Component who have reached age 60, and have at least 20 years of qualifying federal service are qualified for retired pay. A member who has qualified for retired pay, but retained under 10 U.S.C. 12308 (reference (c)), with member's consent, may be credited with the service for all purposes. A member, however, who elects to receive retired pay under 10 U.S.C. 12731 (reference (c)) may not be retained simultaneously on active duty or in active service under 10 U.S.C. 12308 (reference (c)).

★ *E. A temporary special retirement qualification authority, 10 U.S.C. 12731a (reference (c)), provides for the Secretary of the Military Department concerned to allow certain members with at least 15 years of creditable service to retire during the period beginning on October 23, 199,2 and ending on October 1, 2001. (IC 14-99)*

010109. Service Not Creditable for Determining Retirement Eligibility

A. Service may not be credited to enlisted member for the following time required to be made up:

1. Desertion

2. Absence from organization, station, or duty for more than 1 day without proper authority, as determined by Military Service concerned

3. Confinement for more than one day awaiting trial and dsposition of case, when conviction has become final, or under a sentence that has become final

4. Inability for more than 1 day, as determined by competent authority, to perform duties because of intemperate use of drugs or alcoholic liquor, or because of disease or injury resulting from own misconduct.

B. Constructive service, credited under 10 U.S.C. 3287(a)(2)(A) or (B) (repealed), 10 U.S.C. 3294(b) (repealed) (reference (c)) or section 506(c) of the Officer Personnel Act of 1947 (reference (j)), is not included in the service computation under subparagraph 010105.A, above. Constructive service creditable may be:

1. Three years, if appointed as a chaplain, or for service in the Judge Advocate General's Corps or in the Veterinary Corps of the Regular Army.

2. Three years, if appointed in the Medical Service Corps and if holding the degree of doctor of philosophy or comparable degree recognized by the Surgeon General.

3. Four years (five, if member completed 1 year internship) credited at the time of appointment in the Medical or Dental Corps for the purpose of determining grade, position on a promotion list, seniority in grade in the Regular Army, and eligibility for promotion.

C. This service may not be counted for the purpose of determining retirement eligibility under paragraph 010107, above:

1. Service, other than active service, in an inactive section of the Organized Reserve Corps or Army Reserve, or inactive section of the officer's section of the Air Force Reserve.

2. Service, other than active service, after June 30, 1949, while on the Honorary Retired List of the Naval Reserve or of the Marine Corps Reserve.

3. Service in the inactive National Guard or in a nonfederally recognized status of the National Guard.

4. Inactive service in the Fleet Reserve or Fleet Marine Corps Reserve.

5. Service as an inactive Reserve nurse of the Army Nurse Corps established by the Act of February 2, 1901 (reference (n)) as amended, and service before July 1, 1938, as an inactive Reserve nurse of the Navy Nurse Corps, established by the Act of May 13, 1908 (reference (o)).

6. Service in any status other than that as a commissioned officer, warrant officer, nurse, flight officer, appointed aviation cadet, or enlisted member, and that described in paragraph 010101, above, as creditable.

0102 SERVICE CREDITABLE FOR BASIC PAY

010201. Service for Basic Pay. Basic pay varies with the number of years of service to a member's credit. In computing cumulative years of service for this purpose, members are credited for full-time service.

A. Organizations in General. Active or inactive service as a commissioned officer, commissioned warrant officer, warrant officer, flight officer, or enlisted member in any of these organizations:

1. Air Corps Reserve

2. Air Force Reserve

3. Air Force of the United States (without specification of component)

4. Air National Guard

5. Air National Guard of the United States

6. Army of the United States (without specification of component)

7. Army National Guard

8. Army National Guard of the United States

9. Army Reserve

10. Coast and Geodetic Survey (see subparagraph 010201.C, below)

11. Coast Guard Reserve

12. Commissioned Corps of the Environmental Science Services Administration (see subparagraph 010201.C, below)

13. Commissioned Corps of the National Oceanic and Atmospheric Administration (see subparagraph 010201.C, below)

14. Dental Reserve Corps of the Navy

15. Enlisted Reserve Corps

16. Enlisted Section of the Air Force Reserve

17. Marine Corps Reserve

18. Marine Corps Reserve Force

19. Medical Reserve Corps of the Army

20. Medical Reserve Corps of the Navy

21. National Guard

22. National Guard of the United States

23. National Guard Reserve

24. National Naval Volunteers

25. Naval Reserve

26. Naval Reserve Force

27. Nurse Corps of the Public Health Service

28. Nurse Corps Reserve of the Public Health Service

29. Officers' Reserve Corps

30. Officers' Section of the Air Force Reserve

31. Organized Reserve Corps

32. Philippine Constabulary before July 4, 1946

33. Philippine Scouts

34. Public Health Service

35. Regular Air Force

36. Regular Army

37. Regular Army Reserve

38. Regular Coast Guard

39. Regular Marine Corps

40. Regular Navy

41. Reserve Corps of the Public Health Service

B. Nurse Service Before April 16, 1947. Creditable periods are those during which members held appointments as nurses, Reserve nurses, or commissioned officers in the Army Nurse Corps or the Navy Nurse Corps, of the Reserve Components thereof, as they existed before April 16, 1947.

C. National Oceanic and Atmospheric Administration (NOAA). Periods during which a member was an officer, deck officer, hydrographic and geodetic engineer, junior hydrographic and geodetic engineer or aid in the NOAA (includes periods served in the former corps of the Environmental Science Services Administration or the Coast and Geodetic Survey) is creditable service. Service as a shipkeeper, seaman, fireman, oiler, or other position under the "shipping articles" is not creditable service. [ERIC: IS THERE A REFERENCE FOR "SHIPPING ARTICLES"?]

D. Service Counted on January 10, 1962. All service is creditable which, under any law in effect on January 10, 1962, was creditable in computing basic pay.

E. Service on Retired List or as Member of Fleet Reserve or Fleet Marine Corps Reserve. Creditable periods are those while on a temporary disability retired list, honorary retired list, or retired list of any Uniformed Service; and periods while entitled to retired pay, retirement pay, or retainer pay from any Uniformed Service or the Department of Veterans Affairs as a member of the Fleet Reserve or Fleet Marine Corps Reserve. Except for periods of active service and except as provided under 10 U.S.C. 1402 and 1402a, subsections (b), (c), and (d) (reference (c)), periods of service on a retired list, in a retired status, or in the Fleet Reserve or Fleet Marine Corps Reserve, may not be credited to increase retired or retainer pay. Under subsections (b), (c), and (d) of 10 U.S.C. 1402 and 1402a (reference (c)), when a member is retired (including a retirement other than for physical disability), again serves on active duty and is again retired, the inactive time on the retired list prior to the recall to active duty is included in a recomputation of retired pay for disability.

F. Honorary Reserve. All periods are creditable for service as member of the Honorary Reserve of the Officers Reserve Corps or the organized Reserve Corps.

G. Women's Army Auxiliary Corps. Effective August 7, 1959, active service during the period May 14, 1942 through September 29, 1943, as a member of the Women's Army Auxiliary Corps (WAAC) may be counted if active military service was performed after September 29, 1943.

H. Army and Air Force Officers Restored to Duty Under Act of June 29, 1948. (reference (p)). The period between the date of removal and the date of restoration of an Army or Air Force officer restored to the active list under the Army and Air Force Vitalization and Retirement Equalization Act of 1948 (reference (q)) is creditable.

I. Retention for Medical Care After Expiration of Term of Service. Any period on and after December 12, 1941, when an enlisted member of the Armed Forces is retained in service after expiration of his or her term of service for medical treatment or hospitalization for disease or injury incident to service and not due to member's misconduct is creditable.

J. Service Before Attainment of Statutory Age for Enlistment. Any service, which otherwise is creditable, may be counted even if the service was performed before a member attained the

statutory age for enlistment. Such service may not be counted if it is determined to be fraudulent and is voided for that reason.

K. Temporary Member of Coast Guard Reserve. Active service performed as a temporary member of the Coast Guard Reserve is creditable.

L. Army of the United States Commissions-World War II. Appointments made on and after December 7, 1941, in the Army of the United States, without component, under the Joint Resolution of September 22, 1941 (reference (r)) are considered to have continued in effect through March 31, 1953 unless terminated before that date by administrative action or specific law. The period from the date of separation through March 31, 1953, may be credited for officers who:

1. Did not have Reserve or National Guard status,

2. Did not accept a Reserve commission, and

3. Were separated on or before March 31, 1953, without vacating their status in the Army of the United States.

M. Warrant Officer Appointment-World War II. For a temporary appointment as a warrant officer under section 3 of the Act of August 21, 1941 (reference (s)), the period from separation from active duty through April 1, 1953, is creditable unless the appointment expressly was terminated earlier.

N. Flight Officer Appointment-World War II. For an appointment as a flight officer under the Flight Officer Act of July 8, 1942 (reference (t)), the period from separation from active duty through October 27, 195,2 is creditable unless the appointment was expressly terminated earlier.

O. Service Terminated By Desertion or Dishonorable Discharge. Service in an enlistment terminated by desertion or dishonorable discharge is creditable unless the enlistment was fraudulent and was voided for that reason.

P. Women's Army Corps. Appointments in the Women's Army Corps in the Army of the United States, without component, if not previously terminated, were terminated on March 31, 1953. Such service is creditable for basic pay purposes.

Q. Service as Cadet or Midshipman. Cadet or midshipman service is creditable in computing basic pay of enlisted members. For officers, see Table 1-5.

R. Detail to Agencies such as the Agency for International Development (AID), Department of State. Service is creditable AID and certain other agencies under agreement, such as that between the Department of Defense and AID.

S. Reserve Officers' Training Corps. Service as a member of the Army, Navy, or Air Force Reserve Officers' Training Corps is creditable service as follows:

1. Before October 14, 1964, any member who had concurrent Reserve status.

2. After October 13, 1964, an enlisted member who had concurrent Reserve status.

T. Aviation Midshipman. Service in the aviation midshipman program, under the Act of August 13, 1946 (reference (u)), is creditable service for basic pay purposes effective on and after December 26, 1974.

U. Delayed Enlistment (Entry) Program

1. For a Regular Component. Service as an enlisted member in a Reserve Component before beginning active duty in a Regular Component is creditable service if the member enlisted in the Reserve Component before Jan 1, 1985.

2. For a Reserve Component. Service as an enlisted member in a Reserve Component before beginning service on active duty or active duty for training in a Reserve Component is creditable service if the member enlisted in the Reserve Component before November 28, 1989. For enlistments on or after November 28, 1989, such service is creditable if the Reserve member performs inactive duty training before beginning service on active duty for training.

010202. Constructive Service Credit for Medical and Dental Officers

A. Crediting of Constructive Service after September 14, 1981. Crediting of constructive service for medical or dental training or internship is not authorized after September 14, 1981, except as provided in subparagraph 010202.B, below.

B. Savings Provisions for Constructive Service Previously Granted. Prior to September 15, 1981, medical and dental officers who completed medical/dental training received 4 years of credit for such training. Medical officers who completed medical internship or its equivalent or entered military status while serving such internship received an additional 1 year of credit. The 4 or 5 years of constructive service credit is reduced when required by subparagraph 010202.C, below. After September 14, 1981, medical/dental officers with military or PHS status may be credited with constructive service if one of the following conditions exist:

1. On September 14, 1981, they were enrolled in the Armed Forces Health Professions Scholarship Program or Uniformed Services University of the Health Sciences and

completed such program or graduated on or after September 15, 1981, and are appointed as medical or dental officer (including the PHS).

2. On September 14, 1981, they were participating in a program leading to an appointment as an officer in the Army, Navy, Air Force, or Marine Corps for which the years of service would be credited.

3. On September 15, 1981, they were medical or dental officers (including officers of the PHS commissioned as medical or dental officers) entitled to include constructive service.

4. On or before September 14, 1981, they had at any time been credited with constructive service as officers, notwithstanding any subsequent break in service.

C. Reduction of Constructive Service for Dual Credit. Reduce the 4 or 5-years of credit by the amount of any service otherwise counted (such as active duty or reserve status) which covers any part of the actual periods spent in medical or dental school or as an intern.

1. Constructive service credit for a medical or dental officer who accepts a commission during the time the officer is a medical or dental student is computed on a 4-year basis.

2. Constructive service credit for a medical officer who accepts a commission while interning is computed on a 5-year basis.

3. A medical or dental officer who was commissioned before entering medical or dental school is still entitled to any allowable constructive service credit.

4. No reduction of constructive service credit is required for the period a medical or dental officer participated in the Armed Forces Health Professions Scholarship Program or while a student of the Uniformed Services University of Health Sciences, since the member was not given any creditable service for pay purposes for that period of service.

D. Examples of Constructive Service Credit for Medical and Dental Officers. All examples, except those in subparagraph 010202.D.6, below, assume no creditable service before acceptance of commission.

1. A dental officer completed all education requirements before accepting commission. Constructive service credit: 4 years.

2. A medical officer completed internship before accepting commission. Constructive service credit: 5 years.

3. A medical officer entered medical school September 9, 1970 and graduated May 28, 1974, interned at a civilian hospital from July 1, 1974 to June 30, 1975, and accepted a commission on January 12, 1972. Compute as follows:

	Year	Month	Day
a.	74	05	28
b.	72	01	12
c.	02	04	17
(1 day added for inclusive dates)			
d.	03	11	30 (4 years)
e.	02	04	17
f.	01	07	13

NOTES:

a. Graduated
b. Accepted commission
c. Dual status
d. Maximum credit
e. Less dual status
f. Constructive credit

4. Same as subparagraph 010202.D.3, above, except officer accepted a commission on January 12, 1975. Since officer accepted a commission while interning, computation is based on 5 years of constructive credit.

	Year	Month	Day
a.	75	06	30
b.	75	01	12
c.	00	05	19
(1 day added for inclusive dates)			
d.	4	11	30 (5 years)
e.	0	05	19
f.	4	06	11

NOTES:

a. Completed internship
b. Accepted commission
c. Dual status
d. Maximum credit
e. Less dual status
f. Constructive credit

5. This officer attended the same medical school as in subparagraph 010202.D.3, above, but accepted a commission on September 9, 1962 (before entering medical school).

	Year	Month	Day
a.	74	05	28
b.	70	09	09
c.	03	08	20

(1 day added for inclusive dates)

	Year	Month	Day
d.	3	11	30 (4 years)
e.	3	08	20
f.	0	03	10

NOTES:

a. Graduated
b. Entered school
c. Dual status
d. Maximum credit
e. Less dual status
f. Constructive credit

NOTE: This member could have been on active duty during any or all of the medical or dental school attendance period, and it would make no difference in the computation. However, the effective date of the change to the basic date for pay purposes (under paragraph 010207, below) is the date the officer was designated as a medical officer. For any periods of active duty, active duty for training, or inactive duty training in a pay status, before being designated a medical or dental officer, the member would be paid based on the normal basic date for pay purposes.

6. A member enlisted in the Army Reserve on May 15, 1969, and entered medical school on September 1, 1970, was discharged from the Army Reserve on August 31, 1972, accepted a commission in the Air Force Reserve on September 1, 1972, and graduated on June 3, 1974.

	Year	Month	Day
a.	74	06	03
b.	70	09	01
c.	03	09	03

(1 day added for inclusive dates)

d.	03	11	30 (4 years)
e.	03	09	03
f.	00	02	27

NOTES:

a. Graduated
b. Entered school
c. Dual status
d. Maximum credit
e. Less dual status
f. Constructive credit

NOTE: This member could have been in any branch of service, active or inactive, enlisted, warrant or commissioned status, and it would make no difference in the computation of the dual status period and constructive service credit.

010203. Service Not Creditable. The types of service listed below are not creditable. This list is not all-inclusive, but shows some of the service precluded by law.

A. Fraudulent Enlistment. Time spent in an enlistment, which is determined to be fraudulent and specifically is terminated by reason of fraud. (A member is entitled to credit for time in a fraudulent enlistment which is not voided by the government.)

B. Officer in Philippine Army. Service as a commissioned officer in the Army of the Philippines.

C. Constructive Service for Determining Grade and Eligibility for Promotion. The constructive service authorized Army and Air Force officers by the Act of December 28, 1945 (reference (f)) for determining grade and eligibility for promotion.

D. Emergency Officers' Retired List. The period of time a member was on the Emergency Officers' Retired List.

E. State, Home or Territorial Guard. Time spent as a member of a state, home, or territorial guard.

F. Reserve Officers' Training Corps. For commissioned officers any period of service after October 13, 1964 as a member of the Army, Navy, or Air Force Reserve Officers' Training Corps, even if the member held concurrent Reserve status.

G. Inactive National Guard. Time when a person was a member of the inactive National Guard (as distinguished from the National Guard, Reserve and National Guard of the United States) is not creditable. If a member held a commission or an enlisted status in the inactive National Guard and the National Guard of the United States at the same time, such service then is creditable.

H. Service Under Armed Forces Health Professions Scholarship Program. Time served as a commissioned officer while training under the Armed Forces Health Professions Scholarship Program is not creditable service (See subparagraph 010202.C, above.).

I. Service as a Student of Uniformed Services University of Health Sciences. Time served as a commissioned officer while a student of the Uniformed Services University of Health Sciences is not creditable service.

J. Service as a Cadet or Midshipman at the United States Military Academy, or United States Naval Academy Under an Appointment Accepted After June 25, 1956. (Table 1-5)

010204. Effect of Absence From Duty on Creditable Service

A. Absence While in Officer Status. Authorized or unauthorized absence while a member is in a commissioned or warrant officer status is counted as creditable service. Absence of commissioned or warrant officers because of sickness due to misconduct or because of confinement while awaiting (and during) trial, as distinguished from enlisted members under similar circumstances, is counted as creditable service. Absence during which a member was serving on active duty as an enlisted status and was a Reserve officer is creditable.

B. Absence While in Enlisted Status. (Table 1-6)

C. Making Up Time Lost During Enlistment. After return to full duty, an enlisted member is liable to make up time lost. The time served to make up lost time is creditable service. If a member is held (but not restored to a duty status) for trial or to serve sentence, this does not count as making up time lost and is not creditable. **Example**: During a 4-year enlistment, a member was in a non-duty status for 1 year. He or she is retained in service 1 year beyond the date his or her enlistment would have expired. The year during which he or she was retained in service is counted in computing basic pay. The member is entitled to total credit for 4 years (the period actually served) but not 5 years.

010205. Active Enlisted and Warrant Officer Service-Pay Grade O-1E, O-2E, or O-E

A. Service Counted

1. Commissioned officers in pay grades O-1, O-2, or O-3 are entitled to the special rate of pay for O-1E, O-2E, or O-3E if the officer has had over 4 years of active service as an enlisted member. In computing active enlisted service, include active duty for training in an enlisted status.

2. Effective September 1, 1980, commissioned officers in pay grades O-1, O-2, or O-3 are entitled to the special rate of pay for O-1E, O-2E, or O-3E if they have had over 4 years of active service as warrant officers. In computing active warrant officer service, include active duty for training in a warrant officer status.

3. Effective October 1, 1983, commissioned officers in pay grades O-1, O-2, or O-3 are entitled to the special rate of pay for O-1E, O-2E, or O-3E if they have a

combined total of over 4 years of active service as warrant officers and enlisted members. In computing this active warrant officer and enlisted service, include active duty training in a warrant officer or enlisted status.

B. Service Not Counted. In computing active service, do not count active service in a dual status in the Navy or Marine Corps (temporary officer-permanent enlisted).

010206. How to Compute Total Creditable Service for Basic Pay

A. Basic Method Without Regard to Lost Time. To compute creditable service, use the following method for all periods during which no time was lost:

1. List all beginning dates. Never change these dates.

2. List all ending dates. Change the ending date to 30 if it is the last day of the month and other than 30. Caution: If service ends on February 28 of a leap year, do not change the 28 to 30, since the 29th is the last day of month.

3. Add all beginning dates.

4. Add all ending dates.

5. Subtract total beginning dates from total ending dates. (If more months are needed to make the subtraction, deduct 1 year from the total ending dates and add 12 months. If more days are needed, deduct 1 month from total of ending dates and add 30 days.)

6. Add 1 day for each period of continuous service to account for inclusive dates.

7. Convert the result into full years, months, and days. This is the amount of service creditable for basic pay purposes.

Example 1:

Component	From	To	Beginning Dates			Ending Dates		
			Year	Month	Day	Year	Month	Day
RA (Enl)	Jan 1, 51	Feb 28, 54	51	1	1	54	2	30
AUS (Com)	Jun 1, 54	May 26, 61	54	6	1	6	15	26
AFUS (Com)	Aug 1, 63	Mar 31, 68	63	8	1	75	6	4
AFUS (Com)	Apr 1, 68	Jun 4, 75	168	15	3	19	13	60

(Note that period from August 1, 1963 through June 4, 1975 is continuous service.)

Year	Month	Day	
190	13	60	(total of ending dates)
168	15	-3	(total of beginning dates)
21	10	57	
		+3	(day for each period to cover inclusive dates)
21	10	60	
22	00	00	(total creditable service converted to full years)

Member completed 22 years of service on June 4, 1975.

B. Computing Periods of Service Involving Lost Time. Compute separately periods of enlistment during which some time was lost. Add total of such periods to total computed under subparagraph 010206.A., above.

1. Lost Time Not Made Good. When the lost time is not made up, compute the lost time on a 30-day-month basis, except that when the absence begins on the 31st day of a month, that day is counted as a day lost. Compute as follows: Date of discharge minus date of enlistment, plus 1 day for inclusive dates, minus number of days lost computed on 30-day-per-month basis. Add this total to the total computed under subparagraph 010206.A., above.

Example 2: A member enlisted on July 18, 1970 for 4 years, and was AWOL from February 10, 1972 through March 16, 1972. He was given a hardship discharge on August 10, 1973; the lost time was not made good. He reenlisted on February 20, 1975. Creditable service on reenlistment is computed as follows:

Year	Month	Day	
	73	8	10 (ending date of last period of service)
	72	19	40 (month changed to 30 days and 1 year to 12 months)
	-70	7	18 (beginning date last period of service)
	2	12	22
			+1 (extra day for inclusive dates)
	2	12	23 (service before deducting lost time)
		-1	7 (lost time)
	2	11	16 (total creditable service on date of reenlistment)

Lost time is computed on a 30-day month basis as follows:

Feb 10-30	21 days
Mar 1-16	16 days
	37 days total lost time

2. Lost Time Made Good: Time lost is made good on a day-for-day basis. When lost time is made good, and the member completes the enlistment contract or period for which inducted, compute the lost time on a day-for-day basis (instead of 30-day-month basis) if this would be to the member's advantage. Under the day-for-day basis, an unauthorized absence March on 30 and 31 and April 1, for example, is counted as 3 lost days. An unauthorized absence on February 28 and 29 and March 1 is also counted as 3 days. Time served on March 30 and 31 and April 1, to make good lost time, is counted as 3 days of service. Time served on February 28 and 29 and March 1, to make good lost time, is also counted as 3 days of service. When a period of service involves lost time made good, compute that period as follows:

First Step. Subtract the enlistment date from the discharge date and add 1 day.

Second Step. Compute the total lost time both on a 30-day month basis and a day-for-day basis. Use whichever result shows the lesser number of days lost.

Third Step. Subtract the total of the second step from the total of the first step. If the resulting total equals or exceeds the period of the enlistment contract, use this total as the service creditable for this period of service. If the resulting total is less than the period of the enlistment contract, do not use this total. Use the full period of the contract, since the member has completed the contract. (NOTE: In some cases, neither the 30-day month nor the day-for-day basis will produce a total equal to the enlistment contract or induction period. This is because of the different dates of the year when time was lost and made good. See Example 3, below.)

Fourth Step. Add the total computed under the third step, above, to any other periods computed under subparagraph 010206.A, above, to obtain the member's total creditable service.

Example 3: Assume that the member in Example 2, above, had not been given a hardship discharge, but completed the enlistment contract including time served to make good lost time. The member's discharge date would be August 21, 1974 (35 days of lost time computed on a day-for-day basis, i.e., 14 days made good between July 18-31 and the remaining 21 days between August 1-21, 1974). Compute creditable service on reenlistment (February 20, 1975):

Year	Month	Day	
74	8	21	(ending date last period of service)
70	7	18	(beginning date last period of service)
4	1	3	
		+1	(extra day for inclusive dates)
4	1	4	(service before deducting lost time)

As in Example 2, above, the lost time computed on a 30-day month basis is 37 days. On a day-for-day basis, the total is 35 days (19 days from February 10-28 and 16 days from March 1-16). Deduct the lesser number of days (i.e., 35 days in this example).

Year	Month	Day	
4	1	4	(service before deducting lost time)
3	12	34	(change year to months and months to days)
_	-1	5	(lost time)
3	11	29	(total service)

Since this amount of service is less than the enlistment contract, and the member completed the contract, do not use this amount. Credit the member with 4 years of prior service on reenlistment February 20, 1975.

Example 4: A member enlisted July 18, 1970 for 4 years; was AWOL July 28, 1973, through September 3, 1973. The member was required to make up 38 days to complete the enlistment term (July 28-31 = 4 days; August 1-31= 31 days; September 1-3= 3 days). In making up AWOL time at the end of the enlistment, the member would be credited with 14 days from July 18-31 and 24 days from August 1-24. The discharge date was August 24, 1974. With reenlistment on February 20, 1975, compute prior service as follows:

Year	Month	Day	
74	8	24	(ending date of last period of service)
-70	7	18	(beginning date last period of service)
4	1	6	
___	___	+1	(extra day for inclusive dates)
4	1	7	(service before deducting lost time)

Computation of lost time on 30-day-month basis:

Jul 28-30, 1973	3 days
Aug 1-30, 1973	30 days
Sep 1-3, 1973	3 days
	36 days

As noted above, the time lost is 38 days computed on a day-for-day basis. Under the rule in the second step above, deduct 36 days (computed on 30-day-month basis) since it is the lesser.

Year	Month	Day	
4	1	7	(service before deducting lost time)
	-1	6	(lost time)
4	0	1	(total creditable service)

Although this member served the same number of days as the member in Example 3, above, this member is credited with 4 years and 1 day of service with reenlistment as of February 20, 1975.

010207. Computing Basic Date for Pay Purposes. After computation of creditable service, establish a basic date for use in determining the date when a member is entitled to increased basic pay. Names established for these dates are:

Army--Pay entry basic date (PEBD)

Navy and Marine Corps--Pay entry base date (PEBD)

Air Force--Pay date

Compute the date as follows:

A. Continuous Military Status. Except for medical and dental officers who receive constructive service credit, the date member enlists, is inducted, or accepts an appointment is the basic date for pay purposes. This date stays in effect if the military status continues without any breaks.

B. Noncontinuous Service. When military status has not been continuous, determine the date by deducting total prior creditable service from the date the current period of service began.

Example: Member reenlisted on February 20, 1975. Total prior creditable service (computed under paragraph 010206, above) was 4 years and 1 day.

Year	Month	Day	
1975	2	20	(date of reenlistment)
-4	0	1	(prior creditable service)
1971	2	19	(basic date upon reenlistment)

010208. Adjusting Basic Date for Pay Purposes for Lost Time. When an enlisted member loses time in a non-duty status under Table 1-6, advance the basic date for pay purposes by a period equal to the time lost computed on a 30-day month basis. (For officers, this date is not affected by non-duty status.)

Example: An enlisted member with no prior service enlisted on July 18, 1973. He was AWOL from February 10, 1975, through March 16, 1975. On the member's return to full duty status the date changes from July 18, 1973, to August 25, 1973. The change is computed:

Feb 10-30	21 days
Mar 1-16	16 days
	37 days of lost time

Yr	Mo	Day	
1973	7	18	(original date)
	+1	7	(lost time)
1973	8	25	(adjusted date)

010209. Procedure When Basic Date for Pay Purposes Falls on February 29. When the basic date for pay purposes falls on February 29, use that date. In non-leap years, increased pay begins on March 1. In leap years, it begins on February 29.

0103 SERVICE CREDITABLE FOR PERCENTAGE PURPOSES

010301. Service for Percentage Multiple. Service authorized to be used as a percentage multiple is specified in each law section authorizing computation of retired pay for each type of retirement. Retirement types and service for percentage for each are:

A. Voluntary Retirement Enlisted Members. Service credited under paragraph 010102, above.

B. Voluntary Retirement Commissioned Officers

1. Active service in the Uniformed Services.

2. For an officer of the Medical Corps or Dental Corps of the Army or Navy, an officer of the Air Force designated as a medical or dental officer, or an officer of the Public Health Service commissioned as a medical or dental officer, credit 4 years. For a medical officer who has completed 1 year of medical internship or the equivalent thereof, credit 1 additional year.

a. A medical or dental officer, who was in a Reserve Component for a period of time during which the member also was receiving educational training, would be entitled to receive the same amount of constructive service credit which would have been credited had the member not been in that Reserve Component.

b. Any credit otherwise accrued during the same period by reason of Reserve membership would not be for use in determining the multiplier for computing retired pay.

3. The years of service, not included in subparagraph 010301.B.1, or 2, above, with which the member was entitled to be credited on June 1, 1958, in computing basic pay as stated in paragraph 010201, above.

4. Years of service, not included in subparagraphs 010301.B.1, 2, or 3, above, with which the member would be entitled to be credited under 10 U.S.C. 12733 (reference (c)):

a. Days of active service.

b. Days of full-time service under 32 U.S.C. 316, 502-505 (reference (m)) while performing annual training duty or attending a prescribed course of instruction at a school designated as a Service school by law or by the Secretary of the Military Department concerned.

c. One day for each point, but not more than 75 days in any one-year period after September 22, 1996, credited for attendance at a drill or a period of equivalent instruction prescribed for that year by the Secretary of the Military Department concerned that conform to requirements by law or credited as service in the Health Professions Scholarship and Financial Assistance Program under 10 U.S.C. 2126 (reference (c)). The maximum number was 60 days in any one-year period ending before September 23, 1996. Credit includes points at the rate of 15 per year for membership in a Reserve Component of an Armed Force, in the Army or Air Force without component, or service in the following categories before July 1, 1949:

(1) Federally recognized National Guard before June 15, 1933.

(2) Federally recognized status in the National Guard before June 15, 1933.

(3) The National Guard after June 14, 1933, if service was continuous from date of enlistment in the National Guard, or federal recognition as an officer therein, to date of enlistment or appointment in the National Guard of the United States, the Army National Guard of the United States, or the Air National Guard of the United States.

(4) The Naval Reserve Force.

(5) Naval Militia that conformed to standards prescribed by the Secretary of the Navy.

(6) National Naval Volunteers.

(7) Army or Navy Nurse Corps or the Nurse Corps Reserve of the Army or Navy as it existed at any time after February 2, 1901.

d. Fifty days for each year before July 1, 1949, and proportionately for each fraction of a year of service other than active service in a Reserve Component of the Armed Forces, in the Army or Air Force without component, or in any other category of:

(1) Federally recognized National Guard before June 15, 1933.

(2) Federally recognized status in the National Guard before June 15, 1933.

(3) The National Guard after June 14, 1933, if service was continuous from date of enlistment in the National Guard, or federal recognition as an officer therein, to date of enlistment or appointment in the National Guard of the United States, the Army National Guard of the United States, or the Air National Guard of the United States.

(4) The Naval Reserve Force.

(5) Naval Militia that conformed to standards prescribed by the Secretary of the Navy.

(6) National Naval Volunteers.

(7) Army or Navy Nurse Corps or the Nurse Corps Reserve of the Army or Navy as it existed at any time after February 2, 1901. Divide the sum of the periods, described in subparagraph 010301.B.4, by 360.

C. Voluntary Retirement Warrant Officers. Service credited under subparagraph 010301.B, above.

D. Mandatory Retirement

1. Army and Air Force service credited under paragraph 010105 or subparagraph 010301.B, above, whichever is more favorable.

2. Navy and Marine Corps service credited under paragraph 010106 or subparagraph 010301.B, above, whichever is more favorable.

E. Disability Retirement. Service credited under paragraph 010107, above.

F. Age and Service Retirement, Reservist. Total days of service, as stated in subparagraphs 010301.B.4.a through d, divided by 360 equals equivalent years and any fraction of a year of service.

G. Other

1. Commissioned officers and warrant officers voluntarily retired before June 1, 1958, are authorized to use the years of service credited for basic pay purposes as the years for

determining the percentage multiple. Service creditable for basic pay purposes is in paragraphs 010201 and 010202, above.

2. Commissioned officers who served as members of the military or naval forces of the United States before November 12, 1918, are authorized to use a 75 percent multiple for retired pay computation.

3. Enlisted members are authorized to count double time for service beyond the continental limits of the United States between 1898 and 1912 while serving in the Army, Navy, or Marine Corps of the United States.

4. Members who were retired for disability before October 1, 1949, who did not elect within a 5-year period to receive retired pay under Section 511 of the Career Compensation Act of 1949 (reference (w)), are still authorized to use a 75 percent multiple for computation of retired pay. See section 0304 of this volume.

0104 UNIFORM RETIREMENT DATE ACT (URDA) APPLICATION (5 U.S.C. 8301(b)) (reference (az))

010401. Authority

A. Except as otherwise specifically provided by statute, retirement is effective on the first day of the month after that in which retirement would otherwise be effective.

B. Notwithstanding subparagraph 010401.A, above, the rate of pay is computed as of the date retirement would have occurred but for the provisions of subparagraph 010401.A, above. See Table 1-7. Members who enter a Uniformed Service after September 7, 1980, receive retired pay based on an average of basic pay rates for the period actually served not to exceed a 36-month period. See Chapter 3 for gross pay computation.

010402. Application

A. Voluntary Retirement

1. Compute pay on the current active duty basic pay rate in effect on the first day of retirement if the member:

a. Retired on other than an active duty basic pay rate change date.

b. Retired on the same day as an active duty basic pay rate change, but was fully qualified for retirement or met requirements to be retired at least 1 month before the month immediately preceding the active duty basic pay rate change date, except for warrant officers

retired under the provisions of 10 U.S.C. 564 (repealed), 580, 1255 (repealed), 1263, 1293, and 1305 (reference (c)).

c. Retired as an enlisted member regardless of qualification date.

d. Retired as a commissioned officer under provisions of 10 U.S.C. 6323 (reference (c)).

2. Compute pay on the active duty basic pay rate in effect on the day before the first date of retirement if the member:

a. Retired as a warrant officer under 10 U.S.C. 564 (repealed), 580, 1255 (repealed), 1263, 1293, and 1305 (reference (c)).

b. Retired on an active duty basic pay rate change date as a commissioned officer (other than an officer retired under 10 U.S.C. 6323 (reference (c))) or warrant officer who first qualified for retirement during the month immediately preceding the active duty rate change date.

B. Mandatory Retirement

1. Compute pay on the active duty basic pay rate in effect on the date when the member met the requirements for involuntary retirement, and is retired for mandatory reasons.

2. The above provision does not apply if:

a. Before the date scheduled for mandatory retirement, the member qualifies for and requests voluntary retirement which is approved before he or she is scheduled for mandatory retirement. See provisions for voluntary retirement in subparagraph 010402.A, above.

b. The member is retained on active duty beyond mandatory retirement date for physical evaluation to determine eligibility for disability retirement and is retired for disability. See provisions for disability retirement.

C. FR/FMCR. The provisions of the Uniform Retirement Date Act do not apply to members transferred to the Fleet Reserve/Fleet Marine Corps Reserve.

D. Disability Retirement

1. Compute pay on the active duty rate in effect on the first day of retirement if the member:

a. Retired on other than an active duty basic pay rate change date.

b. Retired on an active duty pay rate change date and otherwise is eligible for voluntary retirement and met those requirements at least 1 month before the month immediately preceding the new basic pay rates. The new rates apply only to the formula for computation of entitlement for voluntary retirement.

2. Compute pay on the active duty basic pay rate in effect on the day before the first day of retirement if the member:

a. Retired on an active duty rate change date as a commissioned officer, warrant officer, or enlisted member, and

b. Disability retirement findings approved without the Secretary concerned having designated an earlier retirement date under 10 U.S.C. 1221 (reference (c)). The effective date of retirement is governed by the provisions of the Uniform Retirement Date Act.

E. Non-Regular Service Reserve Retirement. Compute pay on the active duty basic pay rate in effect on the date when the member is granted retired pay.

010403. Special Provisions. Under specific circumstances, computation may be based on another basic pay rate that may provide greater pay. See Chapter 3, sections 0302 and 0303.

0105 RANK AND PAY GRADE

010501. General Determination

A. Unless entitled to a higher grade under some other provisions of law, those Regular and Reserve members who retire other than for disability, will retire in the Regular or Reserve grade they hold on the date of retirement.

★ *B. A commissioned officer of the Army, Navy, Air Force, or Marine Corps, who voluntarily retires in a grade above major or lieutenant commander, must serve on active duty in that grade for not less than 3 years. The President may waive this requirement in cases of hardship or exceptional or unusual circumstances. The Secretary of the Military Department concerned may reduce the service-in-grade requirement to 2 years during the period beginning on October 1, 1990, and ending on September 30, 2001. (IC 14-99)*

C. An officer who does not meet the service-in-grade requirement retires in the next lower grade in which member served on active duty satisfactorily for at least 6 months.

D. Officers in Grades 0-9 and 0-10

1. An officer in the grade of general or admiral or lieutenant general or vice admiral may retire in that grade, if the Secretary of Defense certifies, in writing, to the President and the Congress that the officer served on active duty satisfactorily in that grade.

2. The 3-year service-in-grade requirement cannot be reduced or waived if the officer is under investigation for alleged misconduct or if an adverse personnel action is pending against the officer for alleged misconduct.

E. Reserve Officers

1. Unless entitled to a higher grade, or to credit for satisfactory service in a higher grade under some other provision of law, a person who becomes entitled to a non-Regular service Reserve retirement shall, upon application, receive credit for satisfactory service in the highest grade held in the Armed Forces, as determined by the Secretary of the Military Department concerned.

2. To receive credit for satisfactory service in a grade below lieutenant colonel or commander, other than a warrant officer grade, a person must serve satisfactorily in that grade, as determined by the Secretary of the Military Department concerned as a Reserve commissioned officer in an active status, or in a retired status on active duty, for at least 6 months.

3. To receive credit for satisfactory service in a grade above major or lieutenant commander, a person must serve satisfactorily in that grade, as determined by the Secretary of the Military Department concerned, as a Reserve commissioned officer in an active status, or in a retired status on active duty, for at least 3 years.

a. A person who completes at least 6 months of satisfactory service in grade, upon transfer from an active status or upon discharge as a Reserve commissioned officer for mandatory age or years of service, receives credit for satisfactory service in the grade in which serving at time of transfer or discharge in that grade.

b. If the person completes at least 6 months of satisfactory service in grade while serving as adjutant general under 32 U.S.C. 314 (reference (m)) or as assistant adjutant general to such adjutant general and the person is unable to complete 3 years of service in such grade because the appointment is terminated or vacated under 32 U.S.C. 324(b), (reference (m)), then the person may be credited with satisfactory service in that grade.

c. The Secretary of the Military Department concerned may allow credit in a higher grade to a person who has been recommended for promotion but before promotion to the recommended grade. Such credit may be allowed when a person who is in the next lower grade serves in a position after recommendation where the minimum authorized grade for the position the member is serving in is the higher grade to which the member is recommended for promotion. The

period of service credit may not include any period before the date that the Senate provides advice and consent for the appointment in the recommended grade.

★ *d. A member, who qualifies for Federal recognition in a higher grade and then serves in that grade in a position for which the higher grade is the minimum authorized grade, may receive credit for having served in that grade. The credit, determined by the Secretary of the Military Department concerned, is contingent upon the member being appointed as a Reserve officer in that grade. The service credit is allowed only for the period the person served in the position after Senate advice and consent for the appointment. (IC 15-99)*

★ *e. A person who completes at lease 6 months of satisfactory service in a grade above colonel (or, in the case of the Navy, in a grade above captain) and who, while serving in an active status, is involuntarily transferred other than for cause from active status, may be credited with satisfactory service for the grade in which serving even though he or she does not complete three years of service in that grade. (IC 15-99)*

4. A person whose length of service in the highest grade held does not meet the service-in-grade requirements specified in this subparagraph, 010501.E, receives credit for satisfactory service in the next lower grade in which the person serves satisfactorily for at least 6 months as determined by the Secretary of the Military Department concerned.

★ *5. The Secretary of the Military Department concerned may reduce the time-in-grade restriction from 3 years to not less than 2 years for retirements effective October 17, 1998, through September 30, 2001. The number of Reserve commissioned officers allowed the time-in-grade reduction is limited by fiscal year. (IC 15-99)*

F. Unless entitled to a higher grade under some other provision of law, members of the Armed Forces who retire for disability are entitled to the highest of:

1. The grade or rank in which serving when placed on the Temporary Disability Retired List or, if not carried on that list, on date of retirement.

2. The highest grade or rank in which member satisfactorily serves.

3. The permanent Regular or Reserve grade to which the member would have been promoted had it not been for the disability for which member is retired that was found upon physical examination.

4. The temporary grade to which member would have been promoted had it not been for the disability for which member is retired, if eligibility for that promotion was required based on the cumulative years of service or years of service in grade, and the disability is found upon physical examination.

010502. Special Provisions

A. Commissioned officers of the Regular or Reserve Component of the Army or Air Force and Regular officers of the Navy or Marine Corps may, at the discretion of the President, be retired by and with the consent of the Senate, in the highest grade held at any time on the active list if they have served as:

1. Chief of Staff to the President.

2. Chief of Staff of the Army.

3. Chief of Naval Operations.

4. Chief of Staff of the Air Force.

5. Senior member of the Military Staff Committee of the United Nations.

6. General or lieutenant general in a position of importance and responsibility designated by the President.

7. Admirals or vice admirals in positions of great importance and responsibility designated by the President under 10 U.S.C. 601 (reference (c)).

8. Chief or assistant chief of a branch of the Regular Army for at least 4 years.

9. Surgeon General of the Army or Air Force in the grade of lieutenant general.

10. Permanent professor of the United States Military Academy or United States Air Force Academy. If the grade is below brigadier general and service as professor is long and distinguished, the professor may, at the discretion of the President, be retired in the grade of brigadier general.

11. Chiefs of Bureaus and Judge Advocate General.

B. Regular and Reserve commissioned officers of the Army and Air Force are entitled to the grade equal to the highest temporary grade in which they served on active duty satisfactorily for not less than 6 months. See exception in subparagraph 010501.B, above.

C. Members of the Regular Army in the Army Nurse Corps or Army Medical Specialist Corps and an Air Force nurse or medical specialist are entitled to a retired grade equal to the highest grade or relative rank in which they served on active duty satisfactorily after September 8, 1940 and before July 1, 1946, as:

1. A member of the Army Nurse Corps established by the Act of July 9, 1918 (reference (y)).

2. A dietitian or physical therapist appointed under the Act of December 22, 1942 (reference (a)).

3. An officer appointed under the Act of June 22, 1944 (reference (b)).

D. Where an existing statute authorizes computation of pay on the basis of a grade in which the member served satisfactorily which is higher than the pay of the grade otherwise entitled, computation is based on the higher grade:

1. Without regard to whether that grade was temporary or permanent.

2. Even though the Military Service in which the member held that higher grade is not the Military Service in which retired.

E. Retired warrant officers of the Army and Air Force, and enlisted members of the Regular Army and Regular Air Force are entitled to be advanced on the retired list to the highest grade in which they served on active duty satisfactorily, when their active service plus time on the retired list equals 30 years.

F. Unless otherwise entitled to a higher grade, officers of the Regular Navy or Regular Marine Corps holding a permanent grade of W-1 or above, retired with 30 or more years of service are retired in the grade in which they are serving at the time of retirement.

G. Unless otherwise entitled to a higher grade, members of the Navy and Marine Corps retired while serving in a temporary grade to which they were appointed in time of war or national emergency which terminates on date of detachment are retired in the grade they would hold if they had not received such appointment.

H. Warrant officers of the Navy and Marine Corps who retire after completion of 20 years service may elect to be retired in the highest grade entitled under any provision of law.

I. Unless otherwise entitled to a higher grade, members, other than retired members of the Navy or Marine Corps, when retired are advanced on the retired list to the highest officer grade in which they served satisfactorily under a temporary appointment.

J. A courtesy title is not to be used for computation of pay. The grade for pay purposes is determined under the above criteria of general determinations and special provisions with specific reference to the section of law that authorizes the grade for pay purposes.

K. Members promoted while missing in action (MIA), whose status is changed to killed in action (KIA), are exempted from the 6-month time-in-grade requirement since promotions received while in a missing status are "fully effective for all purposes" under 37 U.S.C. 552(a) (reference (z)). NOTE: This provision is applicable only to members of the Army and Air Force.

L. A member who enters a Uniformed Service after September 7, 1980, and who later retires may receive retired pay computed from a retired pay base made up of active duty pay rates from more than one grade.

010503. Satisfactory Service. The determination as to what constitutes satisfactory service for the purpose of retirement in the highest grade is within the discretionary power of the Secretary of the Military Department concerned.

0106 NONCITIZENS

010601. Philippine Constabulary. The Act of February 2, 1901 (reference (n)), as amended by the Act of May 16, 1908 (reference (aa)), authorized the President of the United States to organize a military component to be known as the Philippine Scouts and make it a part of the Regular Army.

A. The total number of enlisted men was limited to 12,000 voluntary enlisted natives of the Philippine Islands. The pay and allowances of whatever nature and kind authorized were to be fixed by the Secretary of the Army, not to exceed or be of classes other than those authorized enlisted men of the Regular Army. Retirement eligibility was the same as for enlisted men of the Regular Army.

B. Officers initially were selected from the Regular Army on provisional appointments. Effective July 1, 1920, all officers who were citizens of the United States, if qualified, were recommissioned in the Regular service and, if not recommissioned, continued to serve under their commissions as officers of the Philippine Scouts. Officers later were selected from citizens of the

Philippine Islands, appointed in the grade of second lieutenant. Officers were entitled to the same pay, privileges, and retirement benefits authorized officers of like grade and service of the Regular Army.

C. The Philippine Scouts are not now maintained as a continuing part of the Army.

010602. Insular Force. The Insular Force of the United States Navy was established by Executive Order on April 5, 1901 (reference (ab)), as amended on June 25, 1901, authorizing the Secretary of the Navy to enlist in the Insular Force a total of 500 natives of the Islands of the Philippines and the Island of Guam. The Force was established primarily to use the services of these men in various positions throughout the area in which they were enlisted and to which they were particularly adapted or suited. Members of the Insular Force were eligible for transfer to the Fleet Reserve or to the retired list. The Insular Force is not now maintained as a continuing part of the Navy.

010603. Payment

A. Philippine Scouts. The rates of pay prescribed from time to time for enlisted men of the Philippine Scouts on the active list formed the basis for computing the amount of retired pay. There was no increase in pay and allowances (including retired pay) for the period June 1, 1946, through August 31, 1965.

B. Insular Force. Pay and allowances were permanently fixed at one-half the current prevailing rates for other members of the Regular Navy of corresponding grades. Retired pay is computed as for the Regular Navy at one-half of the basic pay rate.

C. Equalization of Pay. Effective September 1, 1965, the Secretary of the Army authorized new rates of basic pay for Philippine Scouts computed per subparagraph 010603.C.1 or 2, below, whichever is greater:

1. One-half of the basic pay of enlisted members of the Army with comparable grades and length of service authorized by the Military Pay Act of 1958 (reference (ac)); or

2. One-half of the basic pay authorized enlisted members of the Army with comparable grades and length of service on the day before the effective date of the Military Pay Act of 1958 (reference (ac)), increased by 6 percent, and further increased by 5 percent.

3. The retired pay of Philippine Scouts also was authorized to be recomputed on the basis of the rates of basic pay so established and that amount, in turn, further increased by the same percentage of increase in retired pay as that provided by section 5(a) of the Act of August 21, 1965 (reference (ad)). Future adjustments of retired pay of Philippine Scouts will be made to reflect changes in the Consumer Price Index as provided by 10 U.S.C. 1401a (reference (c)).

0107 HEROISM PAY

010701. Entitlement

A. Service Retirement. Enlisted members of the Army, Air Force, Navy, and Marine Corps retired after the completion of 20 but less than 30 years of active service are eligible to receive 10 percent additional retired or retainer pay if credited with extraordinary heroism in the line of duty. Total retired pay, including the 10 percent increases, may not exceed maximum pay of 75 percent. Enlisted members of the Coast Guard retired after completion of 20 years, voluntarily or involuntarily, are eligible to have retired pay increased by an amount equal to 10 percent of the active duty pay and permanent additions thereto of the grade or rating with which retired if credited with extraordinary heroism in the line of duty. See Chapter 2 for transfer of Navy and Marine Corps enlisted members to the Fleet Reserve and Fleet Marine Corps Reserve.

B. Disability Retirement. Enlisted members retired for disability who otherwise are eligible for voluntary retirement for more than 20 years of service and entitled to a 10 percent increase in pay for certified acts of extraordinary heroism are entitled to an additional computation under the computation for a length of service retirement. Payment is based on the most favorable computation.

010702. Determination of Entitlement. The Secretary of the Military Department concerned has the authority to grant 10 percent additional retired pay to an individual who has performed an act of extraordinary heroism in the line of duty.

010703. Special Provisions

A. Advancement on the Retired List. Retired enlisted members of the Regular Army or Air Force receiving the 10 percent additional increase in pay for extraordinary heroism are not entitled to the 10 percent increase when advanced to a higher grade on the completion of 30 years of service. See Chapter 9 of this volume.

B. Recomputation After a Period of Active Duty

1. Retired enlisted members of the Army and Air Force are entitled to the 10 percent increase in retired pay for extraordinary heroism when pay is recomputed to reflect active service performed after date of retirement. The retired pay may not exceed 75 percent of the monthly basic pay upon which retired pay is based. Regardless of when the member's retired pay was recomputed, benefits shall not accrue under this provision for any period prior to November 1, 1992.

2. Enlisted members of the Navy and Marine Corps who elected to receive retainer or retired pay computed under laws in effect on August 9, 1945, are not entitled to the 10 percent increase in their pay for extraordinary heroism when that pay is recomputed to reflect active service performed after date of transfer or retirement.

3. Enlisted members of the Navy and Marine Corps who elected to receive retainer or retired pay computed under the Act of August 10, 1946 (reference (ae)) and 10 U.S.C. 6330 and 6331 (reference (c)) are entitled to the 10 percent increase in their pay for extraordinary heroism on and after August 10, 1956, when that pay recomputed to reflect active service performed after date of transfer or retirement.

0108 PAYMENT

010801. Effective Date of Payment. Pay accrues on a day-to-day basis from and including the date on which retirement is effective, except members who are transferred to the Fleet Reserve/Fleet Marine Corps Reserve. These members become entitled to pay on the day after the date of transfer.

A. Service Retirement. Except as otherwise provided by law, the effective date of retirement eligibility is the first day of the month after the month in which service requirements are fully met.

B. Disability Retirement. Placement on the Temporary and Permanent Disability Retired Lists may become effective on any day of the month as specified by the Secretary of the Military Service concerned.

C. Mandatory Retirement for Age and Service. Members attaining age and/or service requirements for involuntary retirements are retained on active duty through the last day of the month in which age or service requirements are met.

D. Non-Regular Service Retirement. Reservists are entitled to pay effective on the date on which the requirements for age and service have been met, or on the first day of any later month that the retiree may elect.

010802. Revocation of Retirement and/or Transfers

A. A member who is placed on the retired list is legally retired and such status cannot thereafter be changed retrospectively because of a mistake or poor judgment on the part of the retiring authorities. Fully executed orders for retirement, if not cancelled before the date of retirement, are final and may not be reopened, revoked, or amended in the absence of fraud, manifest error, mathematical miscalculation, mistake of law, or substantial new evidence.

B. Transfer of members to the Fleet Reserve/Fleet Marine Corps Reserve and to the retired list of the Regular Navy or Marine Corps or the Retired Reserve is conclusive for all purposes. The Secretary may correct any error or omission in the determination as to the member's grade and years of creditable service.

C. Payment of active duty pay and allowances may be permitted after the first of the month in which retirement is effective until retirement orders are actually delivered to member later in the same month, provided prior notice of retirement orders had not been received.

D. Where advance notice of retirement orders is given, but orders are not delivered, an attempt may be made to revoke them after they become effective and replace them with orders directing retirement at a later date. When it is apparent that the member had no knowledge of the lack of legal authority for this action and active duty pay and allowances were received "under color of authority," the "de facto rule" permits repayment of active duty pay and allowances paid for the period and later collected.

010803. Computation

A. Monthly Pay. Compute monthly pay as if each month had 30 days. The daily rate is 1/30 of the monthly rate.

B. Intermediate Day. When retirement begins on an intermediate day of the month, compute pay at the rate of 1/30 for the actual number of days after date of retirement but only through the 30th day of that month. If pay begins on February 28, pay accrues for 3 days. If the pay begins on February 29, pay accrues for 2 days.

VOLUNTARY RETIREMENT						
RULE	A A person who is	B of the	C and years of service total	D including at least	E may retire under 10 U.S.C.	F with retired pay computed under Table 3-1
1	an enlisted member	Army	20 (note 1)		3914	rule 4.
2		Air Force			8914	
3	a Regular enlisted member	Army	30		3917	rule 4.
4		Air Force			8917	rule 4.
5	a commissioned officer	Army	20 (note 2)	10 years of active commissioned service	3911	rule 5.
6		Air Force			8911	rule 5.
7		Army	30 (note 2)		3918	rule 5.
8		Air Force			8918	rule 5.
9		Army	40 (note 2)		3924	rule 5.
10		Air Force			8924	rule 5.
11	a warrant officer	Armed Forces	20 (note 3)		1293	rule 3.
12		Army	40 (note 3)		3924	rule 5.
13		Air Force			8924	rule 5.
14	a Regular officer W-1 and above	Navy or Marine Corps Reserve	40 (note 2)		6321	rule 6.
15			30 (note 2)		6322	rule 7.
16			20 (note 2)	10 years of active commissioned service	6323 (note 4)	rule 6.

Table 1-1. Voluntary Retirement

RULE	A A person who is	B of the	C and years of service total	D including at least	E may retire under 10 U.S.C.	F with retired pay computed under Table 3-1
17	a Regular enlisted member (note 5)	Navy or Marine Corps Reserve	30 (note 1)		6326	rule 7.
18	an officer or enlisted member		30 (note 2)		6327 (note 6)	rule 8.
19			20 (note 2)	10 years of active service served in the 11 years immediately before retirement		

NOTES:

1. Paragraph 010102 (10 U.S.C. 3683 (repealed), 3925, 8683 (repealed), and 8925). Under Temporary Early Retirement Authority, the Secretary of the Military Department concerned may reduce the 20 years of creditable service requirement to 15 years of creditable service.
2. Paragraph 010103 (10 U.S.C. 3926, 6321, 6323, and 8926). Under Temporary Early Retirement Authority, the Secretary of the Military Department concerned may reduce the 20 years of creditable service requirement to 15 years of creditable service.
3. Paragraph 010104 (CCA 1949, section 511; 10 U.S.C. 6321 and 6322). Under Temporary Early Retirement Authority, the Secretary of the Military Department concerned may reduce the 20 years of creditable service requirement to 15 years of creditable service.
4. Members mandatorily retired under Public Law 86-155 thereafter are considered as having retired voluntarily pursuant to 10 U.S.C.. 6323. See section 3, Public Law 86-155. No officers processed under Public Law 86-155 after June 1, 1966.
5. Including Regular enlisted members holding temporary appointment as commissioned officer or warrant officer.
6. Section 6327 expired on January 1, 1973.

Table 1-1. Voluntary Retirement (Continued)

MANDATORY RETIREMENT - COMMISSIONED OFFICERS AND WARRANT OFFICERS

RULE	A	B	C	D	E	F				G
	A person who is a	and has at least	who holds the Regular grade of	and time in grade is	and is age	is retired by Secretary of the Military Department concerned under 10 U.S.C.				with retired pay computed under Table 3-1
						Army	Air Force	Navy or Marine Corps	Armed Forces	
1	Regular commis-sioned officer of the Army or Air Force		Below Maj Gen (note 1)		60	3883 (note 22)	8883 (note 22)			rule 10 or 12.
2					62 (note 23)	1251	1251	1251	1251	rule 9.
3		35 years (note 2)	Maj Gen	5 years	60	3884 (note 22)	8884 (note 22)			rule 10 or 12.
4					62	3885 (note 22)	8885 (note 22)			
5					64	3886 (note 22)	8886 (note 22)			
6		20 years (note 2)	any grade (note 3)			3913 (note 22)	8913 (note 22)			
7		28 years (note 2)	Lt Col (note 4)			3916 (note 22)	8916 (note 22)			

Table 1-2. Mandatory Retirement - Commissioned Officers and Warrant Officers

RULE	A	B	C	D	E	F				G
	A person who is a	and has at least	who holds the Regular grade of	and time in grade is	and is age	is retired by Secretary of the Military Department concerned under 10 U.S.C.				with retired pay computed under Table 3-1
						Army	Air Force	Navy or Marine Corps	Armed Forces	
8	Regular commissioned officer of the Army or Air Force	30 years (note 2)	any grade (note 5)	5 years		3919 (note 22)	8919 (note 22)			rule 10 or 12
9			Col (note 6)			3921 (note 22)	8921 (note 22)			
10			Brig Gen			3922 (note 22)	8922 (note 22)			
11			Maj Gen			3923 (note 22)	8923 (note 22)			
12	Regular officer of the Navy or Marine Corps	35 years of total commissioned service (note 2)	Rear Adm (notes 7 & 8)					6371 (notes 18 and 22)		rule 11.
13			Rear Adm (notes 8 & 9)	7 years				6372 (notes 19 and 22)		
14			Maj Gen (notes 8 & 10)	5 years				6373 (note 22)		

Table 1-2. Mandatory Retirement - Commissioned Officers and Warrant Officers (Continued)

RULE	A A Person who is a	B and has at least	C who holds the Regular grade of	D and time in grade is	E and is age	F is retired by Secretary of the Military Department concerned under 10 U.S.C.				G With retired pay computed under Table 3-1
						Army	Air Force	Navy or Marine Corps	Armed Forces	
15	Regular officer of the Navy or Marine Corps	35 years of commissioned service (note 2)	Rear Admiral (Navy) - Brig Gen (USMC) (note 7)					6374 (note 22)		rule 11
16			Rear Admiral (Navy) Brig Gen (USMC) (notes 8 & 10)	5 years				6375 (note 24)		
17		30 years of total commissioned service (note 2)	Capt (Navy) Col (USMC) (notes 7 & 11)					6376 (note 22)		
18		31 years of total commissioned service (note 2)	Capt (Navy) Col (USMC) (notes 8 & 12)							
19		30 years of total commissioned service (note 2)	Capt (Navy) Col (USMC) (notes 9 & 11)					6377 (notes 20 & 22)		

Table 1-2. Mandatory Retirement - Commissioned Officers and Warrant Officers (Continued)

RULE	A A person who is a	B and has at least	C who holds the Regular grade of	D and time in grade is	E and is age	F is retired by Secretary of the Military Department concerned under 10 U.S.C.				G With Retired pay computed under Table 3-1
						Army	Air Force	Navy or Marine Corps	Armed Forces	
20	Regular officer of the Navy or Marine Corps	31 years of total commissioned service (note 2)	Capt (Navy) Col (USMC) (notes 8, 9, & 12)					6377 (notes 20 & 22)		rule 11.
21		26 years (note 2)	Commander (Nurse Corps) (notes 8, 9, & 11)							
22		35 years (note 2)	Capt (Navy) Commander (Nurse Corps) (notes 5 & 9)		62			6378 (notes 21 & 22)		
23		26 years of total commissioned service (note 2)	Commander Lt Col (note 11)					6379 (note 22)		
24		20 years of total commissioned service (note 2)	Lt Commander Major (note 11)					6380 (note 22)		

Table 1-2. Mandatory Retirement - Commissioned Officers and Warrant Officers (Continued)

RULE	A	B	C	D	E	F				G
	A person who is a	and has at least	who holds the Regular grade of	and time in grade is	and is age	is retired by Secretary of the Military Department concerned under 10 U.S.C.				with retired pay computed under Table 3-1
						Army	Air Force	Navy or Marine Corps	Armed Forces	
25	Regular officer of the Navy or Marine Corps	30 years of active naval service	any grade (note 13)					6383		rule 11.
26			Lt Commander, Major (notes 11 & 13)							
27			Any grade below Fleet Adm		62			6390 (note 22)		
28			Rear Admiral Maj Gen and Brig Gen					6394 (note 22)		
29		20 years of active commissioned service (note 2)	Lt Comdr and below (Nurse Corps)					6396 (note 22)		

Table 1-2. Mandatory Retirement - Commissioned Officers and Warrant Officers (Continued)

RULE	A	B	C	D	E	F				G
	A person who is a	and has at least	who holds the Regular grade of	and time in grade is	and is age	is retired by Secretary of the Millitary Department concerned under 10 U.S.C.				with retired pay computed under Table 3-1
						Army	Air Force	Navy or Marine Corps	Armed Forces	
30	Female Regular officer of the Navy or Marine Corps	26 years of active commissioned service	Comdr Lt Col (USMC)					6398 (note 22)		rule 11.
31		30 years of active commissioned service	Captain Col (USMC) (note 14)							
32		20 years of active commissioned service	Lt Comdr Maj (note 3) and below					6400 (note 22)		
33	Commissioned officer of the Army	30 years of commissioned service (note 17)	permanent professor, USMA			3920				rule 10.
34	Commissioned officer of the Air Force		permanent professor, USAFA				8920			rule 12.

Table 1-2. Mandatory Retirement - Commissioned Officers and Warrant Officers (Continued)

RULE	A A Person who is a	B and has at least	C who holds the Regular grade of	D and time in grade is	E and is age	F is retired by Secretary of the Military Department concerned under 10 U.S.C.				G with retired pay computed under Table 3-1
						Army	Air Force	Navy or Marine Corps	Armed Forces	
35	Commissioned officer of the Army, Air Force	30 years of commissioned service (note 17)	Permanent professor, USMA or USAFA		64	1251	1251			rule 9.
36	Permanent Regular warrant officer of the Armed Forces	20 years (note 15)	WO1, WO2, and WO3 (note 11)						0564 (repealed), 580	
37			WO1, WO2, WO3, and WO4		55 (note 16)				1255 (repealed)	
38					62				1263	
39		30 years of service							1305	

Table 1-2. Mandatory Retirement - Commissioned Officers and Warrant Officers (Continued)

RULE	A	B	C	D	E	F				G
	A Person who is a	and has at least	who holds the Regular grade of	and time in grade is	and is age	is retired by Secretary concerned under 10 U.S.C.				with retired pay computed under Table 3-1
						Army	Air Force	Navy or Marine Corps	Armed Forces	
40	Regular officer of the Army, Air Force, Marine Corps, or Navy	28 years of commissioned service	Lt Col, Commander (Navy)			633	633	633	633	rule 9.
41		30 years of commissioned service	Col, Capt (Navy)			634	634	634	634	
42			Brig Gen Rear Adm (Navy)	5 years		635	635	635	635	
43		35 years of commissioned service	Maj Gen Rear Adm (Navy)			636	636	636	636	
★44		*38 years commissioned service*	*Lt General, Vice Admiral (Navy)*	*5 years*		*636*	*636*	*636*	*636*	
★45		*40 years commissioned service*	*General, Admiral (Navy)*	*5 years*						

★Table 1-2. Mandatory Retirement - Commissioned Officers and Warrant Officers (Continued) (IC 13-99)

NOTES:

1. Except professor or registrar of United States Military Academy or Air Force Academy.
2. Army or Air Force - Service under paragraph 010105 (10 U.S.C. 3927, 8927 were repealed by Public Law 96-513).
3. Not recommended for promotion.
4. Promotion list lieutenant colonel.
5. Excessive number in any grade.
6. Promotion list colonel.
7. Not restricted in performance of duty.
8. Not recommended for continuation on active duty.
9. Restricted in performance of duty.
10. Serving as Commandant of Marine Corps.
11. Twice failed of selection for promotion to next higher grade not on promotion list.
12. Not on promotion list. Retirement subject to completion of 5 years of service in grade.
13. Designated for limited duty.
14. Except women officers on promotion list or serving as assistant to Chief of Naval Personnel with rank of captain, or assistant to Commandant of Marine Corps with rank of colonel.
15. Service computed under paragraph 010104.
16. Female regular warrant officer. This statute was repealed by Public Law 90-130, November 8, 1967 (81 Stat. 374).
17. Service computed under paragraph 010103.
18. Section 6371 suspended by Executive Order 11284, May 27, 1966.
19. Section 6372 suspended by Executive Order 11436, December 2, 1968.
20. Section 6377(c) repealed by Public Law 90-130, November 8, 1967.
21. Any Navy captain or commander who will complete 35 years of total commissioned service or who will become age 62 in the fiscal year in which the selection board is convened is ineligible for consideration for retention.
22. Sections repealed by Public Law 96-513, December 12, 1980, effective September 15, 1981.
23. Except a permanent professor, Director of Admissions, or Registrar of United States Military Academy or United States Air Force Academy or a commissioned warrant officer, effective September 15, 1981.
24. Section 6375 was repealed by Public Law 87-123, August 3, 1961.

Table 1-2. Mandatory Retirement - Commissioned Officers and Warrant Officers (Continued)

DISABILITY RETIREMENT

RULE	A A person who is	B of the	C ordered to active duty for	D and is determined	E may retire under 10 U.S.C.	F with retired pay computed under Table 3-1
1	An enlisted member, warrant officer, or commissioned officer	Armed Forces entitled to basic pay	30 days or less (note 1)	Unfit to perform duties of his or her office, grade, rank, or rating because of physical disability (note 2)	1204	rule 1.
2					1205	rule 2.
3			more than 30 days (note 1)		1201	rule 1.
4					1202	rule 2.

NOTES:
1. Paragraph 010107 (10 U.S.C. 1208).
2. Disability rating must be at least 30 percent unless the member has 20 years of service (10 U.S.C. 1201, 1202, 1204, 1205).

Table 1-3. Disability Retirement

AGE AND SERVICE, NON-REGULAR RETIREMENT						
	A	B	C	D	E	F
RULE	A person who is	of the	and has at least	and is age	may retire under	with retired pay computed under
1	An enlisted member, warrant officer, or commissioned officer	Armed Forces, Reserve, or National Guard (note 1)	20 years of service (note 2)	60	10 U.S.C. 12731 (note 3)	Table 3-1, rule 13.

NOTES:

★1. *Who performed last 8 years (6 years during the period beginning on October 5, 1994, and ending on September 30, 2001) of qualifying service as a member of a Reserve Component. (IC-14-99)*

2. Paragraph 010108 (10 U.S.C. Sec 12732). Under Temporary Early Retirement Authority, the Secretary concerned may reduce the 20 years of satisfactory service requirement to 15 years of creditable service for retirement under 10 U.S.C. 12731a.

3. Not entitled to retired or retainer pay under any other provision of law.

★*Table 1-4. Age and Service, Non-Regular Retirement (IC 14-99)*

SERVICE AS CADET OR MIDSHIPMAN-OFFICERS-FOR BASIC PAY PURPOSES				
	A	B	C	D
RULE	When a member currently serving as an officer has had service as a cadet or midshipman in	to which appointed	and	the period involved is
1	any of the military academies		held no concurrent enlisted and/or Reserve status	not creditable.
2		after June 25, 1956	enlistment contract or period of obligated service was not terminated	
3		as a permanent midshipman before Jun 26, 1956		creditable.
4			concurrently retained a commission or warrant in the Army or Air Force Reserve	
5		on or after January 1, 1953	concurrently held an enlisted status in the Army or Air Force Reserve	
6		before June 26, 1956		
7		on or after January 1, 1953 and before June 26, 1956	concurrently held an enlisted status in the Naval Reserve	
8		as a temporary midshipman, Naval Reservist, before June 16, 1956		
9	an aviation cadet program	in the appointive grade of aviation cadet	performed active service	
10		as an enlisted aviation cadet on or after June 3, 1941		
11	a United States Merchant Marine or State Maritime Academy	under the Naval Reserve Act of 1938	concurrently held an inactive Naval Reserve status	not creditable.
12	NROTC program	as a temporary midshipman before June 26, 1956	concurrently held a Reserve status in a Uniformed Service	creditable through October 12, 1964.
13		as a contract student		
14	AROTC and AFROTC program	before October 13, 1964		

Table 1-5. Service as Cadet or Midshipman-Officers-For Basic Pay Purposes

ABSENCE FROM DUTY IN ENLISTED STATUS			
RULE	A When absence is	B and	C the period of absence is
1	Authorized leave or authorized excess leave		creditable.
2	Unauthorized absence of more than 1 day (24 consecutive hours), including detention of Army or Air Force members by or for civil authorities	is administratively excused as unavoidable	
3		is not administratively excused as unavoidable	not creditable (note 2).
4	Civil detention of a Navy or Marine Corps member	Occurred before July 24, 1956, and the member was not acquitted or released without trial and without making restitution	
5		Occurred on or after July 24, 1956, and the member was absent under sentence or awaiting (and during) trial which resulted in conviction (note 1)	
6	Inability to perform duty for more than 1 day (24 consecutive hours) because of intemperate use of alcohol or drugs, or disease or injury resulting from misconduct		
7	Desertion		
8	Because of confinement for more than 1 day (24 consecutive hours) while awaiting trial (if the trial results in conviction) or confinement as the result of a court-martial sentence (note 4)	Member was a member of the Army or Air Force	
9	Absence of a Navy or Marine Corps member because of confinement of more than 1 day (24 consecutive hours) while awaiting trial (if the trial results in conviction) or confinement as the result of a court-martial sentence	Confinement occurred on or after July 24, 1956 (note 4)	
10		Confinement occurred before July 24, 1956	creditable (note 3).

NOTES:

1. If the member is released without trial or acquitted, or if conviction is set aside on legal grounds (as distinguished from clemency), the period of absence is creditable. If the member is released upon agreement to make restitution or is later convicted by court-martial on the same facts, the period of absence is not creditable.
2. Absence during which a member was serving on active duty as an enlisted person and was also a reserve officer is creditable.
3. The period of absence is not creditable only if the confinement was under general court-martial sentence and/or while awaiting (and during) trial which resulted in sentence by a general court-martial to confinement and total loss of pay and allowances.
4. Period spent in confinement is creditable service when the member is acquitted or the sentence is set aside or disapproved.

Table 1-6. Absence From Duty in Enlisted Status

RATE OF BASIC PAY FOR RETIRED PAY COMPUTATION (5 U.S.C. 8301(b))(Note 7)					
RULE	A	B	C	D	E
	A member who	and is	who fully qualified or met requirements to be retired	and retirement is	may compute pay using active duty basic pay rates in effect on
1	retires on other than the first day of an active duty basic pay rate change	an enlisted member, warrant officer, or commissioned officer	at any time	voluntary, mandatory, disability, Reservist (age and service)	the first day of retirement (notes 1, 2, and 3).
2	retires on the first day of an active duty basic pay rate change	an enlisted member (note 4)		voluntary	the first day of retirement (notes 1 and 2).
3		a warrant officer			the day before the first day of retirement (notes 1, 2, and 3).
4		a commissioned officer	before the month immediately preceding the active duty basic pay rate change date (note 5)		the first day of retirement (notes 1 and 2).
5			at any time prior to the active duty basic pay rate change date	voluntary (note 5)	
6			during the month immediately preceding the active duty basic pay rate change date	voluntary	the day before the first day of retirement (notes 1 and 2).
7		a warrant officer	any time	mandatory	
8		a commissioned officer			
9		an enlisted member, warrant officer, or commissioned officer	during the month immediately preceding the active duty basic pay rate change date without Secretarial action designating an earlier retirement date	disability (note 6)	the day before the first day of retirement (note 1).
10			any time	Reservist (age and service)	the date the member is granted retired pay (note 1).

Table 1-7. Rate of Basic Pay for Retired Pay Computation (5 U.S.C. 8301(b))

NOTES:

1. Under former section 10 U.S.C.1401a(e) (repealed by Public Law 98-94, September 24, 1983), a member may use one prior rate of basic pay if more advantageous to the member provided the member is eligible for retirement on or before September 24, 1983, and retires on or before September 24, 1986. If such member retires after September 24, 1986, the retired or retainer pay may not be less than it would have been had the member actually retired on September 23, 1986.
2. For members who qualify for retirement on an earlier computation date under the same or some other provision of law, compute under rates in effect on that earlier date based on grade and service credited at that time, if that rate is greater (10 U.S.C. 1401a(f)).
3. Warrant officers voluntarily retired (10 U.S.C. 1401, formula 4).
4. Not applicable to Navy and Marine Corps enlisted members transferred to the Fleet Reserve or Fleet Marine Corps Reserve.
5. Applicable only to retirements under 10 U.S.C. 6323.
6. If otherwise retirement eligible, follow rule for that retirement.
7. A retired pay base is used in lieu of a basic pay rate in the computation of retired pay for members who enter the Uniformed Services after September 7, 1980.

Table 1-7. Rate of Basic Pay for Retired Pay Computation (5 U.S.C. 8301(b)) (Continued)

Chapter 01-Initial Entitlements-Retirements

0101-Service Creditable for Retirement Purposes

	010101	Public Law 101-510, section 523, Nov 5, 1990 Public Law 103-160, section 561, Nov 30, 1993
★	010101.A	Public Law 102-484, section 4403, Oct 23, 1992 Public Law 105-261, section 561(a), (e) Oct 17, 1998 Public Law 101-510, section 523, Nov 5, 1990
	010102	10 U.S.C. 3925, 3683, 8925, 8683, 1043
	★010102.F	MS Comp Gen B-195448, Apr 3, 1980
	010103	10 U.S.C. 3926, 8926, 6321, 6323, 1043
	010104	Section 511, CCA of 1949 Public Law 81-351, Oct 12, 1949 10 U.S.C. 1293, 1305, 6321, 6322, 1043
	010105	10 U.S.C. 8927, 8286, 8294 10 U.S.C. 3927, 3286, 3294, 532
	010106	10 U.S.C. 6387, 6388
	010107	10 U.S.C. 1208, 1043, 12732, 12733
★	*010107.B.3*	*Public Law 104-201, section 531, 543, Sep 23, 1996*
★	*010108*	*10 U.S.C. 12731, 12732, 12733, 1043*
★	*010108.A.2*	*Public Law 104-201, section 531, Sep 23, 1996*
★	*010108.A.2.e*	*Public Law 104-201, section 543, Sep 23, 1996*
★	*010108.B.3*	*Public Law 103-337, section 636, Oct 5, 1994*

		Public Law 105-261, section 561(n), Oct 17, 1998
		10 U.S.C. 12731(f)
	010108.C.2	10 U.S.C. 12738
		58 Comp Gen 390
★	*010108.E*	*Public Law 102-484, section 4417, Oct 23 1992*
		Public Law 105-261, section 561(n), Oct 17, 1998
		10 U.S.C. 12731a
	010109.A.4	10 U.S.C. 972

0102-Service Creditable for Basic Pay

	010201	37 U.S.C. 205
	010201.B	27 Comp Gen 530
	010201.C	37 U.S.C. 205(a)(5)
		24 Comp Gen 829
		25 Comp Gen 680
	010201.D	37 U.S.C. 205(a)(6)
	010201.E & F	37 U.S.C. 205(a)(9)
	010201.G	10 U.S.C. 1038
	010201.H	62 Stat 1082
	010201.I	10 U.S.C. 507
	010201.J	37 U.S.C. 205(d)
	010201.K	37 Comp Gen 838
	010201.L	Public Law 86-197, Aug 25, 1959
	010201.M	Public Law 77-230, section 3, Aug 21, 1941
	010201.O	1 Comp Gen 668
	010201.P	45 Comp Gen 149
	010201.Q	42 Comp Gen 296
	010201.R	37 U.S.C. 205(e)
		10 U.S.C. 2106(c), 2107(g)
		45 Comp Gen 103
	010201.T	Public Law 93-545, Dec 26, 1974
		36 Comp Gen 146
		37 Comp Gen 237
	010201.U	37 U.S.C. 205

		OASD(MI&L) Memo, Dec 24, 1984
	010202.A	37 U.S.C. 205(a)(7)
	010202.B	37 U.S.C. 205(a)(8)
	010202.B.4	Public Law 96-513, Dec 12, 1980
	010202.C.4	10 U.S.C. 2126
	010203.A	1 Comp Gen 511
		1 Comp Gen 668
		3 Comp Gen 61
	010203.B	22 Comp Gen 987
	010203.C	25 Comp Gen 718
	010203.F	37 U.S.C. 205(e)
		45 Comp Gen 103
	010203.G	22 Comp Gen 907
		23 Comp Gen 755
	010204.A	38 Comp Gen 352
		38 Comp Gen 553
	010205.A	38 Comp Gen 68
	010205.A.3	37 U.S.C. 203(d)
	010205.B	37 U.S.C. 203(d)
	010205.B.2	38 Comp Gen 68
	010205.B.3	38 Comp Gen 497
	010206.A.1	38 Comp Gen 824
	010206.A.2	37 Comp Gen 455

0103-Service Creditable for Percentage Purposes

	010301.A	10 U.S.C. 3914, 3917, 3925, 6326, 8914, 8917, 8925
	010301.B	10 U.S.C. 1405, 12733, 12732(1), (2)(B) and (C), 3911, 8911, 6321, 6322, 6323, 3918, 8918, 3924, 8924, 3920, 8920
		37 U.S.C 205(a)(7) and (8)
		MS Comp Gen B-195855, Apr 1, 1980
	010301.B.2.b	54 Comp Gen 675
★	*010301.B.4.c*	*Public Law 104-201, section 531, 543, Sep 23, 1996*
	010301.C	10 U.S.C. 1405

	010301.D.1	10 U.S.C. 3927, 8927, 1405
	010301.D.2	10 U.S.C. 6387, 6388, 1405
	010301.E	10 U.S.C. 1208
	010301.F	10 U.S.C. 12733
	010301.G.1	Public Law 80-810, June 29, 1948 10 U.S.C. 1405
	010301.G.2	Act June 16, 1942, section 15(d) Public Law 77-607 as amended
	010301.G.3	Public Law 79-474, June 29, 1946
	010301.G.4	Public Law 81-351, section 511, Oct 12, 1949

0104-Uniform Retirement Date Act Application

	010401.B	5 U.S.C. 8301 Public Law 96-342, Sep 8, 1980
	010402.A.2.b	44 Comp Gen 373, 584 40 Comp Gen 80
	010402.B.1	43 Comp Gen 742
	010402.B.2.a	48 Comp Gen 239 53 Comp Gen 135
	010402.B.2.b	44 Comp Gen 373, 584 56 Comp Gen 98 MS Comp Gen B-168303, Jan 14, 1970
	010402.E	10 U.S.C. 12739

0105-Rank and Pay Grade

	010501.A	10 U.S.C. 3961, 8961
★	*010501.B*	*10 U.S.C. 1370* *Public Law 96-513, section 629, Dec 12, 1980* *Public Law 101-510, section 522, Nov 5, 1990* *Public Law 105-261, section 561(d), Oct 17, 1998*
★	*01050.C*	*10 U.S.C. 1370(b)*

		40 Comp Gen 240
★	*010501.D*	*10 U.S.C. 1370(c)*
	010501.E	10 U.S.C. 1370(d)
★	*010501.E.3.d*	*Public Law 105-261, section 512, Oct 17, 1998*
★	*010501.E.3.e*	*Public Law 105-261, section 513, Oct 17, 1998*
★	*010501.E.5*	*Public Law 105-261, section 561(o), Oct 17, 1998*
	010501.F	10 U.S.C. 1372 40 Comp Gen 240
	010501.F.3	Public Law 104-201, section 577, Sep 23, 1996
★	*010501.F.4*	*Public Law 104-201, section 577, Sep 23, 1996*
	010502.A	10 U.S.C. 1370(c)
★	*010502.A.1-4*	*10 U.S.C. 1406(i)*
★	*010502.A.5*	*10 U.S.C. 601*
★	*010502.A.7*	*10 U.S.C. 601*
	010502.A.8	10 U.S.C. 3962, 8962
★	*010502.A.9*	*10 U.S.C. 1406(i)*
	010502.A.10	10 U.S.C. 5133
★	*010502.A.11*	*10 U.S.C. 601*
	010502.C.3	10 U.S.C. 3963, 8963
	010502.D.2	49 Comp Gen 618
	010502.E	10 U.S.C. 3963, 8963
	010502.F	10 U.S.C. 6325, 6321, 6322
	010502.G	10 U.S.C. 601, 602, 603, 6325
	010502.H	10 U.S.C. 6325, 6321, 6322, 6323
	010502.I	10 U.S.C. 6151
	010502.K	10 U.S.C. 3963(a), 8963(a)
	010502.L	Public Law 96-342, Sep 8, 1980
	010503	10 U.S.C. 3961, 8961, 3962, 8962, 3963, 8963, 3964, 8964 10 U.S.C. 6151, 6321, 6322, 6323, 6325 1964, 167 Ct. Cl. 80 1962, 148 Ct. Cl. 411

		1967, 179 Ct. Cl. 425 10 U.S.C. 1371 and 1401, Formula 2
0106-Noncitizens		
	010601	Section 36, Act of Feb 2, 1901, 31 Stat 757 Act of May 16, 1908
	010601.A	Section 11, Act of June 16, 1942, 56 Stat 365 Section 507(a), Act of Oct 12, 1949, 63 Stat 828
	010601.B	Act of Feb 2, 1901, 31 Stat 575 Section 22a, Act of June 4, 1920, 41 Stat 770
	010602	E.O. Apr 5, 1901 and June 25, 1901
	010603.A & B	Act of Oct 12, 1949, 63 Stat 828
	010603.C.3	CCA 1949, Section 507(a) 63 Stat 828 Military Pay Act of 1958, 72 Stat 122 General Order #22, June 22, 1965
0107-Heroism Pay		
	010701.A	10 U.S.C. 8991 10 U.S.C. 6330 10 U.S.C. 3991 14 U.S.C. 357
	010701.B	55 Comp Gen 701 43 Comp Gen 805 56 Comp Gen 740 MS Comp Gen B-259559, June 6, 1995

	010703.A	10 U.S.C. 3992 10 U.S.C. 8992
	010703.B.1	10 U.S.C. 1402 Public Law 102-484, section 642, Oct 23, 1992
	010703.B.2 & 3	41 Comp Gen 22
0108-Payment		
	010801.A	5 U.S.C. 8301
	010801.B	10 U.S.C. 1221
	010801.D	10 U.S.C. 12731, 6034 38 Comp Gen 146 48 Comp Gen 652
	010802.A	31 Comp Gen 296 32 Comp Gen 558, 559
	010802.B	10 U.S.C. 6332
	010802.C & D	39 Comp Gen 312
	010803.A	5 U.S.C. 5505
	010803.B	5 U.S.C. 5505 20 Comp Gen 772 4 Comp Gen 757 5 Comp Gen 935 10 Comp Gen 11
	Table 1-1 Notes 1, 2, 3	Public Law 102-484, section 4403, Oct 23, 1992 Public Law 103-160, section 561, Nov 30, 1993
★	*Table 1-4,* *Note 1*	*10 U.S.C. 12731(f)* *Public Law 103-337,* *section 636, Oct 5, 1994* *Public Law 105-261,* *section 561(n),* *Oct 17, 1998*
	Note 2	*10 U.S.C. 12731(a)* *Public Law 102-484* *section 4417, Oct 23, 1992* *Public Law 105-261,* *section 561(n)* *Oct 17, 1998*
	Table 1-7, Note 7	Public Law 96-342, Sep 8, 1990

SUMMARY OF MAJOR CHANGES TO CHAPTER 02
DOD 7000.14-R, VOLUME 7B
MILITARY PAY POLICY AND PROCEDURES FOR RETIRED PAY

New and revised instructions are indicated by a star placed immediately before the new or revised section, paragraph, subparagraph, decision logic table, etc.

Page	Paragraph	Explanation of Change/Revision	Effective Date
		No ICs have been issued to this chapter.	

CHAPTER 2

INITIAL ENTITLEMENT-FLEET RESERVE/ FLEET MARINE CORPS RESERVE

0201 GENERAL

020101. Purpose

A. The Fleet Reserve and Fleet Marine Corps Reserve were established to provide an available reserve of former members of the Regular Navy or Naval Reserve and the Regular Marine Corps or Marine Corps Reserve who could be used without further training to fill billets requiring experienced personnel in the first stages of mobilization during an emergency or in time of war.

B. When not on active duty, members of the Fleet Reserve and Fleet Marine Corps Reserve may accept employment in any civil branch of the public service and may receive the pay and allowances incident to such employment in addition to any pay and allowances to which they may be entitled under the provisions of law.

C. Members of the Fleet Reserve and Fleet Marine Corps Reserve may be ordered to active duty without their consent:

1. In time of war or national emergency declared by the Congress and for 6 months thereafter.

2. In time of national emergency declared by the President or when otherwise authorized by law. Members of the Fleet Reserve and Fleet Marine Corps Reserve are not, unless urgently required by particular circumstances, ordered to active duty until examined by a medical officer of the Navy or Naval Reserve and found physically qualified for active duty.

3. When otherwise authorized by law.

D. In time of peace, any member of the Fleet Reserve or Fleet Marine Corps Reserve may be required to perform not more than 2 months active duty for training during each 4-year period.

020102. Retirement for Physical Disability. A member of the Fleet Reserve or Fleet Marine Corps Reserve found physically unfit for duty is transferred to the Regular retired list or Reserve retired list of the Navy or Marine Corps, as appropriate. Such retirement is by reason of physical disability.

020103. Retirement After 30 Years of Service. On completion of 30 years of active and inactive service, a member of the Fleet Reserve or Fleet Marine Corps Reserve is transferred to either

the Regular retired list or the Reserve retired list of the Navy or Marine Corps, as appropriate. On being placed on the retired list, a member may be advanced to the highest officer grade in which the member served satisfactorily under a temporary appointment with retired pay based on that grade. See Chapter 9, for advancement on the retired list.

0202 TRANSFER ELIGIBILITY-SERVICE FOR PERCENTAGE MULTIPLE PURPOSES

020201. Minimum Required Service. Enlisted members of the regular Navy and regular Marine Corps or the Naval Reserve and Marine Corps Reserve upon completion of at least 20 years of active service in the Armed Forces to include service as a cadet or midshipman are eligible for transfer to the Fleet Reserve or Fleet Marine Corps Reserve as specified below: [ERIC, this sentence needs to be completed--I've taken a stab at it, but you may have a better solution.]

A. Prior to December 31, 1977, a member became eligible for transfer upon completion of 19 years and 6 months of active service since that part of a year that is 6 months or more was creditable as a whole year.

B. On and after December 31, 1977, a member must complete a total of 20 years of active service to be eligible for transfer to the Fleet Reserve or Fleet Marine Corps Reserve. Time creditable as active service for a completed minority enlistment, and an enlistment terminated within 3 months before the end of the term of enlistment under 10 U.S.C. 6330(d) (reference (c)), prior to December 31, 1977, may be used in determining eligibility for transfer.

020202. Application for Transfer to Fleet Reserve or Fleet Marine Corps Reserve

A. Navy (Fleet Reserve)

1. The member shall initiate the request for transfer to the Fleet Reserve. The member submits the applications for transfer (NAVPERS Form 1830/1--formerly NAVPERS Form 630), to the Chief of Naval Personnel. That official (or designee) then determines whether the member meets the eligibility requirements for transfer. The approval (or disapproval) of a request for such transfer is based on the needs of the Military Service and the criteria in effect when the request is received.

2. Upon approval of the request for transfer, the Bureau of Naval Personnel prepares a NAVPERS Form 1830/2 (formerly NAVPERS Form 631), Fleet Reserve Transfer Authorization, specifying a "not earlier than date" for the member's transfer to the Fleet Reserve and sends it to the member's commanding officer. The authorization also states whether the member is entitled to extraordinary heroism pay.

3. At the time of the member's transfer, the commanding officer completes the first endorsement area of the authorization and the disbursing officer completes the second

endorsement area. The original authorization is sent to the DFAS-Cleveland Center, Retired Pay Department.

B. Marine Corps (Fleet Marine Corps Reserve)

1. The member submits an application for transfer (NAVMAC 10831 (REV 7-71)), to the Commandant of the Marine Corps (Code MMSR), where it is determined whether the member meets the eligibility requirements for transfer. The approval (or disapproval) of a request for such transfer is based on the needs of the Military Service and the criteria in effect when the request is received.

2. Upon approval of a member's request for transfer, the Commandant of the Marine Corps issues a letter-type order authorizing the member's release from active duty to the Fleet Marine Corps Reserve on a specified date. This order, which also states whether the member is entitled to extraordinary heroism pay, is addressed and forwarded to the member's commanding officer.

3. At the time of member's transfer, the commanding officer issues a letter-type order effecting the member's release from active duty and transfer to the Fleet Reserve. A copy of this order is sent to the DFAS-Kansas City Center, Retired Pay Branch, Centralized Pay Division.

020203. Service Creditable for Transfer to the Fleet Reserve or Fleet Marine Corps Reserve

A. Service in the following Military Services is creditable for transfer eligibility and percentage multiple purposes if performed in an active duty (and active duty for training status after August 9, 1956) in any component of the:

1. Army

2. Navy

3. Air Force

4. Marine Corps

5. Coast Guard and former Revenue Cutter Service.

Service as an appointed or enlisted aviation cadet in the Naval Reserve or Marine Corps Reserve is creditable as is service as a cadet or midshipman at a Service academy. Not creditable is time lost that occurred before July 24, 1956, because of confinement as a result of sentence of any court-martial other than general court-martial and while confined awaiting trial and during trial which results in conviction as finally approved is creditable.

B. Service in the following is not creditable for transfer eligibility and percentage multiple purposes:

1. Service in the Philippine Constabulary;

2. Furlough without pay (FWOP);

3. Inactive service as a member of a Reserve Component;

4. Inactive service while on the Temporary Disability Retired List (TDRL); and

5. Time lost in excess of 1 day (24 consecutive hours) because of:

a. Sickness due to misconduct (SKMC). Before June 17, 1955, the Bureau of Naval Personnel credited time lost due to SKMC for transfer purposes.

b. Non-performance of duty before July 24, 1956, because imprisoned as a result of general court-martial sentence and while in arrest awaiting trial and during trial which results in conviction as finally approved. Non-performance of duty after July 23, 1956, due to confinement under sentence by any court-martial, as finally approved, before, during, and after trial. If member is acquitted or sentence is set aside and charges dismissed, period of confinement is not considered time lost.

c. Absence while in civil arrest (while in custody of civil authorities), unless member is acquitted or released without making restitution or reparation.

d. Unauthorized absence which includes absence without leave (AWOL), absence over leave (AOL), and desertion (the latter of which previously was shown as AOL or AWOL and now is shown as Unauthorized Absence).

020204. Constructive Service. This is service for which credit is given although not actually performed. Constructive service is creditable as service for transfer eligibility and percentage multiple purposes. Constructive service is not creditable for determining basic pay rate upon which retainer pay is computed. No constructive service is to be credited after December 31, 1977. Constructive service earned prior to December 31, 197,7 will be used for eligibility and percentage multiple purposes.

A. Minority Enlistments. This is an enlistment of a male between the age of 14 and 18, or female between the age of 18 and 21 who enlists with the consent of his or her parents or guardians to serve in the Navy or Marine Corps until reaching age 21 years. (The Navy policy is to accept men for enlistment at 17 years.) A completed minority enlistment, or a minority enlistment which

terminates within 3 months of the expiration date of the enlistment, is counted as 4 years of active service when actual day-for-day service performed totals at least the period constituting the member's minority upon enlistment less 3 months.

B. Short-term Enlistment. This is an enlistment that is terminated within 3 months before the end of the term of enlistment. A short-term enlistment is counted as active service for the full term when the actual day-for-day active service performed amounts to at least the full term of the enlistment less 3 months.

C. Voluntary Extension. When the member agrees to serve beyond the scheduled term, modify the original minority or term enlistment contract by increasing the period of time agreed to by the member. The same rule established for crediting constructive service for short-term enlistments applies for voluntary extensions.

D. Involuntary Extension. When an enlistment (including a minority enlistment) is extended involuntarily for a specific period, compute service based on the constructive service principle for short-term enlistments, which applies equally for computing service for transfer by the Bureau of Naval Personnel on and after March 15, 1966, and by the Commandant of the Marine Corps on and after January 1, 1968.

1. Before March 15, 1966, the Bureau of Naval Personnel, in preparing Fleet Reserve Transfer Authorizations (NAVPERS Form 631, currently NAVPERS Form 1830/2) did not credit constructive service for periods of involuntary extension in computing service for transfer.

2. A Marine receives no constructive service credit for periods of involuntary extension when computing service for transfer before January 1, 1968. A Marine who previously served in the United States Navy, however, is credited with constructive service performed in the Navy for periods of involuntary extension on and after March 15, 1966.

E. Lost Time and Inactive Service. Before crediting constructive service for a period of service, deduct any lost time and any inactive service from the member's day-for-day service. After these deductions, if the member is eligible to receive constructive service for the period of enlistment, credit it. If, after deductions, the member is not eligible for constructive service for a period of enlistment, give credit only for the actual day-for-day service after making those deductions.

020205. Conclusiveness of Transfer. All transfers of members to the Fleet Reserve or Fleet Marine Corps Reserve, when effected, are conclusive for all purposes except that the Chief of Naval Personnel or the Commandant of the Marine Corps, acting for the Secretary of the Navy, may correct any error or omission in the determination as to a member's grade and years of creditable service. When such a correction is made, the member is entitled, when not on active duty, to retainer pay based on the grade and number of years of creditable service, as corrected, from the effective date of transfer.

0203 SERVICE FOR BASIC PAY PURPOSES

The total service for basic pay purposes follows the same principle as service for percentage multiple purposes. For an explanation of service creditable for basic pay purposes, see section 0102 of this volume.

0204 DATE OF TRANSFER

020401. Effective Date of Transfer. Members are transferred to the Fleet Reserve and Fleet Marine Corps Reserve only upon the authority of and on the date specified by the Chief of Naval Personnel or the Commandant of the Marine Corps. Commanding officers may defer transfers to the Fleet Reserve up to 30 days beyond the date authorized when urgent operational commitments demand the member's service. Transfers to the Fleet Marine Corps Reserve may not be made on a date other than the date specified in the authority for release. Any change in this date must be authorized by the Commandant of the Marine Corps prior to the effective date of transfer. The date of transfer is the member's last day of active duty and the member is entitled to active duty pay and allowances for that date.

020402. Application of Uniform Retirement Date Act (reference (x)). Since a transfer to the Fleet Reserve or Fleet Marine Corps Reserve is not considered to be a retirement, the Uniform Retirement Date Act (reference (az)) does not apply. Once the member has completed a total of 30 years of active service and is eligible for retirement, member's date of retirement comes under the Uniform Retirement Date Act (reference (az)). A transfer to the Fleet Reserve may be made on any intermediate day of a month as approved by the Chief of Naval Personnel. Transfers to the Fleet Marine Corps Reserve are made on the last day of the month except where transfer has been requested on the effective date of an expiration of enlistment. Except in time of war or national emergency, personnel transferred to the Fleet Marine Corps Reserve are released from active duty on date of such transfer, unless an order to the contrary is received.

020403. Modification of "Not Earlier Than Date." The Chief of Naval Personnel normally does not approve a requested change of authorized date for transfer to the Fleet Reserve. In case of hardship, meritorious circumstances, or unusual conditions, a member may submit a request for a change of authorized date for the transfer to the Chief of Naval Personnel through the commanding officer and cognizant personnel distribution. If an earlier date of transfer is requested, the commanding officer's endorsement must state whether the member's services can be spared. If approved the Chief of Naval Personnel issues a message to the commanding officer and sends a copy to the DFAS-Cleveland Center, Retired Pay Department.

020404. Effective Date of Retainer Pay. Members transferred to the Fleet Reserve and Fleet Marine Corps Reserve receive "retainer" pay versus "retired" pay as they are considered to have their services retained for possible use. A member becomes entitled to retainer pay starting on the day after the effective date of transfer to the Fleet Reserve or Fleet Marine Corps Reserve.

020405. Retainer Pay Effective on the First Day of New Active Duty Pay Rates

A. When a member is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, compute retainer pay using the rate of active duty pay received at the time of transfer. For example, if a member transferred on December 31, 1991, with retainer pay effective on January 1, 1992, compute the member's retainer pay using the January 1, 1991, active duty pay rates. If a member transferred on January 1, 1992, with retainer pay effective on January 2, 1992, compute retainer pay using the January 1, 1992, active duty pay rates.

B. Notwithstanding any other provision of law, the monthly retainer pay of a member of the Fleet Reserve or Fleet Marine Corps Reserve, who first became entitled to that pay on or after January 1, 1971, may not be less than the monthly retainer pay to which member would be entitled if he or she had become entitled to retainer pay at an earlier date, adjusted to reflect any applicable increase in such pay under 10 U.S.C. 1401a (reference (c)). In computing the amount of retainer pay to which the member would have been entitled on that earlier date, base the computation, subject to 10 U.S.C. 1401a (reference (c)), on the member's grade, length of service and the rate of basic pay applicable at that time.

0205 RANK AND GRADE

A member transferred to the Fleet Reserve or Fleet Marine Corps Reserve has retainer pay computed based on the pay grade in which serving on date of transfer.

020501. A member who has served as a temporary officer but holds permanent enlisted status shall revert to permanent enlisted pay grade upon transfer to the Fleet Reserve or Fleet Marine Corps Reserve.

020502. A member who has served as the Master Chief Petty Officer of the Navy or as Sergeant Major of Marine Corps is entitled to retainer pay at the highest basic pay rate to which the member was entitled while so serving, if that rate is higher.

0206 GROSS PAY COMPUTATION

020601. Computation. See section 0301 of this volume.

020602. Extraordinary Heroism. See section 0107 of this volume for guidance. See subparagraph 030102.A.3 and paragraph 030406 of this volume for computation rules.

020603. Good Conduct (Markings). For members retired and being paid under laws in effect before October 1, 1949, a 10 percent credit for good conduct may apply. To qualify for this credit, a member must have been retired under the specific citation which contains the authority for this increase and the member's average marks for conduct for 20 or more years must not be less than 95 percent of the maximum.

020604. Insular Force. See paragraph 010602 of this volume for guidance.

0207 PAYMENT DATE

See section 0108 of this volume.

Chapter 02-Initial Entitlement Fleet Reserve/Fleet Marine Corps Reserve

0201-General	020101.C	10 U.S.C. 6485(a)
	020101.D	10 U.S.C. 6484(b)
	020102 & 020103	10 U.S.C. 6331
0202-Transfer Eligibility - Service for Percentage Multiple Purposes		
	020201	10 U.S.C. 6330(b) and (d) MS Comp Gen B-195448, Apr 3, 1980
	020201.B	Public Law 95-111, Sep 21, 1977 Public Law 95-240, Mar 7, 1978 Public Law 95-457, Oct 13, 1978
	020203.A.6.b	MS Comp Gen B-195448, Apr 3, 1980
	020204	43 Comp Gen 826 Public Law 95-111, Sep 21, 1977 Public Law 95-240, Mar 7, 1978 Public Law 95-457, Oct 13, 1978
	020204.A & B	10 U.S.C. 6330(d)
0203-Service for Basic Pay Purposes		
	0203	10 U.S.C. 6330(d)
0204-Date of Transfer		
	020405	44 Comp Gen 584
	020405.B	10 U.S.C. 1401a(f)
0205-Rank and Grade		
	020501	10 U.S.C. 6330(c) 49 Comp Gen 800
	020502	10 U.S.C. 6330(c)

0206-Gross Pay Computation

020603	Naval Reserve Act of 1938, section 203 34 U.S.C. 854(b)(repealed)

SUMMARY OF MAJOR CHANGES TO CHAPTER 03
DOD 7000.14-R, VOLUME 7B
MILITARY PAY POLICY AND PROCEDURES FOR RETIRED PAY

New and revised instructions are indicated by a star placed immediately before the new or revised section, paragraph, subparagraph, decision logic table, etc.

Page	Paragraph	Explanation of Change/Revision	Effective Date
	Entire Chapter	IC 12-99 is a complete rewrite of Chapter 3	Nov 17, 1999

Interim Change 12-99 is incorporated in this change.

★*CHAPTER 3 (IC 12-99)*

GROSS PAY COMPUTATION

0301 BASIC COMPUTATION

030101. Disability Retirement. (Table 3-1, Rules 1 and 2)

A. A member permanently retired for disability receives retired pay, that is equal to the retired pay base under subparagraph 030101.C, below, multiplied by either:

1. Two and one-half percent times the years of service credited for percentage purposes, or

2. The percentage of disability with which retired, not to exceed 75 percent of the retired pay base.

B. A member placed on the Temporary Disability Retired List (TDRL) receives retired pay that is equal to the retired pay base under subparagraph 030101.C, below, multiplied by either:

1. Two and one-half percent times the years of service credited for percentage purposes, or

2. The percentage of disability with which retired, not to exceed 75 percent of the retired pay base.

If neither computation, above, renders at least 50 percent of the retired pay base upon which pay is computed, a minimum pay of 50 percent of the retired pay base is authorized while on TDRL.

C. Retired Pay Base. The retired pay base or retainer pay base is determined as follows (See also paragraph 030108, below.):

1. Pre-September 8, 1980 Member. The retired pay base is the monthly basic pay, using rate applicable on the date of retirement or the date that the member's name was placed on the TDRL, whichever applies, for the grade to which the member is entitled under 10 U.S.C. 1372 (reference (c)) or to which the member is entitled on the day before retirement or placement on TDRL, whichever is higher.

2. Post-September 7, 1980 Member. The retired pay base for a disability retiree is the member's high-three average calculated using the appropriate provision, as follows:

a. Title 10, U.S.C., sections 1201 or 1202 retirement with 36 months or more service. The retired pay base is an amount equal to the total of the highest 36 months of basic pay, whether or not consecutive, divided by 36.

b. Title 10, U.S.C., sections 1201 or 1202 retirement with less than 36 months of active service. The retired pay base is an amount equal to the total basic pay member was entitled to during active service divided by the number of months (including any fraction) of member's active service.

c. Title 10 U.S.C., sections 1204 or 1205 retirement with 36 months or more service. The retired pay base is an amount equal to the highest 36 months of basic pay to which member is entitled (or to which member would have been entitled if member had served on active duty during the entire period of the member's highest 36 months) divided by 36.

d. Title 10 U.S.C., sections 1204 or 1205 retirement with less than 36 months as a member before retirement. The retired pay base is an amount equal to the total basic pay to which member is entitled during the entire period (or to which member would have been entitled if member had served on active duty during the entire period) divided by number of months (including any fraction) that member was a member before retirement.

D. If a member is retired for disability and also is eligible under another provision of law, follow the rule in Table 3-1 applicable to the section of law which is more advantageous to the member.

E. Since disability retired pay is not computed using a retired pay multiplier that is determined under 10 U.S.C. 1409 (reference (c)), an adjustment under paragraph 030111, below, is unnecessary.

030102. Voluntary Retirement. (Table 3-1, Rules 3 through 8) A member who is voluntarily retired receives the retired pay base for the grade authorized multiplied by the retired pay multiplier for the years of service credited for percentage purposes (Rules 3 through 6). The retired pay base is computed as shown in Table 3-1, Rules 3 through 8, or under subparagraphs030102. A through C, below. The retired pay multiplier for a member, who enters a Uniformed Service after July 31, 1986, is determined under subparagraph 030102.D, below. See paragraph 030110, below, for retired pay computation and recomputation for a member retired under the Temporary Early Retirement Authority (TERA). ***Exceptions****: A Regular Navy or Marine Corps officer, in the grade of warrant officer or above, who retires after 30 years under 10 U.S.C. 6322 (reference (c)) receives 75 percent of the retired pay base (Table 3-1, Rule 7.). A member retired under 10 U.S.C. 6327 (reference (c)) receives retired pay at 50 percent of the active duty basic pay of the member's grade when not on active duty (See Rule 8).*

A. Enlisted Member. See Chapter 1, subparagraph 010301.A for service credited for percentage purposes. The retired pay base is the monthly basic pay rate applicable on member's date of retirement or the retired pay average computed under paragraph 030108, below. However:

1. A post-September 7, 1980 member with less than 30 years of service who is retired under 10 U.S.C. 3914 or 8914 (reference (c)) will have the retired pay base computed using only the rates of basic pay for months of active duty as an enlisted member. This limitation also applies to the post-September 7, 1980 enlisted member who is transferred to the Fleet Reserve/Fleet Marine Corps Reserve (FR/FMCR) under 10 U.S.C. 6330 (reference (c)).

2. A Reserve enlisted member, who is retired in the highest enlisted grade satisfactorily held on active duty (or in which the member served on full-time National Guard duty satisfactorily) after being administratively reduced in grade not as the result of the member's misconduct, may use the basic pay rate of the retired grade. The basic pay applicable on the member's date of retirement for the retired grade is the retired pay base, in lieu of the retired pay base under 10 U.S.C. 1406(c) or (e) (reference (c)). A Reserve enlisted member, who is transferred to the FR/FMCR in the highest grade satisfactorily held on active duty, after being administratively reduced in grade not as the result of the member's misconduct, is entitled to use the basic pay rate of the grade in which transferred in the retired or retainer pay base computation. This provision applies to the member who entered a Uniformed Service before September 8, 1980 and who retires (or transfers to the FR/FMCR) after September 30, 1996.

3. Retired or retainer pay may be increased by 10 percent of retired pay for extraordinary heroism in the line of duty. See paragraph 030406, below.

B. Commissioned Officer. See Chapter 1, subparagraph 010301.B for service credited for percentage purposes. The retired pay base is the monthly basic pay rate applicable on member's date of retirement or the retired pay average as computed under paragraph 030108, below.

C. Warrant Officer. See Chapter 1, subparagraph 010301.C for service credited for percentage purposes. The retired pay base is computed under 10 U.S.C. 1406(b) or 1407 (reference (c)). A retired pay base under 10 U.S.C. 1406(b) is computed on the monthly basic pay to which the member would be entitled if serving on active duty in the retired grade on the day before retirement. If a member, however, is entitled to a higher rate of pay using any other warrant officer grade satisfactorily held by the member on active duty, retired pay may be computed using the basic pay for that warrant officer grade. The retired pay base under 10 U.S.C. 1407, or high-three average, is computed under paragraph 030108, below.

D. Retired Pay Multiplier. In computing retired or retainer pay, other than for disability or Non-Regular service retirement, the retired pay or retainer pay multiplier is the product of two and one-half percent and the member's years of creditable service. The term "years of creditable service" means the number of years of service that are creditable to a member in computing the member's retired or retainer pay, including credit for each full month of service in addition to full years of service. The retired pay or retainer pay multiplier for a post-July 1986 member who retires

with less than 30 years of creditable service is reduced at the time of retirement, if under age 62. The retired pay or retainer pay multiplier reduction is 1 percentage point for each full year of creditable service less than 30 and 1/12th of 1 percent for each full month of creditable service less than a full year. The retired pay or retainer pay multiplier is limited to 75 percent for a member with more than 30 years of creditable service. Retired pay or retainer pay is recomputed on the first day of the month after the member reaches age 62. The retired pay or retainer pay is increased as if the member's pay had not been affected by a reduction in the retired pay or retainer pay multiplier or for a reduction in the cost-of-living increase for the post-July 1986 member. See paragraph 030111, below, and Chapter 8, paragraph 080315 for the restoral of retired pay at age 62.

030103. Mandatory Retirement. (Table 3-1, Rules 9 through 12). A member who is mandatorily retired receives the retired pay base for the grade authorized multiplied by the retired pay multiplier (see subparagraph 030102.D, above.). The retired pay base for a pre-September 8, 1980, member is the basic pay rate of member's grade (without regard to 10 U.S.C. 3962 or 8962 (reference (c))) that is applicable on member's date of retirement. If a warrant officer is entitled to a higher rate of pay using any other warrant officer grade satisfactorily held by the member on active duty, retired pay may be computed using the basic pay for that warrant officer grade. The retired pay base for a post-September 7, 1980, member is the member's high-three average which is an amount equal to the highest 36 months of basic pay, whether or not consecutive, divided by 36. The retired pay base computation for a post-September 7, 1980, member is in paragraph 030108, below.

A. Army and Air Force. See Chapter 1, subparagraph 010301.D.1 for service credited for percentage purposes.

B. Navy and Marine Corps. See Chapter 1, subparagraph 010301.D.2 for service credited for percentage purposes.

030104. Non-Regular Service Retirement (Age and Service Retirement - Table 3-1, Rule 13). A member of the Reserve or National Guard who is retired for age and service receives the retired pay base of the grade authorized multiplied by two and one-half percent times the years of service credited for percentage purposes. See Chapter 1, subparagraph 010301.F for service credited for percentage purposes. (The formula for converting retirement points into percentage years is: total number of retirement points divided by 360. Carry the result to three decimal places; then round to two decimal places. Example: 4,735 retirement points divided by 360 = 13.152 or 13.15 years for percentage purposes.)

A. The retired pay base for a pre-September 8, 1980, member is the monthly basic pay rate on the date when retired pay is granted using the highest grade satisfactorily held by the member. The highest grade in which a person serves satisfactorily as an officer is determined under 10 U.S.C. 1370(d) (reference (c)).

B. The retired pay base for a post-September 7, 1980, member is the high-three average equal to the total monthly basic pay to which the member was entitled during the individual's

high-36 months, or to which the individual would have been entitled if the individual served on active duty during the entire period of the person's high-36 months, divided by 36.

030105. Fleet Reserve/Fleet Marine Corps Reserve (FR/FMCR) Transfer. (Table 3-1, Rule 14) A member transferred to the FR/FMCR is entitled, when not on active duty, to retainer pay computed by multiplying the retainer pay base times two and one-half percent times the years of service credited for percentage purposes. In lieu of the retainer pay base computed under 10 U.S.C. 1406(d) (reference (c)), a Reserve enlisted member may use the monthly basic pay for the highest enlisted grade in which the member served satisfactorily, as determined by the Secretary of the Navy. This provision applies to an individual who first became a member of the Uniformed Service before September 8, 1980, and who at the time of transfer is serving on active duty in a grade lower than the highest enlisted grade held by the member while on active duty-not as a result of the member's misconduct.

A. Pre-September 8, 1980 member. The retainer pay base is the basic pay that the member received at the time of transfer to the FR or FMCR. The retainer pay base is multiplied by two and one-half percent times the number of years of active service (as adjusted in paragraph 030107, below) in the Armed Forces.

B. Post-September 7, 1980 member. The retainer pay base is the person's high-three average. The high-three average is the total amount of monthly basic pay for the highest 36 months of member's active service, whether or not consecutive, divided by 36. When a member is transferred to the FR or FMCR with less than 30 years of service, the high-36 average is computed using only rates of basic pay applicable to months of active duty as an enlisted member.

030106. Historical Pay Computations for Fleet Reserve/Fleet Marine Corps Reserve Members

A. The laws that governed the computation of retainer pay for a member transferred to the FR/FMCR from its inception in 1916 through June 30, 1938, are of no value since they were assimilated in the Naval Reserve Act of 1938 (reference (e)), effective July 1, 1938. Therefore, the earlier computations are not included in this regulation since they were restated effective July 1, 1938. See Table 3-2 for the pay computations.

B. A member transferred to the FR/FMCR was administratively placed in a class to differentiate between laws and conditions governing the computation of these pay entitlements. The following classes are applicable to these members:

COMPONENT	*CODE*	*APPLICABLE TO*
FR *FMCR*	*F-4c* *1-b*	*Member who is in the Naval service on July 1, 1925, and later transferred to the Fleet Reserve/Fleet Marine Corps Reserve after completion of 16 years but less than 20 years of active service.*
FR *FMCR*	*F-4d* *1-c*	*Member who was in the Naval service on July 1, 1925, and later transferred to the Fleet Reserve/Fleet Marine Corps Reserve after completion of 20 years but less than 30 years of active service.*
FR *FMCR*	*F-5* *H-1*	*Member who first enlisted in the Naval service after July 1, 1925, and later transferred to the Fleet Reserve/Fleet Marine Corps Reserve before August 10, 1946, after completion of 20 years but less than 30 years of active service.*
FR *FMCR*	*F-6* *1-d*	*Member who first enlisted in the Naval service after July 1, 1925, and later transferred to the Fleet Reserve/ Fleet Marine Corps Reserve on or after August 10, 1946 after completion of 20 years but less than 30 years of active service.*

C. Longevity Pay. Longevity is the length of service performed by each member.

1. Before October 1, 1949, longevity pay was a big factor in computing retainer pay. Certain pay laws contained provisions for computing longevity pay. Such pay was based on the length of service. During this period, base pay and longevity were fitted into the framework of pay formulas to arrive at retainer pay. The computation for the longevity pay changed several times before being superseded by basic pay. The various computations and the periods applicable are:

a. Until May 31, 1942, for Navy members, the computation was 10 percent of base pay for the first increment of 4 years of Naval service, plus 5 percent of base pay for each 4-year increment thereafter, not to exceed 16 years, or 25 percent.

Example: *Member served 18 years; on transfer to the Fleet Reserve, the longevity pay credit was computed:*

1. *10% - 4 years*
2. *5% - 4 years*
3. *5% - 4 years*
4. *5% - 4 years*
5. *0% - 4 years*

b. From June 1, 1942 to September 30, 1949, the computation was 5 percent of base pay for each 3 years of service up to 30 years, maximum of 50 percent.

2. On October 1, 1949, when basic pay became an important factor, longevity pay was not computed separately but was included in the rate of basic pay.

a. A member who transferred to the FR/FMCR on or after October 1, 1949, was required to elect the formula under which their pay would be computed. The two formulas were the fractional, under which a member would receive one-third or one-half of base pay, and the percentage, two and one-half percent times years of active federal service times basic pay. Such election was indicated on the authorization for transfer to the Fleet Reserve.

b. Under Public Law 1028 effective August 10, 1956, (reference ag)), a member who transfers to the FR/FMCR receives retainer pay computed on the formula included in the codification of the military pay laws under Title 10, United States Code (reference (c)). The prior computations were still in effect for the member to whom they applied. A member who enters the Uniformed Service before September 8, 1980, receives retainer pay computed under this formula.

c. A member who enters the Uniformed Service after September 7, 1980, receives retainer pay under the formula codified in 1956 except the retainer pay base is used instead of a monthly basic pay rate.

030107. Service Credit Rounding of Months. For percentage purposes in computing retired or retainer pay:

A. A member who retired before January 1, 1982, receives credit for any fractional part of a year that is 6 months or more as an additional year. Any portion of a year that is less than 6 months is disregarded. This applies to any member who, before January 1, 1982:

1. Applied for retirement;

2. Applied for transfer to the Fleet Reserve/Fleet Marine Corps Reserve;

3. Was being processed for retirement under the provisions of 10 U.S.C., chapter 61 (reference (c)); or

4. Was on the Temporary Disability Retired List and thereafter retired under the provisions of 10 U.S.C. 1210(c) or (d) (reference (c)).

B. Unless covered by subparagraph 030107.A, above, a member who became entitled to retired or retainer pay January 1, 1982, through September 30, 1983, inclusive, received credit on a month-by-month basis for each full month served of 6 months or more. Any fraction of a year less than 6 months was disregarded.

C. A member who became entitled to retired or retainer pay on or after October 1, 1983, receives credit for each full month actually served. Less than full months are disregarded. See Table 3-4.

***NOTE**: If a member retires October 1, 1983, or later and the member is entitled to retired pay under 10 U.S.C. 1401a(f) (reference (c)) using a hypothetical retirement date which is before January 1, 1982, service credit of 6 months or more was rounded to a full year. However, funding limitations each fiscal year prohibited payment for months in excess of whole months actually served until permanent codification was effective July 1, 1986.*

D. In calculating the percentage factor under subparagraphs 030107.B or C, above, the percent will be rounded at least to the nearest 1/100 of one percentage. For example, 20 years, 7 months (20.58 years) times 2.5 percent equals 51.45 percent. See Table 3-4. This rounding method will also be used if member is entitled to retired pay computed under the saved pay provision in paragraph 030203, below, or under 10 U.S.C. 1401a(f) (reference (c)) in section 0303, below.

030108. Retired Pay Base

A. The Department of Defense Authorization Act of 1981 (reference (bp)) effected the first major change in retired pay computation since 1948. Under that Act (reference bp)), retired or retainer pay is computed using a percentage of a member's monthly retired or retainer pay base instead of the member's final basic pay. The retired pay base is the average basic pay the member received over 36 months or, in certain cases a lesser period of time. The computation of retired pay using a retired pay base applies to a member who entered a Uniformed Service on or after September 8, 1980. A member is considered to have first entered a Uniformed Service when any individual on or after September 8, 1980, is first appointed or enlisted in the Uniformed Services. A member who first enlists before September 8, 1980 under the delayed entry program, in a Reserve Component as part of the Senior Reserve Officers' Training Corps (ROTC) or ROTC Financial Assistance programs, as a student at the Uniformed Services University of Health Sciences, or as a participant in the Armed Forces Health Professions Scholarship Program, is considered to have first become a member before September 8, 1980.

B. The Military Retirement Reform Act of 1986 (reference (bs)) realigned the computation of retired pay provisions. Title 10, United States Code, section 1406 was renamed the retired pay base method using the member's final basic pay and 10 U.S.C. 1407 was named the retired pay base method under the high-36 month (or high-three) average.

C. Retired Pay Base Under 10 U.S.C. 1407 (reference (c)) Computation. Monthly basic pay amounts, starting with the highest rate of pay, are added together until the total number of months equals 36 months. Divide the total pay derived from the sum of months by 36, and round to the nearest cents to obtain the retired pay base applicable to the member. Any lost time the member had is not be included in the computation.

1. A full month served counts as one month regardless of any interruption by a pay rate change and regardless of the number of days in that month.

a. A member serves the entire calendar month at a single rate of basic pay. This counts as one month of applicability under this rate of basic pay regardless of the number of days in the month—28, 29, 30, or 31.

b. A member serves the entire calendar month with multiple rates of basic pay applicable. If a member is paid more than one rate during a given month, which is a full month of service, each rate will be carried as applicable for the number of days paid at that rate. For example, if a member has a longevity pay increase effective February 11, the old rate is applicable for 10 days and the new rate is applicable for 20 days (regardless of leap year). If a month has 31 days, the 31st is ignored; i.e., if the member has a longevity pay increase effective August 11, the old rate is applicable for 10 days and the new rate is applicable for 20 days. The 30-day months are allocated in a straightforward manner.

2. If the member has less than 36 months of service, the member's basic pay is added and the number of months is computed in the same manner described in subparagraph 030108.C.1, above, for accumulating 36 months or more of pay. The total pay is divided by the total time expressed as months plus days where days less than 30 are counted as 1/30th of a month. The result is rounded to the nearest cent.

3. When a member serves less than a full month, count only the number of days actually paid so that each total of 30 days equals one month. If a member serves less than a full month and one or more rates of basic pay apply, each rate should be carried as applicable for the number of days the member was actually paid at the particular rate. For example, assume the member had a break in service and returned to active duty on February 8, but has a longevity increase effective February 11. When a member serves through the end of February, the month is assumed to have 30 days. This member receives three days at one rate and 20 days at the new rate, or 23 days of pay even though only 21 or 22 days were served.

Example: *A member receives monthly basic pay of $17,658.30 over 14 months and 11 days*

$$\frac{\$17,658.30}{14 \text{ mos} + 11 \text{ days}} = \frac{\$17,658.30}{14.36667} = \$1,229.12 \text{ Retired Pay Base}$$

$1,229.12 Retired Pay Base
x ____% Retired Pay Multiplier

= $x,xxx.xx Retired pay rounded

D. When it is to the member's advantage, a saved pay rate under the provisions of the Tower Amendment (reference (fg)), and 10 U.S.C. 1401a(e) (reference (c)), may be used to compute retired pay. The saved pay provisions of 10 U.S.C. 1401a(e) (reference (c)) were eliminated September 24, 1983. See paragraph 030203, below, for eligibility. The Tower Amendment (reference (fg)) authorizes the use of the basic pay rates in effect on the day before the effective date of the rates of monthly basic pay on which the member's retired pay would otherwise be based.

030109. Rounding Retired Pay. Under Public Law 98-94, the 1984 DoD Authorization Act (reference (aj)), monthly retired or retainer pay entitlement is rounded as initially computed and as subsequently adjusted.

A. Effective October 1, 1983, the initial computation of gross retired pay, if not a multiple of $1, is rounded down to the next lower multiple of $1. All further reductions, deductions, withholdings and allotments are made from this rounded figure. When retired pay is subsequently increased under 10 U.S.C. 1401a (reference (c)) by cost-of-living adjustments, the retired or retainer pay, if not a multiple of $1, is rounded down to the next lower multiple of $1.

B. The retired or retainer pay for a member already retired on September 30, 1983, was not rounded until the next cost-of-living adjustment, December 1, 1984. The retired or retainer pay, if not a multiple of $1, was rounded to the next lower multiple of $1. The same rounding procedure applies to all subsequent cost-of-living adjustments.

030110. Temporary Early Retirement Authority (TERA)

A. Initial Computation of Retired Pay. The initial retired pay entitlement for a member retired under the TERA (reference (fh)), as amended, is in subparagraphs 030110.B and C, below. The amount of retired pay otherwise prescribed under the appropriate section of 10 U.S.C., sections 3991(a), 6333(a), 8991(a), 1401, or 12739 (reference (c)) is multiplied by the applicable reduction factor from Table 3-5. The resulting reduced amount of retired pay, if not a multiple of $1,

will be rounded to the next lower multiple of $1. Such rounded amount is the initial, gross monthly retired pay entitlement

B. Reduction Factor. The reduction factor applicable to the computation in subparagraph 030110.A, above, is the amount listed in Table 3-5 based on the member's full months of active service less than 240 as of the date of the member's retirement or transfer to the Fleet Reserve or Fleet Marine Corps Reserve.

*1. Any portion of a month of active service in excess of a whole month is rounded up to the next whole month. For example, total active service of 15 years, 7 months, and 12 days is rounded to 15 years, 8 months. The reduction factor based on 15 years and 8 months is computed as: 15 * 12 + 8 = 188 months, and the applicable reduction factor corresponds to the Table 3-5 entry for 240 less 188, or 52 months. The applicable reduction factor is .95667.*

2. Note that in computing the retired pay, the 12 days in excess of 187 months of service are disregarded and retired pay is based on 187 months.

***Example:** Member retired as an E-7*

$1,967.10 Retired Pay Base x 187/12 x .025 x .95667 =

$30,653.975 x .025 x .95667 =

$766.3494 x .95667 = $733.14 (Since this is not a multiple of $1, round down to $733.)

3. If the retiree is an officer, service under 10 U.S.C. 1405 (reference (c)) may affect the TERA computation. The member's active service is rounded up to the next whole month. Use the corresponding reduction factor from Table 3-5 for 240 months less the number of months of rounded active service for the member. The 1405 service multiplier is used instead of active service disregarding days in excess of whole months.

Example:	*Member retired as a Major*
Service for Basic Pay	*21 yrs, 03 mos, 15 days*
1405 Service	*21 yrs, 03 mos, 15 days*
Active Service	*17 yrs, 03 mos, 15 days*

Active Service:

*17 years * 12 months = 204 + 4 months = 208 months*
240 months – 208 months = 32 months
32 months = .97333 (Table 3-5)

1405 Service:
*21 years * 12 months = 252 + 3 months = 255 months*
*$3,962.70 Basic Pay x 255/12 * .025 * .97333 =*
*$84,207.375 * .025 = $2,105.18 * .97333 = $2,049.03 (Since this is not a multiple of $1, round down to $2,049.)*

C. Recomputation of Retired Pay at Age 62

1. A member who retired under the TERA is entitled to a recomputation of retired pay if such member is credited with employment under the provisions of section 4464 of Public Law 102-484 (reference (fh)). To be credited, the employment in public or community service must be performed during the enhanced retirement qualification period. The enhanced retirement qualification period is the period between the date of early retirement and the date on which the member would have otherwise completed 20 years of military service for purposes of computing the member's retired pay. Since the recomputation occurs at age 62, no further credit may be granted after that date. The enhanced retirement qualification period does not extend past age 62. The Defense Manpower Data Center will notify DFAS of the total number of years, months, and days of employment credited. The recomputation begins on the first day of the first month after the member reaches age 62. The member's retired pay will be computed as in subparagraph 030110.A, above, using the new total service. The new total years of service is the years, months, and days of service used in the original computation plus the years, months, and days associated with the certified periods of full-time employment credited under the provisions of section 4464, Public Law 102-484 (reference (fh)). The credit for the employment periods is added to the previously credited service as periods of active duty. The recomputation is made by using each full month of the new total years of service credited as 1/12th of a year, disregarding any remaining fractional part of a month. In no case will the number of months applicable to these procedures exceed 240. Thus, the maximum retired pay under the recomputation may not exceed 50 percent of the applicable rate of basic pay.

Active Service (Initial retirement)	*187 months, 12 days*
Public/Community service	*32 months, 20 days*
TOTAL SERVICE	*219 months, 32 days =*
	220 months, 2 days

2. Retired pay is recomputed as though the initial retired pay had been computed on the new total service credit, but the increased amount is payable only for months after the member reaches age 62. All retired pay percentage increases (for example, a cost-of-living adjustment) granted to such member will be included in the recomputation with annual rounding and recomputation made as if the extra service credit had been included in the original computation. The additional service credit may affect the amount of basic pay used in the retired pay computations, as it is treated as years of active duty service in the Armed Forces for purposes of recomputation. The additional credit could also reduce the impact of the reduction factor for months short of 20 years of service.

Example: *A member retired as E-7. The recomputed retired pay is based on the E-7 rate with over 18 years of service from the active duty basic pay rates that were in effect at the time of member's retirement. The reduction factor is based on 240 months less 221 = 19 months, or .98417, so the initial retired pay as recomputed is:*

$2,079.00 x (220/12) x .025 x .98417 =
$38,115.00 x .025 x .98417 =
$952.875 x .98417 = $937.79 (Since this is not a multiple of $1, round down to $937.)

This amount is adjusted by applying each cost-of-living adjustment given to such member since retirement, rounding down after each adjustment as required.

030111. Post-July 1986 Members Restoral of Full Retirement Amount at Age 62

A. The following member is entitled to a recomputation of retired pay at age 62 if the:

1. Member entered a Uniformed Service on or after August 1, 1986;

2. Member retired before age 62; and,

3. Member retired with less than 30 years of creditable service so that the retired pay multiplier was reduced under 10 U.S.C. 1409 (reference (c)); or

4. Member received cost-of-living increases which were reduced by 1 percent under 10 U.S.C. 1401a(b)(3).

B. The recomputation is effective on the first day of the month after the member reaches age 62.

C. The retired pay amount once recomputed is as if the retired pay had not been reduced in the retired pay multiplier (See paragraph 030102.D, above) and/or cost-of-living adjustments (See Chapter 8, paragraph 080315.). See Appendix U for examples of retired pay restoral when member reaches age 62.

0302 APPLICATION OF SAVED PAY

030201. Career Compensation Act Effective October 1, 1949 (Reference (w))

A. An officer retired for disability before October 1, 1949, who failed to elect within a five-year period to receive pay under the 1949 Act (reference (w)), or who did not qualify for pay under the 1949 Act (reference (w)), continued to receive pay under laws in effect before October 1, 1949, computed at 75 percent of the basic pay of the grade authorized.

B. A member who, on October 1, 1949, was a hospital patient and who, before January 1, 1951, retired for disability as the result of the disease or injury for which hospitalized, could elect to receive retired pay:

1. Computed under laws in effect on September 30, 1949, at 75 percent of the basic pay of the grade authorized; or

2. Computed under section 402(d) of Public Law 81-351 (reference (ah)).

C. A member who, on October 1, 1949, was receiving or was entitled to receive retired pay under any provision of law, was authorized to continue the entitlement to receive the pay to which entitled under the laws in effect on September 30, 1949.

030202. Military Pay Act Effective June 1, 1958 (Reference (ac))

A. A member who retired or transferred to the FR/FMCR on or after June 1, 1958 and before April 1, 1963, and who was receiving active duty basic pay under the April 1, 1955, "saved pay" rates, continued to receive pay computed under the 1955 rates, based upon service credited for basic pay purposes as of June 1, 1958.

B. A member retired or transferred to the FR/FMCR on June 1, 1958 was entitled to pay computed on the June 1, 1958, active duty basic pay rates, or on the April 1, 1955, active duty basic pay rates plus 6 percent, whichever was greater.

C. A member retired or transferred to the FR/FMCR after June 1, 1958, who was receiving active duty saved pay, was entitled to retired pay computed on the April 1, 1955, active duty basic pay rates, but was not entitled to the additional 6 percent increase.

030203. Military Pay Act Effective October 1, 1967 (Reference (ai))

A. With respect to a member entitled to retired pay computed under this paragraph, the retired or retainer pay may not be less than it would have been if the member had become entitled to that pay based on the same basic pay grade, years of service for basic pay and percentage purposes, and percent of disability (if any) on the day before the effective date of the rates of monthly basic pay on which retired or retainer pay is based. Such members receive pay:

1. Computed under the current basic pay rates in effect on the date of retirement or transfer, or

2. Computed under the rates of basic pay in effect immediately before the current rates, whichever is greater.

B. The above computations were, in some instances, subject to the provisions of the Uniform Retirement Date Act (reference (az)). For application of this Act, see Chapter 1, paragraph 010402.

C. The "1-year look-back" provision codified at 10 U.S.C. 1401a(e) (reference (c) was repealed by section 921 of the DoD Authorization Act, FY 84 (reference (aj)). Under the provisions of that repeal, this paragraph now applies only to:

1. A member retired or transferred to the FR/FMCR October 1, 1967, through September 24, 1983, inclusive; and

2. A member eligible for retirement or transfer on or before September 24, 1983, provided the member retires or transfers on or before September 24, 1986. If the member retires or transfers after September 24, 1986, the retired or retainer pay may not be less than it would have been had the member actually retired or transferred on September 23, 1986.

0303 TOWER AMENDMENT (Reference (fg))

030301. Basic Provisions

A. A member who retires or transfers to the Fleet Reserve/Fleet Marine Corps Reserve (FR/FMCR) on or after January 1, 1971, and who fully qualifies for retirement on a date earlier than the actual retirement date, receives the most favorable rate of pay as though the member had actually retired or been transferred on the earlier date:

1. After becoming retirement-eligible on or after January 1, 1971, (See Chapter 1, section 0101, Service Creditable for Retirement Purposes.);

2. Based upon the grade and the service creditable on the earlier computation date; (For retirements on or after October 5, 1994, the grade used in the computation cannot be higher than the grade in which the member is retired.);

3. Using the rate of basic pay applicable to the member on the earlier computation date in determining the retired pay base; and

4. Subject to the provisions of paragraph 030203, above.

B. A member who retires or transfers to the FR/FMCR before October 7, 1975, the effective date of the Tower Amendment (reference (fg)), is entitled to pay adjusted from October 7, 1975. No adjustment is authorized under the provisions of the amendment for any period before October 7, 1975.

C. A member who retires between October 1, 1988, and October 4, 1994, and who is reduced in grade under sentence of court-martial after initially becoming eligible for retired pay, is not entitled to computation on a grade higher than the grade in which retired.

D. See subparagraph 030403.A, below, for provision concerning an officer who served in a special position as Chairman or Vice Chairman of the Joint Chiefs of Staff or as a Chief of Service.

E. See paragraph 030405, below, for the provision concerning an enlisted member who served in a special position as a senior enlisted member.

030302. Earlier Computation Dates

A. Predetermined earlier computation dates are established for uniformity in computing the pay of a member who qualifies under 10 U.S.C. 1401a(f) (reference (c)), the Tower Amendment (reference (fg)), as amended. Generally, the day immediately preceding an active duty basic pay rate change is the earlier date of voluntary retirement eligibility, unless the computation is more favorable based on the first day of the month preceding an active duty basic pay rate change.

B. A member of the FR/FMCR may transfer on any intermediate day of a month. Therefore, the earlier computation date for this member is the day before new active duty basic pay rates are effective.

C. A warrant officer retired under provisions of 10 U.S.C. 1293 (reference (c)) (see Table 3-1, rule 4), on the effective date of a change in the active duty pay rates, receives retired pay computed by using the rate of basic pay in effect on the day before the date of retirement. Thus, the earlier retirement eligibility date under 10 U.S.C. 1401a(f) (reference (c)) computation would be one year earlier with retired pay based upon rates in effect on the day before the earlier eligibility date. If the member is entitled to use the saved pay rate under subparagraph 030203, above, the rate in effect immediately prior to the rate in effect on the day before the earlier retirement eligibility date is used.

030303. Computation at the Time of Retirement or Transfer to the FR/FMCR

A. A member receives the most favorable retired pay, as adjusted by applicable cost-of-living adjustments, computed by using:

1. The active duty basic pay rate applicable on the actual retirement or transfer date, or

2. One prior active duty basic pay rate at the same grade and service applicable on the actual retirement or transfer date if the provisions of subparagraph 030203, above, apply.

3. Any active duty basic pay rate in effect on or after January 1, 1971, at the grade and service credited on the earlier computation date, if retirement-eligible on the earlier date. After this rule is used, apply subparagraph 030303.A.2, above, without further loss of grade and service.

B. A member retiring for disability who is eligible for voluntary retirement or for transfer to the FR/FMCR on an earlier date may have gross retired pay entitlement computed in accordance with the provisions of 10 U.S.C. 1401a(f) (reference (c)), when more favorable. However, the basic pay rate applicable for an earlier retirement date under this condition for gross pay computation cannot be used for computing pay based upon the disability rating. The rate of pay based upon degree of disability may be calculated only on the basic pay rate applicable under subparagraph 030303.A.1, or A.2 (if applicable), above.

0304 SPECIAL PROVISIONS

030401. Entitlement Under More Than One Pay Formula. A member who is entitled to pay computed under more than one pay formula or provision of law is entitled to be paid under the formula that is most favorable.

030402. Commissioned Officer With More Than Four Years of Active Enlisted and/or Warrant Officer Service. A member who, at the time of retirement, is in pay grade O1E, 02E, or O3E, having served more than 4 years of active duty as an enlisted member and/or warrant officer, receives pay computed on the special basic pay rate that is authorized.

030403. Commissioned Officer Serving in a Special Position

A. An officer who serves as Chairman or Vice Chairman of the Joint Chiefs of Staff or as a Chief of Service may receive retired pay which is computed on the highest rate of basic pay applicable to the member while serving in the special position, if that rate is higher than the rate otherwise authorized as a retired pay base for a member who first became a member before September 8, 1980. The term "Chief of Service" refers to one of the following:

1. Chief of Staff of the Army

2. Chief of Naval Operations

3. Chief of Staff of the Air Force

4. Commandant of the Marine Corps

5. Commandant of the Coast Guard.

The member may not use the rate of the special position for computation of retired pay if, during or after serving in the special position, and by member's conduct after October 16, 1998, the officer is not certified as having served satisfactorily in the grade of general or admiral while serving in that position.

B. On December 14, 1944, special grades of Fleet Admiral of the United States Navy and General of the Army were created with insignia of five stars. The pay was set at the same

pay and allowances as a rear admiral of the upper half, plus a personal money allowance of $5,000 a year. When retired, the member received pay equal to 75 percent of their active duty pay. The five-star grade was made permanent by an Act of Congress on March 23, 1946 (reference (ak)). Active duty pay remained the same as set by the 1944 Act (reference (al)). The member was exempted from mandatory retirement because of age. The member received the same pay and allowances that they received while on active duty. The grade expired July 1, 1950.

030404. Officer in Grade O-9 and O-10

A. An officer who served in grade O-9 or O-10 for not less than 3 years is entitled to retired pay based on that grade if the Secretary of Defense certifies in writing to the President and the Congress that the officer served on active duty satisfactorily. The 3-year requirement may be reduced to not less than 2 years for retirements effective during a specified period (see paragraph 010501E.5, above). The 3-year time-in-grade requirement may not be reduced or waived if the officer is under investigation for alleged misconduct or while an adverse personnel action is pending against the officer for alleged misconduct.

B. An officer who served in grade 0-9 or 0-10 for a period of less than 3 years before retirement will have retired pay based on the next lower grade, unless a waiver of the time in grade requirement has been granted by the appropriate authority. The granting of the waiver will affect only the pay computation for the date of retirement. Computations for earlier dates on which eligible to retire must be based on the next lower grade.

030405. Enlisted Member Serving in a Special Position. A senior enlisted member of an Armed Force serving in a special position may receive retired pay which is computed on the highest rate of basic pay applicable to the member while serving in the special position, if that rate is higher than the rate otherwise authorized as a retired pay base for a member who first became a member before September 8, 1980. The term "senior enlisted member" refers to one of the following:

A. Sergeant Major of the Army

B. Master Chief Petty Officer of the Navy

C. Chief Master Sergeant of the Air Force

D. Sergeant Major of the Marine Corps

E. Master Chief Petty Officer of the Coast Guard.

The member may not use the rate of the special position for computation of retired pay if, during or after serving in the special position, and by member's conduct after October 16, 1998, the member is reduced in grade by court-martial, non-judicial punishment, or other administrative process.

030406. Heroism Pay and Good Conduct (Markings). An enlisted member retired after 20 years of active service may be entitled to an additional 10 percent retired pay for extraordinary

heroism, if authorized, not to exceed 75 percent of the retired pay base on which the retired pay is computed. See Chapter 1, paragraph 010701. Navy and Marine Corps personnel may have been authorized an additional 10 percent for good conduct, but not both. See Chapter 2, paragraph 020603.

030407. Computation Under the Uniformed Services Pay Act, October 2, 1963 (Reference (am))

A. Beginning October 1, 1963, a member retired between October 1, 1949, and May 31, 1958, including a member retired before October 1, 1949, receiving pay under the 1949 Act (reference (w)), received the greater of:

1. An increase of 5 percent in the retired pay to which entitled on September 30, 1963, or

2. Pay computed on the basic pay rates established under the June 1, 1958 Act without a 5 percent increase.

B. Beginning October 1, 1963, a member retired for service before October 1, 1949, and being paid under laws in effect on September 30, 1949, receives the greater of:

1. An increase of 5 percent in the retired pay to which entitled on September 30, 1963; or

2. Pay recomputed on the basic pay rates established by the Military Pay Act of 1958 (reference (ac)) without a 5 percent increase, based on actual active service creditable.

030408. Computation Under the Military Pay Act, May 20, 1958 (Reference (ac))

A. A member who first became entitled to retired pay on June 1, 1958, was authorized to receive pay computed on the new June 1, 1958, basic pay rates or on the April 1, 1955, active duty basic pay rates plus 6 percent, whichever is greater.

B. A member retired after June 1, 1958, who was receiving active duty saved pay was entitled to retired pay computed on the April 1, 1955, active duty basic pay rate but was not entitled to the additional 6 percent increase.

C. The basic pay rate used in the computation of pay was increased by increment of $200 for generals and admirals and $100 for lieutenant generals and vice admirals before the 6 percent increase on June 1, 1958, for a retired officer who:

1. Served in that grade for at least 180 days, and

2. Was entitled to retired pay on the day before the effective date of the Military Pay Act of 1958 (reference (ac)).

030409. Commissioned Officer With World War I Service. A member retired for any reason as a Regular commissioned officer and a member retired for disability as a Non-Regular commissioned officer, who serves in any capacity as a member of the military or naval forces of the United States before November 12, 1918, is entitled to receive pay computed at 75 percent of the basic pay of the grade in which retired.

030410. Emergency Officers Retired List (EORL). A person who served as an officer of the Army, Navy, or Marine Corps during World War I, other than an officer of the Regular Army, Navy, or Marine Corps, and who during such service incurred a physical disability in the line of duty, was placed on a separate retired list.

A. Payment was authorized at 75 percent of the pay and rank at the time of discharge from commissioned service, with entitlement to the same privileges as provided by law for an officer of the Regular Army, Navy, or Marine Corps retired for physical disability incurred in the line of duty.

B. Payments are made by the Department of Veterans Affairs from funds appropriated to that agency.

030411. Basic Pay Rate for Certain Members With Over 24 Years of Service. A member in pay grade E-7, E-8, E-9, W-5, or 0-6 who has over 24, but less than 26 years of service, is entitled to a special rate of pay effective January 1, 1993.

Table 3-1 – Computation of Retired Pay

RULE	A	B	C	D	E	F	G
	A member of	who is	under provisions of 10 U.S.C.	receives the	multiplied by	plus	minus (note 8)
1	Armed Forces	retired for disability	1201 1204	retired pay base computed under section 1406(b) or 1407 (note 1)	2-1/2 percent times the years of service credited for percentage purposes or the percentage of disability assigned (note 3)		excess over 75 percent of retired pay base upon which computation is based
2			1202 1205			the amount necessary to increase the product of columns D and E to 50 percent of retired pay base	
3	Armed Forces	voluntarily retired	1293		the retired pay multiplier for the years of service credited for percentage purposes (note 3)		
4	Army or Air Force		3914 3917 8914 8917	retired pay base computed under section 1406(c--Army or 1406(e) – Air Force or 1407 (notes 1, 10)		10 percent of the product of steps D and E (note 2)	
5			3911 3918 3920 3924 8911 8918 8920 8924				
6	Navy or Marine Corps		6321 6323	retired pay base computed under section 1406(d) or 1407 (note 1)			

Table 3-1. Computation of Retired Pay

Table 3-1 – Computation of Retired Pay (continued)

RULE	A	B	C	D	E	F	G
	A member of	who is	under provisions of 10 U.S.C.	receives the	multiplied by	plus	minus (note 8)
7	Navy or Marine Corps	voluntarily retired	6322 6326	retired pay base computed under section 1406(d) or 1407 (note 1)	75 percent	10 percent of the product of steps D and E (note 2)	excess over 75 percent of retired pay base upon which computation is based
8			6327		50 percent (note 5)		
9	Armed Forces	involuntarily retired	564 580 633 634 635 636 1251 1255 1263 1305 (note 9)	retired pay base computed under section 1406(b) or 1407 (note 1)	retired pay multiplier for the years of service credited for percentage purposes (note 3)		
10	Army		3883 3884 3885 3886 3913 3916 3619 3920 3921 3922 3923 (note 6)	retired pay base computed under 1406(c) or 1407 (note 1)			
11	Navy or Marine Corps		6371 6372 6373 6374 6375 6376 6377 6378 6379 6380 6383 6390 6391 6394 6396 6398 6400 (note 6)	retired pay base computed under section 1406(d) or 1407 (note 1)			

Table 3-1 – Computation of Retired Pay (continued)

RULE	A	B	C	D	E	F	G
	A member of	who is	under provisions of 10 U.S.C.	receives the	multiplied by	plus	minus (note 8)
12	Air Force	involuntarily retired	8883 8884 8885 8886 8913 8916 8919 8920 8921 8922 8923 (note 6)	retired pay base computed under section 1406(e) or 1407 (note 1)	retired pay multiplier for the years of service credited for percentage purposes (note 3)		
13	Armed Forces, Reserve, or National Guard	Reservist (age and service requirement)	12731	retired pay base computed under section 1406(b) (2) or 1407 (note 1)	2-1/2 percent times the years of service credited for percentage purposes (notes 3, 4)		excess over 75 percent of retired pay base upon which computation is based
14	Navy or Marine Corps	transferred to the FR/FMCR	6330	retainer pay base computed under section 1406(d) or 1407 (notes 1, 7)	the retainer pay multiplier for the years of service credited for percentage purposes (note 3)	10 percent of the product of columns D and E (note 2)	

NOTES:

1. For active duty basic pay rate applicable, see paragraphs 010402, 030201, (section) 0303, 030302, 030303, 030501, 030502, and 030504. For a person who first became a member of a Uniformed Service after September 7, 1980, take the monthly retired pay base.
2. Enlisted members credited with an act of extraordinary heroism in the line of duty.
3. See Chapter 01 for service creditable for percentage purposes:

   Voluntary retirement:
   Paragraph 010301.A—Enlisted members
   Paragraph 010301.B—Commissioned Officers
   Paragraph 010301.C—Warrant Officers

   Mandatory retirement:
   Paragraph 010301.D.1—Army and Air Force
   Paragraph 010301.D.2—Navy and Marine Corps

   Disability retirement:
   Paragraph 010301.E

   Reservist age and service retirement:
   Paragraph 010301.F

4. Total number of retirement points divided by 360. Carry the resultant figure to three decimal places, then round to two decimalplaces.

   EXAMPLE: 4735 retirement points divided by 360 = 13.152 or 13.15 years of service for percentage purposes (for the section 12731retiree only) to be multiplied by 2-1/2 percent.

5. *Members retired under 10 U.S.C. 6327 are authorized to receive retired pay at 50 percent of the active duty basic pay of their grad ewhen not on active duty. This provision applies only to persons who were members of the Naval Reserve or Marine Corps Reserve on January 1 1953. The provisions of 10 U.S.C. 6327 terminated on January 1, 1973. However, termination of the section did notaffect any accrued rights to retired pay.*
6. *Public Law 96-513, December 12, 1980, repealed the following section: 3913, 3916, 3919, 3921-3923, 6371, 6374, 6376-6380, 6390,6394, 6396, 6398, 6400, 8883, 8884-8886, 8913, 8915, 8916, 8919, 8919, 8921-8923, 8927. Section 6375 was repealed by PublicLaw 87-123, August 3, 1961.*
7. *In lieu of the retainer pay base computed under 10 U.S.C. 1406(d), a Reserve enlisted member may be entitled to retainer pay computed by using the monthly basic pay for the highest enlisted grade in which the member served satisfactorily, as determined by the Secretary of the Navy. This provision applies to an individual who first became a member of the Uniformed Service beforeSeptember 8, 1980 and who at the time of transfer is serving on active duty in a grade lower than the highest enlisted grade held by the member while on active duty--not as a result of member's own misconduct.*
8. *If member was initially retired on or after October 1, 1983, the amount computed, if not a multiple of $1, shall be rounded to the next lower multiple of $1. Any future adjustments to such pay must be made on the rounded figure. Retired pay of members retired on September 30, 1983, will not be rounded until there is an adjustment under 10 U.S.C. 1401a; then, and with each subsequent adjustment, the amount as adjusted, if not a multiple of $1, shall be rounded to the next lower multiple of $1. The rounded amount becomes the member's entitlement and any future adjustments shall be based on this rounded entitlement.*
9. *Section 564 repealed by Public Law 102-190, December 5, 1991. Section 1255 repealed by Public Law 90-130, November 8, 1967. An officer who was on active duty on September 15, 1981 and who is retired under Section 1251 is entitled to retired pay of at least 50 percent of the basic pay upon which the retired pay is based.*
10. *On a Reserve enlisted member retired under 10 U.S.C. Section 3914 or 8914 after September 30, 1996, the retired pay base is the monthly basic pay of the member's retired grade (based on rates applicable on date of member's retirement) in lieu of the retired pay base under 10 U.S.C. 1406(e).*

HISTORICAL PAY COMPUTATIONS-FLEET RESERVE AND FLEET MARINE CORPS RESERVE						
	A	B	C	D	E	F
RULE	If member retires in class	during period	with years of service	then pay computation formula is	plus	and applicable law is
1	F-4c 1-b	pre-1938 to 5/31/42	at least 16; less than 20	1/3 x base pay rating in which transferred (note 1)	longevity pay (25% maximum), extraordinary heroism (10%)	52 Stat 1179, section 203, 34 U.S.C. 854b.
2	F-4d 1-c		at least 20; less than 30	1/2 x base pay rating in which transferred (note 1)	longevity pay (25% maximum), extraordinary heroism (10%), or good conduct (10%)	
3	F-5 H-1					52 Stat 1179, section 204, 34 U.S.C. 854c.
4	F-4c 1-b	6/1/42 to 8/9/46	at least 16; less than 20	1/3 x base pay rating in which transferred (note 1)	longevity pay (50% maximum), extraordinary heroism(10%)	56 Stat 359, Public Law 607, 6/6/42.
5	F-4d 1-c		at least 20; less than 30	1/2 x base pay rating in which transferred (note 1)	longevity pay (50% maximum), extraordinary heroism (10%), or good conduct (10%)	
6	F-5, H-1					
7	F-4c 1-b	8/10/46 to 9/30/49	at least 16; less than 20 (note 2)	1/3 x base pay rating in which transferred (note 1) or (note 2)	longevity pay (50% maximum), extraordinary heroism (10%)	60 Stat 993, Public Law 720, 8/10/46.
8	F-4d 1-c		at least 20; less than 30	1/2 x base pay rating in which transferred (note 2)	longevity pay (50 % maximum), extraordinary heroism (10%), or good conduct (10%)	
9	F-6 (note 3) 1-d		at least 20	1/2 x base pay rating in which transferred (note 1) or 2 1/2 % x years of active federal service multiplied by base pay of rating in which transferred (note 2)	longevity pay (75% maximum), extraordinary heroism (10%)	

Table 3-2. Historical Pay Computations-Fleet Reserve and Fleet Marine Corps Reserve

HISTORICAL PAY COMPUTATIONS-FLEET RESERVE AND FLEET MARINE CORPS RESERVE						
	A	B	C	D	E	F
RULE	If member retires in class	during period	with years of service	then pay computation formula is	plus	and applicable law is
10	all classes	transferred before 10/1/49, effective on 10/1/49	at least 20	pay received on 9/30/49 (saved pay) or 2 1/2 % x years of active service = percent; percent x basic pay of highest federally recognized rating satisfactorily held (note 4)		Public Law 351, 81st Congress, 10/1/49.
11	F-4c 1-b	on or after 10/1/49		1/3 x basic pay receiving at transfer (note 5) or 2 ½ % x years of active federal service = percent; percent x basic pay of rating in which transferred (notes 6 and 8)	extraordinary heroism (10%)	
12	F-4d 1-c			1/2 x basic pay receiving at transfer (note 5) or 2 ½% x years of active federal service = percent; percent x basic pay of rating in which transferred (notes 6 and 8)	extraordinary heroism (10%), or good conduct (10%)	
					extraordinary heroism(10%)	
13	F-6 1-d			1/2 x basic pay receiving at transfer (note 5) or 2 ½% x years of active federal service = percent; percent x basic pay of rating in which transferred (note 6)		
					extraordinary heroism(10%)	

Table 3-2. Historical Pay Computations-Fleet Reserve and Fleet Marine Corps Reserve (Continued)

HISTORICAL PAY COMPUTATIONS-FLEET RESERVE AND FLEET MARINE CORPS RESERVE						
	A	B	C	D	E	F
RULE	If member retires in class	during period	with years of service	then pay computation formula is	plus	and applicable law is
14	F-6 1-d	on or after 8/10/56	at least 20 years	2 ½ % x years of active service in Armed Forces = percent; percent x basic pay receiving at transfer (notes 7 and 8)	extraordinary heroism (10%)	Public Law 1028, 8/10/56, 10 U.S.C. 6330.

NOTES:

1. *Fractional year of 6 months or more not creditable as 1 year for longevity or transfer.*
2. *Fractional year of 6 months or more creditable equals full year for transfer and longevity effective August 10, 1946.*
3. *Effective August 10, 1946 class F-5 changed to class F-6.*
4. *Six months or more equals 1 year for active service; 6 months or more does not equal 1 year for basic pay; no good conduct or extraordinary heroism.*
5. *Six months equals 1 year for basic pay and not for computing years of naval service for transfer.*
6. *Six months or more equals 1 full year for active service and basic pay.*
7. *Six months equals 1 year for active service (include constructive service in active service). Six months equals 1 year for basic pay (do not include constructive service in service for basic pay).*
8. *If member entered a Uniformed Service after September 7, 1980, substitute the retainer pay base for the base or basic pay.*

Table 3-2. Historical Pay Computations-Fleet Reserve and Fleet Marine Corps Reserve (Continued)

EXAMPLES OF HOW YEARS, MONTHS, AND DAYS ARE CONVERTED TO YEAR AND PERCENTAGE MULTIPLE							
At Least			*Not More Than*				
Years	*Months*	*Days*	*Years*	*Months*	*Days*	*Converted Years*	*Percentage*
0	6	0	1	5	29	1	2-1/2
1	6	0	2	5	29	2	5
2	6	0	3	5	29	3	7-1/2
3	6	0	4	5	29	4	10
4	6	0	5	5	29	5	12-1/2
5	6	0	6	5	29	6	15
6	6	0	7	5	29	7	17-1/2
7	6	0	8	5	29	8	20
8	6	0	9	5	29	9	22-1/2
9	6	0	10	5	29	10	25
10	6	0	11	5	29	11	27-1/2
11	6	0	12	5	29	12	30
12	6	0	13	5	29	13	32-1/2
13	6	0	14	5	29	14	35
14	6	0	15	5	29	15	37-1/2
15	6	0	16	5	29	16	40
16	6	0	17	5	29	17	42-1/2
17	6	0	18	5	29	18	45
18	6	0	19	5	29	19	47-1/2
19	6	0	20	5	29	20	50
20	6	0	21	5	29	21	52-1/2
21	6	0	22	5	29	22	55
22	6	0	23	5	29	23	57-1/2
23	6	0	24	5	29	24	60
24	6	0	25	5	29	25	62-1/2
25	6	0	26	5	29	26	65
26	6	0	27	5	29	27	67-1/2
27	6	0	28	5	29	28	70
28	6	0	29	5	29	29	72-1/2
29	6	0				30	75

NOTE: This Table applies to members retired before January 1, 1982 with several exceptions covered in paragraph 030107.

Table 3-3. Examples of How Years, Months, And Days Are Converted To Year and Percentage Multiple

SERVICE CONVERSIONS EFFECTIVE JANUARY 1, 1982											
Service Multiplier			Service Multiplier			Service Multiplier			Service Multiplier		
Years	Months	(%)	Years	Months	(%)	Years	Months	(%)	Years	Months	(%)
		=00.	2		= 5.00	4		=10.00	6		=15.00
	1	=00.20	2	1	= 5.20	4	1	=10.20	6	1	=15.20
	2	=00.43	2	2	= 5.43	4	2	=10.43	6	2	=15.43
	3	=00.63	2	3	= 5.63	4	3	=10.63	6	3	=15.63
	4	=00.83	2	4	= 5.83	4	4	=10.83	6	4	=15.83
	5	= 1.05	2	5	= 6.05	4	5	=11.05	6	5	=16.05
	6	= 1.25	2	6	= 6.25	4	6	=11.25	6	6	=16.25
	7	= 1.45	2	7	= 6.45	4	7	=11.45	6	7	=16.45
	8	=1.68	2	8	= 6.68	4	8	=11.68	6	8	=16.68
	9	= 1.88	2	9	= 6.88	4	9	=11.88	6	9	=16.88
	10	= 2.08	2	10	= 7.08	4	10	=12.08	6	10	=17.08
	11	= 2.30	2	11	= 7.30	4	11	=12.30	6	11	=17.30
1		= 2.50	3		= 7.50	5		=12.50	7		=17.50
1	1	= 2.70	3	1	= 7.70	5	1	=12.70	7	1	=17.70
1	2	= 2.93	3	2	= 7.93	5	2	=12.93	7	2	=17.93
1	3	= 3.13	3	3	= 8.13	5	3	=13.13	7	3	=18.13
1	4	= 3.33	3	4	= 8.33	5	4	=13.33	7	4	=18.33
1	5	= 3.55	3	5	= 8.55	5	5	=13.55	7	5	=18.55
1	6	= 3.75	3	6	= 8.75	5	6	=13.75	7	6	=18.75
1	7	= 3.95	3	7	= 8.95	5	7	=13.95	7	7	=18.95
1	8	= 4.18	3	8	= 9.18	5	8	=14.18	7	8	=19.18
1	9	= 4.38	3	9	= 9.38	5	9	=14.38	7	9	=19.38
1	10	= 4.58	3	10	= 9.58	5	10	=14.58	7	10	=19.58
1	11	= 4.80	3	11	= 9.80	5	11	=14.80	7	11	=19.80

Table 3-4. Service Conversions Effective January 1, 1982

SERVICE CONVERSIONS EFFECTIVE JANUARY 1, 1982											
Service Multiplier			Service Multiplier			Service Multiplier			Service Multiplier		
Years	Months	(%)	Years	Months	(%)	Years	Months	(%)	Years	Months	(%)
8		=20.00	10		=25.00	12		=30.00	14		=35.00
8	1	=20.20	10	1	=25.20	12	1	=30.20	14	1	=35.20
8	2	=20.43	10	2	=25.43	12	2	=30.43	14	2	=35.43
8	3	=20.63	10	3	=25.63	12	3	=30.63	14	3	=35.63
8	4	=20.83	10	4	=25.83	12	4	=30.83	14	4	=35.83
8	5	=21.05	10	5	=26.05	12	5	=31.05	14	5	=36.05
8	6	=21.25	10	6	=26.25	12	6	=31.25	14	6	=36.25
8	7	=21.45	10	7	=26.45	12	7	=31.45	14	7	=36.45
8	8	=21.68	10	8	=26.68	12	8	=31.68	14	8	=36.68
8	9	=21.88	10	9	=26.88	12	9	=31.88	14	9	=36.88
8	10	=22.08	10	10	=27.08	12	10	=32.08	14	10	=37.08
8	11	=22.30	10	11	=27.30	12	11	=32.30	14	11	=37.30
9		=22.50	11		=27.50	13		=32.50	15		=37.50
9	1	=22.70	11	1	=27.70	13	1	=32.70	15	1	=37.70
9	2	=22.93	11	2	=27.93	13	2	=32.93	15	2	=37.93
9	3	=23.13	11	3	=28.13	13	3	=33.13	15	3	=38.13
9	4	=23.33	11	4	=28.33	13	4	=33.33	15	4	=38.33
9	5	=23.55	11	5	=28.55	13	5	=33.55	15	5	=38.55
9	6	=23.75	11	6	=28.75	13	6	=33.75	15	6	=38.75
9	7	=23.95	11	7	=28.95	13	7	=33.95	15	7	=38.95
9	8	=24.18	11	8	=29.18	13	8	=34.18	15	8	=39.18
9	9	=24.38	11	9	=29.38	13	9	=34.38	15	9	=39.38
9	10	=24.58	11	10	=29.58	13	10	=34.58	15	10	=39.58
9	11	=24.80	11	11	=29.80	13	11	=34.80	15	11	=39.80

Table 3-4. Service Conversions Effective January 1, 1982 (Continued)

SERVICE CONVERSIONS EFFECTIVE JANUARY 1, 1982											
Service Multiplier			Service Multiplier			Service Multiplier			Service Multiplier		
Years	Months	(%)	Years	Months	(%)	Years	Months	(%)	Years	Months	(%)
16		=40.00	18		=45.00	20		=50.00	22		=55.00
16	1	=40.20	18	1	=45.20	20	1	=50.20	22	1	=55.20
16	2	=40.43	18	2	=45.43	20	2	=50.43	22	2	=55.43
16	3	=40.63	18	3	=45.63	20	3	=50.63	22	3	=55.63
16	4	=40.83	18	4	=45.83	20	4	=50.83	22	4	=55.83
16	5	=41.05	18	5	=46.05	20	5	=51.05	22	5	=56.05
16	6	=41.25	18	6	=46.25	20	6	=51.25	22	6	=56.25
16	7	=41.45	18	7	=46.45	20	7	=51.45	22	7	=56.45
16	8	=41.68	18	8	=46.68	20	8	=51.68	22	8	=56.68
16	9	=41.88	18	9	=46.88	20	9	=51.88	22	9	=56.88
16	10	=42.08	18	10	=47.08	20	10	=52.08	22	10	=57.08
16	11	=42.30	18	11	=47.30	20	11	=52.30	22	11	=57.30
17		=42.50	19		=47.50	21		=52.50	23		=57.50
17	1	=42.70	19	1	=47.70	21	1	=52.70	23	1	=57.70
17	2	=42.93	19	2	=47.93	21	2	=52.93	23	2	=57.93
17	3	=43.13	19	3	=48.13	21	3	=53.13	23	3	=58.13
17	4	=43.33	19	4	=48.33	21	4	=53.33	23	4	=58.33
17	5	=43.55	19	5	=48.55	21	5	=53.55	23	5	=58.55
17	6	=43.75	19	6	=48.75	21	6	=53.75	23	6	=58.75
17	7	=43.95	19	7	=48.95	21	7	=53.95	23	7	=58.95
17	8	=44.18	19	8	=49.18	21	8	=54.18	23	8	=59.18
17	9	=44.38	19	9	=49.38	21	9	=54.38	23	9	=59.38
17	10	=44.58	19	10	=49.58	21	10	=54.58	23	10	=59.58
17	11	=44.80	19	11	=49.80	21	11	=54.80	23	11	=59.80

Table 3-4. Service Conversions Effective January 1, 1982 (Continued)

SERVICE CONVERSIONS EFFECTIVE JANUARY 1, 1982								
Service Multiplier			Service Multiplier			Service Multiplier		
Years	Months	(%)	Years	Months	(%)	Years	Months	(%)
24		=60.00	26		=65.00	28		=70.00
24	1	=60.20	26	1	=65.20	28	1	=70.20
24	2	=60.43	26	2	=65.43	28	2	=70.43
24	3	=60.63	26	3	=65.63	28	3	=70.63
24	4	=60.83	26	4	=65.83	28	4	=70.83
24	5	=61.05	26	5	=66.05	28	5	=71.05
24	6	=61.25	26	6	=66.25	28	6	=71.25
24	7	=61.45	26	7	=66.45	28	7	=71.45
24	8	=61.68	26	8	=66.68	28	8	=71.68
24	9	=61.88	26	9	=66.88	28	9	=71.88
24	10	=62.08	26	10	=67.08	28	10	=72.08
24	11	=62.30	26	11	=67.30	28	11	=72.30
25		=62.50	27		=67.50	29		=72.50
25	1	=62.70	27	1	=67.70	29	1	=72.70
25	2	=62.93	27	2	=67.93	29	2	=72.93
25	3	=63.13	27	3	=68.13	29	3	=73.13
25	4	=63.33	27	4	=68.33	29	4	=73.33
25	5	=63.55	27	5	=68.55	29	5	=73.55
25	6	=63.75	27	6	=68.75	29	6	=73.75
25	7	=63.95	27	7	=68.95	29	7	=73.95
25	8	=64.18	27	8	=69.18	29	8	=74.18
25	9	=64.38	27	9	=69.38	29	9	=74.38
25	10	=64.58	27	10	=69.58	29	10	=74.58
25	11	=64.80	27	11	=69.80	29	11	=74.80
						30		=75.00

Table 3-4. Service Conversions Effective January 1, 1982 (Continued)

NOTE:
To arrive at the above multipliers, divide the number of whole months by 12, carry the quotient 3, round to 2. Add this to the number of years and multiply by .025.

Example 1: *20 years, 7 months, 13 days*
7 months ÷ 12 = .583 (.58)
20.58 x .025 = 51.45%

Example 2: *20 years, 8 months, 28 days*
8 months ÷ 12 = .667 (.67)
20.67 x .025 = 51.68%

Exception: *Members who retire between January 1, 1982 and September 30, 1983 and meet requirements of paragraph 030107 will round service credit of 6 months or more as shown on the Table.*

Table 3-4. Service Conversions Effective January 1, 1982 (Continued)

Reduction Factors Applicable to Temporary Early Retirement Authority					
Months Less than 240	***Reduction Factor***	***Months Less than 240***	***Reduction Factor***	***Months Less than 240***	***Reduction Factor***
1	*.99917*	*2*	*.99833*	*3*	*.99750*
4	*.99667*	*5*	*.99583*	*6*	*.99500*
7	*.99417*	*8*	*.99333*	*9*	*.99250*
10	*.99167*	*11*	*.99083*	*12*	*.99000*
13	*.98917*	*14*	*.98833*	*15*	*.98750*
16	*.98667*	*17*	*.98583*	*18*	*.98500*
19	*.98417*	*20*	*.98333*	*21*	*.98250*
22	*.98167*	*23*	*.98083*	*24*	*.98000*
25	*.97917*	*26*	*.97833*	*27*	*.97750*
28	*.97667*	*29*	*.97583*	*30*	*.97500*
31	*.97417*	*32*	*.97333*	*33*	*.97250*
34	*.97167*	*35*	*.97083*	*36*	*.97000*
37	*.96917*	*38*	*.96833*	*39*	*.96750*
40	*.96667*	*41*	*.96583*	*42*	*.96500*
43	*.96417*	*44*	*.96333*	*45*	*.96250*
46	*.96167*	*47*	*.96083*	*48*	*.96000*
49	*.95917*	*50*	*.95833*	*51*	*.95750*
52	*.95667*	*53*	*.95583*	*54*	*.95500*
55	*.95417*	*56*	*.95333*	*57*	*.95250*
58	*.95167*	*59*	*.95083*	*60*	*.95000*

Table 3-5. Reduction Factors Applicable to Temporary Early Retirement Authority (Continued)

Chapter 03-Gross Pay Computation

0301-Basic Computation

030101.A	*10 U.S.C. 1401*
030101.B	*10 U.S.C. 1401*
030101.C.1	*10 U.S.C. 1406(b)(1)*
030101.C.2.a	*10 U.S.C. 1407(c)(1)*
030101.C.2.b	*10 U.S.C. 1407(c)(2)*
030101.C.2.c	*10 U.S.C. 1407(d)(2)*
030101.C.2.d	*10 U.S.C. 1407(d)(3)*
030101.D	*10 U.S.C. 1401(b)*
030101.E	*10 U.S.C. 1409(a)*
030102	*10 U.S.C. 1409(a), 3991(a), 6327, 6333, 8991(a)*
030102.A.1	*10 U.S.C. 1407(e)*
030102.A.2	*10 U.S.C. 1406(c), 3991(c), 6333(c), 8991(c)*
030102.A.3	*10 U.S.C. 3991(a), 6330(c), 8991(a)*
030102.B	*10 U.S.C. 1406(c)-(e), 1407,*
030102.C	*10 U.S.C. 1401(a), 1406(b), 1407(c)*
030102.D	*10 U.S.C. 1409*
030103	*10 U.S.C. 1401, 1406(b), 1407(c)*
030103.B	*10 U.S.C. 6383(c)*
030104	*10 U.S.C. 12733, 12739*
030104.A	*10 U.S.C. 1406(b)*
030104.B	*10 U.S.C. 1407(d)*
030105	*10 U.S.C. 6330, 6333, 6336*
030105.A	*10 U.S.C. 1406(d), 6333, 6336*
030105.B	*10 U.S.C. 1407(c), (e)*
030107	*10 U.S.C. 1401(a), 1409(c), 6330(d), 6404*
030108	*Public Law 96-342, sec. 813, Sept 8, 1980* *Public Law 99-348, sec. 104, Jul 1, 1986* *OSD/FM&P Memo, Mar 12, 1993*

	030109	*Public Law 98-94, sec. 922, Sep 24, 1983* *OSD/MP&FM Memo, Sept 29, 1983*
	030110	*Public Law 102-484, sec. 4403, 4417, Oct 23, 1992*
	030110.B	*OSD(FM&P) Memo, Apr 22, 1993*
	030110.C	*Public Law 102-484, sec. 4464, Oct 23, 1992*
	030110.C.2	*OSD(FM&P) Memo, April 22, 1993*
	030111	*10 U.S.C. 1401a(b), 1409, 1410* *DoD Office of the Actuary Memo, May 5, 1987*
0303-Tower Amendment		
	030301	*10 U.S.C. 1401a(f)*
	030301.C	*Public Law 100-456, sec. 622, Sept 29, 1988*
	030302.A	*MS Comp Gen B-189029, Sept 2, 1980*
	030303	*10 U.S.C. 1401a(f)* *Public Law 103-337, sec. 633, Oct 5, 1994* *MS Comp Gen B-189029, Sept 2, 1980* *70 Comp Gen 398* *MS Comp Gen B-231406, Mar 22, 1989* *66 Comp Gen 425* *MS Comp Gen B-204120, Mar 25, 1982*
0304-Special Provisions		
	030403.A	*10 U.S.C. 601(b), 1406(i), 3991, 6325, 6333, 8991*
	030404	*10 U.S.C 1370*
	030405	*10 U.S.C. 1406(i)* *DoD General Counsel opinion, Apr 21, 1998*

030406	*10 U.S.C. 3991(a), 6330(c), 8991(a)* *55 Comp Gen 701* *MS Comp Gen B-259559, Jun 6, 1995*
030407	*Public Law 88-132, sec. 5, Oct 2, 1963*
030409	*Public Law 77-607, sec. 15, Jun 16, 1942*
030410	*Act of May 24, 1928, Public Law 506, 45 Stat 735, as amended by Sec 1, Act of May 20, 1933 48 Stat 10*
030411	*Public Law 103-160, Nov 30, 1993*
Table 3-1 Note 7	*Public Law 96-342, Sept 8, 1980*
Table 3-2 Note 8	*Public Law 96-342, Sep 8, 1980*
Table 3-5	*ASD/FM & P(MM & PP) Memo, Apr 22, 1993*

SUMMARY OF MAJOR CHANGES TO CHAPTER 04
DOD 7000.14-R, VOLUME 7B
MILITARY PAY POLICY AND PROCEDURES FOR RETIRED PAY

New and revised instructions are indicated by a star placed immediately before the new or revised section, paragraph, subparagraph, decision logic table, etc.

Page	Paragraph	Explanation of Change/Revision	Effective Date
4-5&6	040602.B	IC 2-99 addresses Special Separation Benefit	Feb 04, 1999
4-5	040501	IC 3-99 clarifies VSI beneficiary payments due for a minor child.	Feb 23, 1999

NOTE: Interim Changes 2-99 and 3-99 are incorporated in this chapter. Interim change 3-99 affects other chapters and will not be deleted from the interim changes cited in the OUSD(C) web site until all such chapters are updated.

CHAPTER 4

RECOUPMENT OF READJUSTMENT PAY, NONDISABILITY SEVERANCE PAY, SEPARATION PAY, VOLUNTARY SEPARATION INCENTIVE, AND SPECIAL SEPARATION BENEFIT

0401 GENERAL PROVISIONS

040101. Purpose. To provide guidance covering the recoupment of payments made to certain members upon involuntary discharge, release from active duty, or voluntary separation, when members are later placed on a retired list.

040102. Definitions

A. Readjustment Pay. A lump-sum payment to members of a Reserve Component of any Military Service, members of the Army or Air Force without component, and Regular Army commissioned officers below the grade of major who are involuntarily released after completing at least 5 years of continuous active duty and who do not qualify for retirement.

B. Nondisability Severance Pay. A lump-sum payment specifically authorized by law to certain commissioned and warrant officers who are involuntarily discharged from active duty under certain conditions.

C. Separation Pay. A lump-sum payment to a Regular officer or a member of a Reserve Component who is discharged involuntarily or released from active duty September 15, 1981, or later; who has completed 5 or more, but less than 20 years of active service; and who does not qualify for retirement. Effective October 1, 1983, the 5 years of minimum active duty must have been continuous for any member who was not on the active duty list. A period of active duty is continuous if any break in service does not exceed 30 days.

D. Voluntary Separation Incentive. An annual payment to members who separate voluntarily from service before October 1, 1995, under conditions prescribed by the Secretary concerned.

E. Special Separation Benefit. A lump-sum payment to members who separate voluntarily from service before October 1, 1995, under conditions prescribed by the Secretary of the Military Department concerned.

F. Recoupment. Refund or recovery of readjustment pay, nondisability severance pay, separation pay, voluntary separation incentive or special separation benefit previously received, due to entitlement to retirement benefits based on the same active service.

0402 READJUSTMENT PAY

040201. Members Affected

A. A member who receives readjustment pay before September 15, 1981, because of involuntary discharge or release from active duty after June 28, 1962, and later qualifies for retired pay on completion of 20 years of active service must refund 75 percent of the readjustment payment. For this purpose, a member transferred to the Fleet Reserve or the Fleet Marine Corps Reserve is considered to have "qualified for retired pay under a statute authorizing retirement upon completion of 20 years of active service," even though such transfer may have occurred after completion of less than 20 years of actual service. See Table 4-1.

B. A Regular Army commissioned officer in the grade of second lieutenant, first lieutenant, or captain, who receives readjustment pay from December 30, 1974, through December 30, 1977, and who later qualifies for retired pay upon completion of 20 years of active service, must refund 75 percent of the readjustment payment. See Table 4-1.

C. A member of the Uniformed Services who served on active duty as a temporary officer and held a Reserve officer status upon release from active duty receives readjustment pay after June 28, 1962 but before September 15, 1981, and who after a period of enlisted service is retired for temporary or permanent disability and also qualifies for service retirement as a Reserve officer, must refund 75 percent of the readjustment payment. See Table 4-1.

D. A member who receives readjustment pay September 15, 1981, or later, and who later qualifies for retired pay, must refund an amount equal to the total amount of readjustment pay received. See subparagraph 040202.B, below.

040202. Recoupment of Readjustment Pay

A. Readjustment Pay Received Before September 15, 1981

1. A total of 75 percent of the gross readjustment pay without interest is deducted immediately from retired pay.

2. There is no entitlement to retired pay until 75 percent of the lump-sum pay is recovered. Cost for coverage under the Survivor Benefit Plan must be paid by direct remittance to the servicing finance activity during the period member is not entitled to retired pay.

3. When applying the 75 percent formula to lump-sum readjustment payment to determine the amount to be recouped from retired pay, any mustering-out payment previously received under the Mustering-Out Payment Act of 1944 (reference (an)) or the Veteran's Readjustment Assistance Act of 1952 (reference (ao)) must be first deducted from the gross readjustment pay.

B. Readjustment Pay Received September 15, 1981, or Later

1. A member who receives readjustment pay September 15,1981, or later, and subsequently qualifies for retired pay, must refund an amount equal to the total amount of the readjustment pay received.

2. Recoupment of the readjustment pay shall be by monthly deduction based on the service used in the computation of readjustment pay.

040203. Special Provisions

A. No income tax withholding is made from retired pay used for satisfying the readjustment pay recoupment. Neither is such pay included on Treasury Department Form W-2P (Statement for Recipients of Annuities, Pensions or Retired Pay) nor reported as taxable earnings.

B. A member who receives readjustment pay and also is immediately eligible to receive disability compensation from the Department of Veterans Affairs may retain the gross readjustment pay; however, 75 percent (or the total amount, if applicable) of that gross readjustment payment is deducted from the disability compensation. Acceptance of the gross readjustment pay, however, does not prevent the member from becoming entitled to disability compensation based on service performed after that payment was received.

1. Readjustment pay received before September 15, 1981, which has not been recovered from disability compensation shall, upon a later retirement from an active Uniformed Service, immediately be deducted from retired pay. Readjustment pay received September 15, 1981, or later, which has not been recovered from disability compensation shall, upon a later retirement from an active Uniformed Service, be deducted from retired pay by monthly deductions.

2. No deduction from retired pay is required when 75 percent (or the total amount, as applicable) of the readjustment payment has been recovered by the Department of Veteran's Affairs before retirement.

C. If a member previously was paid readjustment pay or a payment of mustering-out pay under the Mustering-Out Payment Act of 1944 (reference (an)) or the Veterans' Readjustment Assistance Act of 1952 (reference (ao)), the prior readjustment or mustering-out payments are deducted from the readjustment pay to which member is entitled after June 28, 1962. If the member

has repaid the prior payment of readjustment pay to the United States, the period covered by it is treated as a period for which a payment has not been made.

D. A member may waive entitlement to readjustment pay. Also, the full amount of such pay may be refunded before retirement. Under either condition, the member receives retired pay immediately upon retirement or transfer to the Fleet Reserve or Fleet Marine Corps Reserve.

E. Reserve members retired under 10 U.S.C. 12731-12737 (reference (c)), who received readjustment pay before September 15, 1981, are not subject to recoupment or readjustment pay. Such members receiving readjustment pay September 15, 1981, or later are subject to recoupment of readjustment pay under subparagraph 040202.B, above.

0403 SEVERANCE PAY-NONDISABILITY

040301. General. Before September 15, 1981, certain provisions of law governing separation, from the active list required refund of severance pay upon a member's retirement. See Table 4-2 for conditions governing refund of severance pay received before September 15, 1981. Members who receive severance pay September 15, 1981, or later and subsequently qualify for retirement are subject to recoupment under paragraph 040302, below.

040302. Recoupment of Nondisability Severance Pay

A. Lump-sum severance pay must be recouped by deducting from retired pay each month an amount based on the service for which the severance pay was received until the total deducted equals the amount of the severance pay.

B. The member may refund the full amount by direct remittance to the servicing finance activity or may authorize deduction in an amount greater than that required by law.

0404 SEPARATION PAY

040401. Members Affected

A. Entitlement After September 15, 1981. Regular officers (including Regular warrant officers) and nonregular members of an Armed Force involuntarily discharged or released on or after September 15, 1981, with at least 5 but less than 20 years of active service, are entitled to separation pay as determined by the Secretary of the Military Department concerned. Effective October 1, 1983, the 5-year minimum active duty requirement must have been continuous for any member who was not on the active duty list. A period of active duty is continuous if any break in service does not exceed 30 days.

B. Entitlement Before September 15, 1981. A member of the Army, Navy, Air Force, or Marine Corps in an active duty status on September 14, 1981, who later is involuntarily discharged or released from active duty, is entitled to readjustment pay or severance pay under the laws in effect on that date. A member who also is eligible for separation pay elects which payment to receive. If the member fails to make an election in a timely manner, the more favorable amount is paid.

040402. Recoupment of Separation Pay

A. A member who receives separation pay, and who later qualifies for retired pay, will repay an amount equal to the total amount of separation pay received by a monthly deduction from retired pay based on the service for which separation pay was computed.

B. A member who receives separation pay, and who also is eligible for disability compensation from the Department of Veterans Affairs, will repay an amount equal to the total amount of separation pay received from the disability compensation awarded. No deduction for separation pay shall be made from disability compensation based on service performed after the separation pay was received.

0405 VOLUNTARY SEPARATION INCENTIVE (VSI)

★ *040501. Members Affected. Certain members, who voluntarily separated before October 1, 1995, received annual payments of voluntary separation incentive (VSI) based on their grade or rank at separation and number of years of service creditable for retirement purposes. See Volume 7C, paragraph 010403 (reference (v)) of this Regulation for beneficiary payment procedures. (IC 3-99)*

040502. Recoupment of VSI. If a member, who has received VSI, becomes eligible for retired pay, recoup from the member the gross amount of VSI paid. The gross amount paid does not include any amounts offset because of the member's receipt of military compensation between the date of separation which caused the VSI to begin and the date that he or she became eligible for receipt of retired pay. Recoupment is according to the following formula-divide the total days service for retirement prior to the separation by the total days of service for retirement: the resulting fraction is the percentage of retired pay to recoup until the entire amount due has been collected. Also apply this collection rate to any increases in the member's retired pay resulting from any cost-of-living increases.

0406 SPECIAL SEPARATION BENEFIT (SSB)

040601. Members Affected. Certain members, who voluntarily separated before October 1, 1995, received a lump-sum special separation benefit (SSB) based on years of service for pay purposes and grade or rank at date of separation.

040602. Recoupment of SSB

A. If a member who has received an SSB payment becomes eligible for retired pay, recoup from the member the gross amount of SSB received, as shown on the member's DD Form 214. Use the formula in paragraph 040502, above, to compute the collection rate.

★ *B. Under the original SSB legislation, a member who received an SSB payment and who subsequently qualified for benefits administered by the Department of Veterans Affairs (VA) was subject to recoupment of the gross amount of the SSB that he or she had been paid. Under Section 653 of Public Law 104-201, (reference (fp)) for payments of SSB that were made after September 30, 1996, the amount subject to recoupment was the total gross amount of the SSB paid, less the amount of federal income tax withheld from such pay. Public Law 105-178 extended the provisions of section 653 to any payment of SSB made during the period December 5, 1991, through September 30, 1996. The Department of Veterans Affairsl administers the refund program for members affected by the retroactive period of adjustment. No recoupment of SSB is required, regardless of when paid, if the disability for which the member receives VA compensation was incurred or aggravated during a period of later active duty. (IC 2-99)*

RECOUPMENT OF READJUSTMENT PAY RECEIVED BEFORE SEPTEMBER 15, 1981 (Note 1)				
	A	B	C	D
RULE	If a member was a	and received before September 15, 1981 (note 1)	and later qualifies for retirement	then readjustment pay is
1	Reserve member (or member of the Army or Air Force without component (temporary))	Readjustment payment upon involuntary release after at least 5 years of continuous active service after June 28, 1962	after 20 years of active service (note 2)	recouped immediately upon retirement at the rate of 75 percent of the gross readjustment pay (note 3).
2	Regular Army officer below the grade of major	Readjustment payment upon involuntary release after at least 5 years of continuous active service because of a reduction in force for the period December 30, 1974 through December 30, 1977		
3	temporary officer on active duty and held a Reserve officer status	Readjustment payment upon involuntary release after at least 5 years of continuous active service after June 28, 1962	for disability after a period of enlisted service and also qualifies for retirement for 20 years of active service	
4	Reserve member (or member of the Army or Air Force without component (temporary))		under 10 U.S.C. 12731	not recouped from retired pay (note 4).

NOTES:
1. For recoupment of readjustment pay received September 15, 1981, or later, see subparagraph 040202.B.
2. Includes transfer to Fleet Reserve with less than 20 years of active service if otherwise qualified.
3. Payment of readjustment pay before June 28, 1962, is not for recoupment from retired pay.
4. There is no provision of law that authorizes recoupment of readjustment pay for members not qualified for retired pay based on 20 years of active service.

Table 4-1. Recoupment of Readjustment Pay Received Before September 15, 1981 (Note 1)

RECOUPMENT OF SEVERANCE PAY RECEIVED BEFORE SEPTEMBER 15, 1981 (Note)					
	A	B	C	D	E
RULE	If a member was	and was discharged	and received before September 15, 1981 (note)	and later qualifies for	then
1	a Regular commissioned Air Force or Army officer	because of failure of selection for promotion to grade O-3 or above	severance pay	retired pay	do not deduct severance pay.
2		because of moral or professional dereliction, or unsatisfactory performance			
3	a Regular commissioned officer of the Navy, Marine Corps, or Coast Guard	because of unsatisfactory performance with less than 20 years			deduct full amount of severance pay.
4		because of failure of selection for promotion to grade O-3 or above			
5	a Regular warrant officer of any Military Service	because of unfitness or unsatisfactory performance of duty and did not reenlist			
6		because of failure of selection for promotion and did not reenlist or was not retained on AD commissioned grade			
7	an officer of the Navy or Marine Corps	because found not qualified from causes arising from own misconduct upon reexamination for promotion			do not deduct severance pay.

Table 4-2. Recoupment of Severance Pay Received Before September 15, 1981 (Note)

RECOUPMENT OF SEVERANCE PAY RECEIVED BEFORE SEPTEMBER 15, 1981 (Note)					
	A	B	C	D	E
RULE	If a member was	and was discharged	and received before September 15, 1981 (note)	and later qualifies for	then
8	a woman officer of the Regular Navy or Regular Marine Corps in grade O-3	because she is not on a promotion list and has completed 13 years of active service in the Navy or Marine Corps	severance pay	retired pay	do not deduct severance pay.
9	a woman officer of the Regular Navy or Regular Marine Corps in grade O-2	because she is not on a promotion list and has completed 7 years of active service in the Navy or Marine Corps			
10	an ensign in the Navy or a second lieutenant in the Marine Corps	because found not professionally qualified upon reexamination for promotion			
11	a Reserve member of any Military Service	without member's consent before active duty agreement under 10 U.S.C. 12311(a)			
12	a Regular commissioned officer of the Coast Guard	because performance is below standard or because of moral or professional dereliction			

NOTE: For recoupment of severance pay received September 15, 1981 or later, see paragraph 040302.

Table 4-2. Recoupment of Severance Pay Received Before September 15, 1981 (Note) (Continued)

Chapter 04-Recoupment of Readjustment Pay, Nondisability Severance Pay, Separation Pay, Voluntary Separation Incentive, and Special Separation Benefit

0401-General Provisions

040102.C	Public Law 96-513, section 109, Dec 12, 1980 37 U.S.C. 203(d)

0402-Readjustment Pay

040201.A	10 U.S.C. 687(f) (repealed) 50 U.S.C. 1016 (repealed) 43 Comp Gen 402 Public Law 96-513, section 109, Dec 12, 1980
040201.B	10 U.S.C. 3814a Public Law 96-513, section 109, Dec 12, 1980
040201.C	46 Comp Gen 107 Public Law 96-513, section 109, Dec 12, 1980
040202.A.3	10 U.S.C. 687 (c), (f) (repealed)
040202.B	10 U.S.C. 1452 Public Law 96-513, section 109, Dec 12, 1980
040203.A	43 Comp Gen 311 Public Law 96-513, section 109, Dec 12, 1980
040203.B	10 U.S.C. 687(b) (6) (repealed) Public Law 96-513, section 109, Dec 12, 1980
040203.D	43 Comp Gen 311 id: 402
040206.B	Public Law 104-201, section 653, Sep 23, 1996 Public Law 105-178, section 8208, June 9, 1998

0403-Severance Pay-Nondisability

040301	53 Comp Gen 921, id: 923

0404-Separation Pay		
	040401	Public Law 96-513, section 109, Dec 12, 1980
	040401.A	37 U.S.C. 203(d)
	040402	Public Law 96-513, section 631, Dec 12, 1980
0405-Voluntary Separation Incentive		
	040501	10 U.S.C. 1175(e)(3)
0406-Special Separation Benefit		
	040601	10 U.S.C. 1174a(g) 10 U.S.C. 1174(h)
	Table 4-1	
	Rule 1	10 U.S.C. 687(f) (repealed) Public Law 96-513, section 109, Dec 12, 1980
	Rule 2	10 U.S.C. 3814a Public Law 96-513, section 109, Dec 12, 1980
	Rule 3	46 Comp Gen 107 Public Law 96-513, section 109, Dec 12, 1980
	Note 1	43 Comp Gen 402
	Table 4-2	
	Rules 1 & 2	10 U.S.C. 3303 (repealed), 3786 (repealed), 3796 (repealed), 8303, 8786, 8796
	Rules 3 & 4	10 U.S.C. 6382(c), 6383(f), 6384(b) 14 U.S.C. 286
	Rules 5 & 6	10 U.S.C. 564, 1166, 1167(b)
	Rule 7	10 U.S.C. 5864
	Rule 8	10 U.S.C. 6401
	Rule 9	10 U.S.C. 6402
	Rule 10	10 U.S.C. 5865
	Rule 11	10 U.S.C. 12312
	Rule 12	14 U.S.C. 327

CHAPTER 5

EMPLOYMENT

★0501 REPORTING REQUIREMENT

★050101. General.

Certain retired members, as specified below, are required to adhere to laws and regulations pertaining to conflict of interest and civilian employment by the federal government.

★050102. Notification of Personnel Action

A. What Agencies Must File. Filing is required of each agency of the federal government in the legislative, executive, or judicial branch (including each corporation owned or controlled by the federal government and non-appropriated fund instrumentalities under the jurisdiction of the Armed Forces) or in the municipal government of the District of Columbia.

B. Where to File. The SF 50 (Notification of Personnel Action) or its equivalent must be sent by an employing agency to the Military Service responsible for administering retired pay of Regular commissioned officers or warrant officers retired for length of service, age, or noncombat-incurred disability.

C. When to File. Submit the SF 50 or its equivalent to the Military Service concerned whenever a retired member is added to the employing agency's rolls or whenever a change or termination of employment occurs.

D. Purpose of the Notification of Personnel Action. The Military Service concerned uses the Personnel Action to determine the application of the dual compensation and pay cap laws as they relate to the employment.

E. Explanation of Codes and Data Elements on the SF 50 (Blocks 5, 6, 24, and 45). Table 5-1 identifies codes for the tenure group, most commonly used codes for nature of action, and an explanation of abbreviations and data in the remarks section. Uniformed Service pay grades and basic titles are in Appendix I.

0502 FEDERAL EMPLOYMENT

050201. Introduction

A. Various laws have been enacted that restrict the acceptance of federal civilian employment by retired commissioned officers and warrant officers. Generally the basis for these restrictions are:

1. Government economy, and

2. Expansion of employment opportunities.

B. The general provisions of the three major laws relating to dual compensation restrictions are in paragraphs 050202-050204, below.

C. During fiscal years 1983, 1984, and 1985, there was a dollar deduction from civilian pay equal to the military retired or retainer pay cost-of-living increase. The deduction is described in paragraph 050210, below.

050202. The Dual Office Act of 1894 (reference (aq))

A. Section 2 of the Act of July 31, 1894 (reference (aq)), as amended, prohibited a person from holding another office under the federal government when compensation or salary received from one office equaled or exceeded $2,500 per annum. This prohibition did not apply to:

1. Retired officers when elected or appointed to public office,

2. Enlisted members retired for any cause, and

3. Retired officers who were retired for:

a. Injuries received in battle; or

b. Disabilities incurred in combat with an enemy of the United States; or

c. Disabilities resulting from any instrumentality of war in the line of duty during a period of war as defined in 38 U.S.C. 101 and 301 (reference (ar)).

B. Retired military personnel, unless specifically exempted, who were receiving retired pay were considered to be holding an office with compensation attached within the meaning of the Act (reference (aq)). Persons who rendered full-time service in regular civilian positions likewise held "an office to which compensation was attached." Accordingly, they were prohibited from holding another office where either the retired pay or civilian salary was $2,500 or more per annum.

C. If the compensation of the retired officer was less than $2,500, and he or she was subject to the 1894 Act (reference (aq)), the officer could have been appointed to a civilian position, provided the yearly civilian salary was less than $2,500.

D. When the retired officer's pay exceeded $2,500 per annum, the prohibition of the Act of July 31, 1894 (reference (aq)), could not be overcome by waiving or relinquishing either the retired pay or salary attached to the full-time civilian position. An appointment to a

civilian position made under such circumstances was illegal and had to be cancelled and the civilian salary refunded in full.

050203. Economy Act of June 30, 1932, as Amended (reference (as))

A. This Act did not render inoperative any portion of the Act of July 31, 1894 (reference (aq)). It placed a limitation of $3,000 per annum on the combined total rates of pay received for, or on account of, commissioned service and the salary received when the appointment to the civilian position was authorized under the Act of July 31, 1894 (reference (aq)).

B. The limitation on the combined total rates of pay from both sources was increased to $10,000 effective August 4, 1955.

1. If the civilian salary equaled or exceeded the $10,000 limitation, payment of retired pay was suspended.

2. If civilian salary was less than the $10,000 limitation but when combined with full retired pay exceeded the limitation, retired pay was reduced to keep combined income within the $10,000 limitation.

3. If maximum per annum compensation payable under the civilian appointment when combined with annual retired pay totaled less than $10,000, neither civilian compensation nor retired pay was subject to reduction.

C. While warrant officers, including retired temporary warrant officers not retired for injuries or incapacitation incurred in the line of duty, held an "office" within the meaning of the Act of July 31, 1894 (reference (aq)), they were not considered commissioned officers for dual compensation purposes under this Act (reference (aq)).

D. Enlisted members who received pay for or on account of commissioned service were subject to the 1932 Act (reference (as)) unless retired for wounds received in battle, disability incurred in combat with an enemy of the United States or as a result of an instrumentality of war. Enlisted members advanced on the retired list to commissioned officer rank retained the office of an enlisted member within the meaning of the 1894 Act (reference (aq)).

E. Members entitled to retired pay as officers or former officers in the Reserve Components of the Armed Forces were exempt from the dual compensation restrictions of the Economy Act of 1932 (reference (as)), as amended, if retired under authority of, and entitled to, retired pay under laws relating to Reserve Components of the Armed Forces.

050204. Dual Compensation Act of 1964 (reference (at))

A. This Act repealed all previous dual compensation statutes and combined all dual compensation restrictions into one act. Before December 1, 1964, restriction on federal

employment was governed by the Dual Office Act of 1894 (reference (aq)) or the Economy Act of 1932 (reference (as)), as amended.

B. The Act (reference (at)) provides that a retired commissioned or warrant officer of any Regular Component may receive full salary of any federal civilian office held but during the period for which salary is received, retired pay is reduced to an annual rate equal to the first $2,000 plus one half of the remainder.

1. The $2,000 base amount effective December 1, 1964, has been increased by later cost-of-living increases as shown in Table 5-4.

2. The term "civilian office" means a civilian office or position in the United States Government, including each corporation owned or controlled by the government and including non-appropriated fund instrumentalities under the jurisdiction of the Armed Forces.

C. Reduction in retired pay does not apply if retired pay is:

1. Based on a disability resulting from injury or disease received in the line of duty as a direct result of armed conflict, or

2. Caused by an instrumentality of war and incurred in the line of duty during a period of war.

050205. General Provisions

A. Retired pay may be subject to reduction under dual compensation laws for members employed by the federal government.

1. Table 5-2 identifies categories of members (Regular or non-regular) and specifies the statute governing pay reduction.

2. Civilian positions exempt from reduction are in Table 5-3. Exceptions to restrictions on retired pay for other positions may be made when warranted on the basis of special emergency government employment needs which cannot otherwise be met. These exceptions may be approved by the:

a. President of the Senate, with respect to positions in the Senate.

b. Speaker of the House, with respect to positions in the House of Representatives.

c. Architect of the Capitol, with respect to positions in the Office of the Architect of the Capitol.

d. Office of Personnel Management, subject to supervision and control of the President, with respect to all other positions.

e. Administrator of National Aeronautics and Space Administration (NASA) with respect to not more than 30 NASA employees appointed to scientific, engineering, or administrative positions under 42 U.S.C. 2473(c)(2)(A) (reference (au)).

f. The Governor of the Armed Forces Retirement Home Board with respect to physicians' positions in the Home.

g. The Board of Regents of the Uniformed Services University of Health Sciences, with respect to physicians' positions.

h. The Director of the Office of Personnel Management with respect to employees on a case-by-case basis. Effective February 14, 1991, the Director, at the request of the head of an Executive Agency, may waive dual compensation restrictions in positions for which there is exceptional difficulty in recruiting or retaining a qualified employee. The Director may grant authority to the head of an agency to waive the dual compensation restrictions for an employee serving on a temporary basis, but only if, and for so long as, the authority is necessary due to an emergency involving a direct threat to life or property or other unusual circumstances.

i. The Director of the Administrative Office of the United States Courts, with respect to an employee in the Judicial Branch, has the same waiver authority as would be available to the Director of the Office of Personnel Management, or a duly authorized agency head, under subparagraph A.2.h, above, with respect to any employee of an Executive Agency. Authority under this subsection may not be exercised with respect to a justice or judge of the United States, as defined in 28 U.S.C. 451 (reference (av)). Authority may be exercised with respect to an employee of an agency in the Legislative Branch, by the head of such agency; with respect to an employee of the House of Representatives, by the Speaker of the House of Representatives; and with respect to an employee of the Senate, by the Committee of Rules and Administration of the Senate. This became effective December 5, 1991.

B. Reduction in retired pay is not required when retirement is based on a disability:

1. Resulting from injury or disease received in line of duty as a direct result of armed conflict; or

2. Caused by an instrumentality of war and incurred in line of duty during a period of war (as defined in 38 U.S.C. 101 and 301) (reference (ar)).

C. If doubt exists as to whether a disability qualifies a member or her for exemption under the dual compensation statute, a special determination must be requested from the Military Service legal staff.

D. Reduction in retired pay is not required when a member is employed by an agency supported by a grant from the United States if the position was created by the state and the salary is paid out of funds which have been receipted for by the state and have become state funds. However, employment in a cooperative position between state and federal governments, where an employee is entitled to benefits of Federal Employee's Group Life Insurance and civil service retirement deductions are made from pay, is subject to the dual compensation restrictions.

★E. Retired members who are employed by schools participating in the Junior Reserve Officers' Training Corps Program are entitled to receive their full retired pay without reduction. For additional information see Volume 10, Chapter 21.

F. Indebtedness resulting from erroneous payment of retired pay due to dual compensation is collectible when discovered after 6 years from the last period of employment ONLY if the United States General Accounting Office is notified within the 6-year period. Otherwise, the overpayment is barred from recovery. Automatic collection is possible and required within 6 years immediately after the last period of federal employment.

050206. Time Limit for Accepting Employment. The Dual Compensation Act of 1964 (reference (at)) prohibits the employment of any retired member of the Armed Forces in the Department of Defense (including a nonappropriated fund instrumentality under the jurisdiction of the Armed Forces) within 180 days immediately after retirement, except:

A. When the appointment is authorized by the Secretary of a Military Department or designee, and if appropriate, approved by the Office of Personnel Management;

B. The minimum rate of basic compensation for the office has been increased by Presidential authority in order to recruit or retain well qualified individuals; or

C. A state of national emergency exists.

050207. Restrictions for Members Retired Before December 1, 1964

A. The criteria in paragraphs 050204 and 050205, above, automatically apply to:

1. Members retired before December 1, 1964, who were employed on Nov 30, 1964, if they elected before March 1, 1965 to become subject to the restrictions of the 1964 Act (reference (at)).

2. Members retired before December 1, 1964, who were not employed on Nov 30, 1964, and later became employed by the federal government.

3. Members retired before December 1, 1964, who were employed on Nov 30, 1964, and later had a break in federal employment of 30 days or more regardless of any election made to remain subject to statutes in effect before December 1, 1964.

B. For members who were employed on Nov 30, 1964, and did not elect to become subject to the 1964 Act, (reference (at)), the dual compensation statutes in effect on Nov 30, 1964 governing retired pay reduction remain applicable:

1. Under the Economy Act of 1932 (reference (as)), combined retired pay and civilian federal salary may not exceed $10,000 in one calendar year. (Before August 4, 1955, the limitation was $3,000 per calendar year.)

2. The total amount of salary earned during a calendar year is applied toward the $10,000 limitation, even though the daily or monthly rate, when calculated on an annual basis, would exceed $10,000 per year.

3. A refund of amounts withheld from the member's retired pay or collection from the member may be required to adjust the account.

050208. Experts and Consultants

A. The term "expert" means a member with a proficiency in a particular skill who is employed by the federal government to perform specific service in return for a fixed fee or a specific daily rate of pay only on those days when such service is performed.

B. The term "consultant" means a person with a special knowledge who may be employed by the federal government to give professional advice in return for a fixed fee or a specific daily rate of pay only on those days when such advice is given.

C. The head of any department, when authorized by law, may procure the temporary (not longer than 1 year) or intermittent services of experts or consultants.

D. Experts and consultants are permitted to renew appointments from year to year. A different appointment is one in which the duties and responsibilities are recognizably different from those of the previous assignment and cannot be considered a continuation, outgrowth, or extension of the assignment.

E. Method of computing retired pay overpayment due to employment is in paragraph 050303, below.

050209. Civil Service Reform Act of 1978 (reference (aw))

A. The provisions of the Civil Service Reform Act of 1978 (reference (aw)) apply to any officer or enlisted member of a Regular or Reserve Component who retired after January 11, 1979, and becomes employed in a federal civilian position. The restrictions imposed on Regular officers and warrant officers under the Dual Compensation Act of 1964 (reference (at)) remain in effect for such members.

B. The provisions of this Act do not apply to:

1. Regular officers retired on or before January 11, 1979, and eligible to receive retired pay, whether employed before or after January 11, 1979. Members are subject only to the 1964 Act (reference (at)).

2. Reserve officers and Reserve enlisted members, otherwise eligible to receive retired pay but for the fact they are not age 60, and employed by the federal government in any position on October 13, 1978, so long as the individual continues to hold any such position without a break in service of more than 3 days.

3. Retired Reserve officers and retired Regular or Reserve enlisted members eligible to receive retired pay on or before January 11, 1979, whether employed by the federal government before or after January 11, 1979.

4. Members whose retired pay is computed in whole or in part based on a disability resulting from injury or disease received in the line of duty as a direct result of armed conflict, or caused by an instrumentality of war and incurred in line of duty during a period of war.

C. The full base pay of the civilian position is retained. The amount of civilian pay used in this determination includes, for members employed by the Legislative Branch, temporary pay increases, even though they may be intended as bonuses. If the amount of pay (not including locality pay) for the civilian position combined with retired pay exceeds the rate of pay currently paid for positions classified at Level V of the Executive Schedule, a reduction is required in retired pay. See Table 5-9 for Executive Schedule Level V rates and dates.

1. The amount of each reduction may not result in retired pay, when combined with civilian pay, being at a rate less than the current rate paid for Level V of the Executive Schedule.

2. The amount of retired pay used in this reduction excludes the amount of retired pay waived in order to receive disability compensation from the Department of Veterans Affairs.

3. For retired Regular officers, the amount of retired pay used in this reduction is the amount remaining after the reduction in subparagraph C.2, above, if applicable, and further reduced by the amount of the reduction required under the Act of 1964 (reference (at)).

4. The cost of participation in a survivor benefits program or a veterans insurance program is not considered in computing the required reduction, unless the remainder is inadequate to cover that cost.

D. When combined civilian pay and retired pay exceeds Level V, the amount of the reduction to retired pay will be deposited to the general fund of the Treasury of the United States.

E. The reduction does not apply if the member is employed on a temporary (full or part-time) basis, for the first 30-day period for which the member receives pay.

F. A limited 5-year waiver authority has been designated to the Office of Personnel Management to meet special or emergency employment needs of the government with regard to civilian medical officer positions. However, if there is a break in service of 3 or more days, the waiver is terminated.

G. The limitation on the amount received applies to any one pay period rather than for any given calendar year or fiscal year. The amount of the retired pay reduction is not refundable even though the retiree's combined retired pay and civilian salary for the entire year may be less than the annual pay for Level V of the Executive Schedule.

H. Leave Without Pay (LWOP) during a period of pay cap reduction is treated the same as during a period of dual compensation reduction.

050210. Deductions From Civilian Pay for Increases in Military Retired or Retainer Pay. Under Public Law 97-253 (reference (ax)), each federal agency deducted from the civilian pay of a member or former member of a Uniformed Service, an amount equal to the cost-of-living increase in military retired or retainer pay under 10 U.S.C. 1401a(b) (reference (c)) in April 1983. Public Law 98-270 (reference (ay)), repealed this provision before any further reductions could be made as set out in Public Law 97-253 (reference (ax)). The deduction in civilian pay did not apply if a member's retirement was based on war or combat-incurred injury or disability. The annual amount of the increase was computed as the difference between the adjusted gross before and after the cost-of-living increase. The adjusted gross equals gross less VA compensation less SBP/RCSBP/RSFPP less dual compensation less pay cap.

0503 PAY ADJUSTMENTS

050301. Effective Date for Reduction

A. Permanent (Full-Time or Part-Time) Appointments

1. Reduction in retired pay is required effective with the first day of employment with pay when employed in a permanent full-time appointment.

a. A member of a Uniformed Service, while in a terminal leave status pending retirement, may accept a civilian office or position in the United States Government, its territories or possessions, or the government of the District of Columbia. The pay of that office or position may be received in addition to pay and allowances from the Uniformed Service for the unexpired portion of the terminal leave (5 U.S.C. 5534a (reference (az)), Public Law 90-93 (reference (az)), 56 Comp Gen 855 (reference (ba)).

b. Reduction in retired pay for employment which begins before retirement is effective with the first day of entitlement to retired pay.

c. Employment before retirement is subject to the time limit contained in paragraph 050206, above, prohibiting employment with the Department of Defense immediately after retirement.

2. Reduction is required effective the 31st calendar day when employed in a part-time appointment regardless of hours worked per day, but only for the days for which the employee actually receives pay.

3. When a member is in a leave-without pay status for an entire day which is normally a working day, no reduction in retired pay is required for that day.

B. Temporary (Full-Time or Part-Time), Intermittent, and When Actually Employed (WAE) Appointments

1. Reduction of retired pay is not required for the first 30-day period for which salary is received. The 30-day exclusion does not apply to more than one appointment aggregating more than 30 days within the same fiscal year nor to a reappointment to the same position in the succeeding fiscal year. Reduction is required effective the 31st calendar day for a full-time temporary appointment, and effective with the 31st actual day worked for a temporary part-time or intermittent appointment.

2. Temporary full-time is regular employment with a limited duration. The 30 days are calculated by the full-calendar period employed including Saturdays and Sundays.

3. Temporary appointments may be renewed yearly as long as an employer has the authority to renew them. If a member is serving under more than one appointment, the first period for which the member is paid in an aggregate of 30 days in the fiscal year from all positions in which employed is exempt from reduction.

4. A second appointment conversion which meets the following conditions is not a new appointment, but rather an extension in the original appointment; therefore, a new 30-day exemption is not allowed when there is no change in:

a. The appropriation to be charged with the salary and traveling expenses; and

b. The department or agency under which the service is to be performed; and

c. The position.

5. In determining the aggregate of 30 days in a fiscal year (FY) for members employed under two or more appointments, the period July 1 through September 30, 1976 is treated as part of the FY 77 which began October 1, 1976. FY 77 is treated as a 15-month period for this purpose.

C. Temporary Appointment Pending Establishment of Register (TAPER). Reduction in retired pay is required effective with the first day of employment with pay.

050302. Effective Date for Termination of Reduction in Retired Pay. Full retired pay entitlement is restored effective the day after the last day for which civilian salary is received. Lump-sum payments of accrued leave have no effect on payment of retired pay.

050303. Computation of Reduced Retired Pay Under the 1964 Act (reference (as))

A. See Tables 5-5 and 5-6 for formulas and example for computing reduced retired pay and reduced taxable pay under the 1964 Act (reference (at)).

B. When a member is employed on an intermittent when actually employed (WAE) basis, divide the monthly reduced retired pay entitlement by 30 days to determine the daily rate of entitlements on the days worked for which salary is paid.

1. Do not prorate partial-day payments.

2. Reduce retired pay for each day civilian salary is received regardless of the number of hours for which salary is paid.

C. If the member's gross retired pay, or gross retired pay as reduced by the Department of Veterans Affairs (VA) waiver, amount is equal to or less than the dual compensation exempt portion, there is no reduction.

D. The amount of reduction in retired pay, regardless of the type of appointment, may not exceed the gross amount of civilian salary received.

050304. Computation of Reduced Retired Pay Entitlement Under the Economy Act of 1932 (reference (as))

A. If the retired member's civilian salary is equal to or exceeds the $10,000 limitation of the 1932 Act (reference (as)), no entitlement to retired pay exists. If member's civilian salary is less than $10,000 annually, retired pay is reduced to an annual rate sufficient to keep combined incomes within the $10,000 limitation.

1. When a member receives VA compensation, deduct the VA compensation amount before determining the annual rate of retired pay payable, then determine whether the dual compensation provisions will further reduce retired pay.

2. This is an example of the method for computing reduced retired pay when a member is employed under an unlimited appointment on a per annum civilian salary:

$ 640.90	Basic retired pay entitlement
- 350.00	Less VA compensation
290.90	Monthly gross retired pay available
x 12	
$ 3,490.80	Annual retired pay payable
$10,000.00	Limited combined income
- 7,560.40	Less civilian salary
2,439.60	Annual retired pay allowable
÷ 12	
$ 203.30	Monthly retired pay allowable

B. A retired member could not have accepted appointments limiting the total number of days employed so that a combined civilian salary and retired pay may not exceed the $10,000 limitation.

1. Limited appointments must state on the face of the appointment (Notification of Personnel Action) a specific number of days or hours for which consultative services are to be performed and the daily rate or hourly rate to be paid.

2. Compute the anticipated annual civilian income using the information shown on the Notification of Personnel Action. If the combined retired pay and civilian income exceed the $10,000 limitation, retired pay must be adjusted accordingly.

C. Conversion to the 1964 Dual Compensation Act (reference (at)). The method of applying the $10,000 limitation under the 1932 Act (reference (as)) for members who were subject to the provisions of the 1964 Act (reference (at)) beginning December 1, 1964, was an eleven-twelfths computation of $10,000, or the combined rate of $9,166.66.

050305. Effect on Pay - Dual Compensation Reduction and Department of Veterans Affairs (VA) Waiver

A. Retired pay is adjusted retroactively, first to effect a waiver because of VA compensation, and then further reduced under the dual compensation formula when these conditions exist:

1. A Regular commissioned officer or warrant officer accepts federal civilian employment, and

2. Immediately or concurrent with retirement, the member executes a waiver of retired pay in order to receive disability compensation from the VA, and

3. The award, though administratively delayed, is granted by the VA retroactive to the date of the waiver.

B. Retired pay is not adjusted retroactively for members who have a waiver of retired pay in effect in favor of VA compensation and who later accept employment with the federal government. Reduction as provided in subparagraph A, above, is effective with the first day of employment.

C. Retired pay is adjusted retroactively for members employed by the federal government who:

1. Have a waiver of retired pay in effect in favor of VA compensation, and

2. Receive a retroactive VA increase after the effective date of employment.

D. A DD Form 2279 (Request for Retroactive Waiver of Military Retired Pay) is completed by the member, authorizing the Department of Veterans Affairs to pay the member any additional compensation due. This form also authorizes the VA to deduct the overpayment of retired pay from the compensation and refund it to the DFAS-Cleveland Center.

0504 CONFLICT OF INTEREST

050401. General

A. Conflict of interest statutes are intended to safeguard the integrity of public administration and prevent government officials from using their positions and influence for personal gain.

B. The conflict of interest statutes applicable in general to those whose government service has ended accomplish these purposes by:

1. Imposing limitation in some cases upon the employment of former DoD procurement personnel by defense contractors;

2. Requiring the employment of such personnel by defense contractors in other instances be reported; and

3. Restricting the activities of former DoD officers and employees in representing or assisting their employers in claims-related matters or becoming personally involved in the process of "selling" to the government.

C. A comprehensive digest of laws, including conflict of interest laws applicable to retired military personnel, is set forth in DoD 5500.7-R (reference (bb)), Chapters 5 and 9, and Appendix A.

D. Although violation of conflict of interest laws may result in the imposition of criminal penalties (including fines and imprisonment) or administrative fines and sanctions, entitlement to military retired pay is directly affected only when:

★1. A retired Regular officer is convicted of violating 18 U.S.C. 281(a) (reference (bc)) during any period prior to October 13, 1994; or

2. Any member is convicted of violating the Hiss Act (5 U.S.C. 8311-8322) (reference (bd)).

E. Fines levied for convictions under other statutes may result in debts to the United States that may be collected in accordance with Chapter 28; they do not, however, affect a convicted member's entitlement to receive retired pay.

050402. Selling

★A. "Selling," as an activity under the conflict of interest laws, is prohibited during any time prior to October 13, 1994, under 18 U.S.C. 281(a) (reference (bc)). A retired Regular officer may not, during the 2-year period following retirement, represent any person in the sale of anything to the department in which the officer holds retired status. This statute has been interpreted by the Department of Justice as prohibiting a retired Regular officer from representing any party other than himself in connection with a contract for the sale of services or for the sale of supplies. Since an officer is disqualified from holding a position of honor, trust, or profit under the United States as a result of conviction, entitlement to retired pay ceases.

B. The prohibition against selling has been broadly interpreted to include virtually all activities involved in the selling process and to apply in any case reasonably within the scope of the statute where the conduct at which it was directed could arise.

C. The following activities are examples of conduct by retired Regular officers that might be interpreted as selling:

1. Contacting military installations or consulting with DoD officials to obtain information on current or projected military needs and suggesting new lines of potential product development to member's employer.

2. Attending precontract negotiations or preproposal conferences with other members of the employer's firm.

3. Making contacts to promote goodwill that directly or indirectly may result in sales to Uniformed Services agencies or their nonappropriated fund instrumentalities.

4. Giving demonstrations and explaining products with a view toward an eventual sale on behalf of an employer.

5. Making contacts at social functions sponsored by the employer with Uniformed Services personnel who are in positions to influence procurement.

6. Making calls at installations to render technical assistance, update catalog materials, or provide information on companies represented.

7. Contacting procurement and budget personnel on behalf of the employer to discuss general trends in the military environment.

8. Conducting promotional seminars on supplies or products already sold by the employer to the Department of Defense.

D. Whether the retired officer acted in good faith, was ignorant of the law, or will experience financial hardship, has no effect upon the requirement to withhold retired pay for the period of statutory violation.

E. See Table 5-7 for synopsis of Comptroller General decisions as they relate to conflict of interest statutes.

050403. Withholding Retired Pay. Retired pay may be withheld when the employment falls under the category of activities prohibited under conflict of interest laws.

0505 FOREIGN GOVERNMENT EMPLOYMENT

050501. Background

A. Employment of retired members by a foreign government is restricted. The primary restriction is in article 1, section 9, clause 8 of the Constitution of the United States (reference (bf)), which reads: "No Title of Nobility shall be granted by the United States: And no person holding any Office of Profit or Trust under them, shall, without the Consent of Congress, accept any present, emolument, office, or title, of any kind whatever, from any King, Prince, or foreign state." The Comptroller General interpreted this to prohibit employment of all retired personnel, including members of the Fleet Reserve or Fleet Marine Corps Reserve, by a foreign government unless congressional consent is granted.

B. The conditions for accepting foreign employment were modified by Public Law 95-105, section 509(a)(1) and (2) (reference (bg)). The Congress granted consent for retired members to accept employment or compensation from foreign governments if the members obtain the approval of the Secretary concerned and the Secretary of State before acceptance.

1. The approval by the Secretary concerned and Secretary of State for a member to accept foreign employment is only effective prospectively from the date the approval is granted and may not be made retroactively to authorize foreign employment and compensation received before approval is granted.

2. The compensation received from the foreign government without approval is considered received by the retired member for the United States. A debt in favor of the government is created which is to be collected by withholding from retired pay. The debt is an amount equal to the compensation received from the foreign government. When the compensation earned during the period of unauthorized employment exceeds the amount of retired pay accrued during the same period, only the retired pay amount may be collected.

050502. Legislative History

A. The history of the constitutional provisions under consideration indicates that the condition intended to be avoided is the exercise of undue influence by a foreign government upon retired members of the United States.

B. In determining the existence of an employer-employee relationship between a retired member and a foreign government, or instrumentality thereof, the common law rules of agency are applied to determine whether such instrumentality has the right to control and direct an employee in performance of his or her work and the manner in which the work is done.

C. There are at least five criteria that may be considered in determining whether the relationship of employer and employee exists. These are:

1. The selection and engagement of the employee

2. The payments of wages

3. The power to discharge

4. The power to control the employee's conduct

5. The relationship of the work to the employer's business, whether the work is a part of the regular business of the employer.

D. The decisive test to determe the existence of an employer-employee relationship is whether the employer has the right to control and direct the employee in the performance of his or her work and in the manner in which the work is to be done. Additionally, the Comptroller General has ruled that a corporation incorporated in the United States, which maintains a separate identity and appears to be a separate legal entity from its dominant shareholder, does not necessarily become an instrumentality of a foreign government when its principal shareholder is a foreign corporation substantially owned by a foreign government.

050503. Types of Employment

A. Employment by educational or commercial institutions owned, operated, or controlled by a foreign government is included within the scope of this restriction.

B. Employment with a foreign government which requires acquisition of foreign citizenship results in forfeiture of entitlement to retired pay. See Chapter 6, Foreign Citizenship, for additional information.

C. Employment by international agencies, such as the United Nations, is not prohibited.

050504. Adjustment to Retired Pay

A. Withhold retired pay in an amount equal to the amount of compensation received from the foreign government. Compensation includes salary, free transportation, household goods shipments at employer's expense, housing allowances, and gifts. To determine the amount to be withheld from a member on account of the nonmilitary elements of compensation, the value should be set fairly, considering the actual value or estimates of the compensation received. A gift of more than minimal value is deemed to have been accepted on behalf of the United States. It is deposited by the donee for use and disposal as property of the United States.

B. Amounts of retired pay withheld from members of the Uniformed Services who accept foreign employment without congressional consent, as required by the United States Constitution, should be treated as though the member has no entitlement to them and should not be "held in trust" for them pending possible future congressional consent to their receipt.

0506 FEDERAL JUDGES

050601. General

A. Title 10, U.S.C. Judges. A person who has completed a term of service as a judge of the U.S. Court of Appeals for the Armed Forces may be eligible for a retirement annuity upon separation from civilian service in the federal government. Retirement annuities and survivor annuities for judges retired from the U.S. Court of Appeals for the Armed Forces are paid from the DoD Military Retirement Fund.

B. Title 28, U.S.C. Judges. Any justice or judge of the United States appointed to hold office during good behavior may retire after meeting age and service requirements.

050602. Limitations

A. Title 10, U.S.C. Judges. A person who is receiving a retirement annuity by reason of service as a judge of the U.S. Court of Appeals for the Armed Forces, and who subsequently is appointed to a position in the federal government, is entitled to the higher of the retirement annuity as a judge or the pay for the federal government position.

B. Title 28, U.S.C. Judges. A member who becomes a judge may not receive military retired pay while performing regular judicial active service as a judge. When the member

later retires from judicial active service or enters senior status as a judge, military retired pay shall be resumed or commenced without reduction.

0507 SERVICE IN MILITARY FORCE OF NEWLY DEMOCRATIC NATIONS

050701. Background

A. The Congress has consented to a retired member of the Uniformed Services accepting employment by, or holding an office or position in, the military forces of a newly democratic nation and accepting compensation associated with such employment, office, or position.

B. The Secretary concerned and the Secretary of State jointly shall determine whether a nation is a newly democratic nation.

050702. Approval Required

The consent provided for a member of the Uniformed Services to accept employment or hold an office or position shall apply to a retired member only if the Secretary concerned and the Secretary of State jointly approve the employment or the holding of such office or position.

050703. Continued Entitlement to Retired Pay and Benefits

The eligibility of retired members to receive retired or retainer pay and other benefits arising from the member's status as a retired member of the Uniformed Services may not be terminated by reason of employment or holding of an office or position consented to in paragraph 050702, above. The eligibility of such retired member's dependents to benefits also may not be terminated.

EXPLANATION OF CODES AND DATA ELEMENTS SHOWN ON SF 50, NOTIFICATION OF PERSONNEL ACTION (REV-7/91)

BLOCK 24 TENURE

CODE NO.	EXPLANATION
0	Temporary
1	Career
2	Career-Conditional Appointment
3	Temporary Appointment Pending Establishment of Register (TAPER)

BLOCKS 5 AND 6 NATURE OF ACTION

	CODE NO.	AUTHORITY	EXPLANATION
1.	100	CS Register	Career appointment by selection from register.
2.	101	315.301(a)	Career-conditional appointment by selection from register.
3.	110	316.402(a)	Temporary limited appointment by selection NTE 1 year.
4.	112	316.201	Temporary appointment pending establishment of register (TAPER); eligible for life insurance, health insurance, and bonds, but not eligible for CS retirement.
5.	113	316.402(a)	Temporary limited appointments outside register NTE 1 year.
6.	115	316.402(b)(1)	Appointments based on eligibility for reinstatement.
7.	130	5 U.S.C. 3304c	Career appointment.
8.	131	E.O. 10794	Career-conditional appointment.
9.	132	Cite specific authority (for example, law, reorganization, plan, etc.)	Mass transfer.
10.	140	330.201	Reinstatement career.
11.	141	330.201	Reinstatement career-conditional.
12.	160	Part 353, CS Register	Reemployment after military service.
13.	170	213.3102	Excepted appointment.
14.	171	213.312	Excepted appointment NTE (date).
15.	172	213.312	Excepted appointment - indefinite.
16.	173	213.312	Excepted appointment – conditional.
17.	181	Part 353, CS Regulations	Returned to duty from military.
18.	300 Series	None required with limited exceptions.	Separations.
19.	500	CS Register	Conversion to career appointment.
20.	510	CS Register	Conversion to career-conditional appointment.

Table 5-1. Explanation of Codes and Data Elements Shown on SF 50, Notification of Personnel Action (Rev-7/91)

	CODE NO.	AUTHORITY	EXPLANATION
21.	520	Certification number and date	Conversion to temporary appointment NTE (date) from register.
22.	540	5 U.S.C. 3304(c)	Conversion to career appointment.
23.	541	E.O. 10794	Conversion to career-conditional appointment.
24.	550	213.213	Conversion to excepted appointment.
25.	552	213.312	Conversion to excepted appointment - indefinite.
26.	553	213.312	Conversion to excepted appointment - conditional.
27.	561	352.507	Conversion to reemployment.
28.	602	315.202	Conversion to career tenure.
29.	651	213.312	Conversion to excepted appointment NTE (date).
30.	712	351.603	Change to lower grade - RIF.
31.	720	351.603	Reassignment - RIF.
32.	721	335.102	Reassignment CAO register.
33.	894	5 U.S.C. 5337	Pay adjustment.

BLOCK 45 REMARKS

EXAMPLE

LINE ENTRY RETO/A11-1-74/309264307/05/REG/20/NONCOMBAT/NOT 5532(c) or 5 U.S.C. 5532(a), CS Reg 550.603 if granted by OPM.

POSITION A B C D E F G H I

EXPLANATION

1.	A	RETO - Retired commissioned officer
2.	B	Military Service from which retired (A = Army)
3.	C	Date of retirement
4.	D	Social security number
5.	E	Retired grade (see table 5-3)
6.	F	Component (regular or nonregular)
7.	G	Retired grade (see table 5-3)
8.	H	Whether retired for combat disability
9.	I	Whether or not "position" is exempt

Table 5-1. Explanation of Codes and Data Elements Shown on SF 50, Notification of Personnel Action (Rev-7/91) (Continued)

APPLICATION OF LAW - WHETHER TO REDUCE RETIRED PAY				
	A	B	C	D
			then officer's retired pay is subject to	
RULE	If	is	$10,000 limit of Act of June 30, 1932	loss of 1/2 retired pay in excess of $2,000 per year limit of Act of 1964 (as amended)
1	a Regular commissioned officer	retired for other than disability	No-unless employed on Nov 30, 1964 and elected to remain subject to limitations of the Act	Yes
2		appointed to public office by President with advice and consent of Senate	Yes	
3		retired for disability resulting from injury or disease received in line of duty and as a direct result of armed conflict; or caused by an instrumentality of war and incurred in line of duty during a period of war	No	No
4		retired for disability not as defined in rule 3 above	Yes	Yes
5	a Regular warrant officer	retired for reasons other than disability	No	
6		appointed to public office by President with advice and consent of Senate		
7		retired for disability resulting from injury or disease received in line of duty and as a direct result of armed conflict; or caused by an instrumentality of war and incurred in line of duty during a period of war		No
8		retired for disability not as defined in rule 3 above		Yes
9	a Regular warrant officer advanced on retired list to commissioned officer grade	retired for other than disability	Yes	
10		retired for disability resulting from injury or disease received in line of duty and as a direct result of armed conflict; or caused by an instrumentality of war and incurred in line of duty during a period of war	No	No

Table 5-2. Application of Law - Whether to Reduce Retired Pay

RULE	A If	B is	C then officer's retired pay is subject to $10,000 limit of Act of June 30, 1932	D loss of 1/2 retired pay in excess of $2,000 per year limit of Act of 1964 (as amended)
11	a Regular warrant officer advanced on retired list to commissioned officer grade	retired for disability not as defined in rule 3 above	Yes	Yes
12	nonregular commissioned officers	retired for any reason	No	No
13		retired between August 7, 1947 and March 31, 1953, with commission under section 515 of the Officer Personnel Act of 1947	Yes	
14	an enlisted member	retired for any reason and receiving retired pay of enlisted member	No	
15		retired for any reason, advanced on retired list, and receiving commissioned officer grade pay	Yes	
16	a Reserve officer	retired for disability under the Act of April 3, 1939 or Title IV, CCA of 1949, as a Reserve officer who last served on active duty as a Regular warrant officer or enlisted member, with warrant officer or enlisted status terminated and the retired pay grade (temporary higher active duty grade under the Officer Personnel Act of 1947) is the same or higher than the Reserve grade		
17	an AUS warrant Reserve officer advanced on retired list to commissioned grade	retired for any reason		
18	a Reserve officer	retired under 10 U.S.C. 12731-12737	No	

Table 5-2. Application of Law - Whether To Reduce Retired Pay (Continued)

CIVILIAN POSITIONS EXEMPT FROM DUAL COMPENSATION RESTRICTIONS (Includes But Not Limited to These:)	
Type Position and/or Employing Agency	**Explanation**
1. Armed Forces Entrance and Examining Stations	Exception granted by Civil Service Commission (CSC) letter, dated June 19, 1972, to employment of retired military physicians to remain in effect as long as the member remains employed in that position. Exemption expired June 30, 1974 except for those appointed to the position before June 30, 1974.
2. Army Emergency Relief (AER)	Employment with AER is not considered employment with the federal government under Act of 1964. (26 Comp Gen 192)
3. Chaplains employed part time by Department of Veterans Affairs	The CSC exercised its authority to provide an exception to the reduction in retired pay. The exception applies to persons in positions where the duties typically do not require the services for more than 6 hours a day required reduction in retired pay. (United States Civ Svc Directive, April 4, 1966)
4. Fee basis physicians	Fee basis physicians on a contractual relationship do not occupy a "civilian office" within the purview of 5 U.S.C. 3101(3). (45 Comp Gen 81)
5. International organization	Civilian salary is paid from mixed funds contributed by several different countries. (27 Comp Gen 12)
6. Military Sea Transportation Service (MSTS)	Under provisions of 5 U.S.C. 5532(d), CSC has approved exemption from the dual compensation restrictions with reference to these seafaring positions in the MSTS: Radio officer - deck officer - engine officer; unlicensed skill deck positions requiring employee to have United States Coast Guard document as an able seaman; unlicensed skilled engine department positions requiring employee to have a United States Coast Guard document as a qualified member of engine dept., oiler, or fireman-watertender. The exception applies to retired regular officers now employed and who become employed during the period ending February 28, 1969. Exception will continue in effect for an individual who becomes subject to it for as long as he or she remains in one of the positions covered. The exception is subject to removal as the need requires.
7. Mutual Security Act	Employment is limited by the 1932 Act except when appointment as an expert or consultant under provisions of Section 530(a) of the Mutual Security Act of 1954; then position is exempt for all dual compensation statutes.
8. National Aeronautics and Space Administration (NASA)	The administrator of NASA may make exception to the restrictions with respect to not more than 30 NASA employees appointed to scientific, engineering, or administrative positions under 42 U.S.C. 2473(b)(2)(A).

Table 5-3. Civilian Positions Exempt From Dual Compensation Restrictions

Type Position and/or Employing Agency	Explanation
9. Nonappropriated Fund Activity	Before December 1, 1964, employment not subject to 1932 Act. Effective December 1, 1964, employment under direct jurisdiction and supervision of an administrative official of the Armed Forces is subject to Act of 1964. Direct jurisdiction and supervision by administrative office must be determined by the agency personnel office in addition to the notice of employment with a nonappropriated activity before a conclusive determination of the applicability of dual compensation statute can be activated. (MS Comp Gen B-165534, December 17, 1968)
10. Nonpersonal Service Contract	A retiree employed by nonpersonal-service contract is not subject to dual compensation statutes. (26 Comp Gen 501 and 28 Comp Gen 50) Lecturers are considered under nonpersonal-service contracts. (23 Comp Gen 425 and MS Comp Gen B-134618, May 31, 1958)
11. Retired Nurses	If receiving pay under Act of June 20, 1930, 46 Stat 790, they were not considered retired officers June 22, 1944. On and after June 22, 1944, retired employed nurses who were receiving retired pay on basis of commissioned office became subject to the Act of 1932, as amended.
12. US Soldiers' and Airmen's Home	Subject to 1932 Act from date of appointment (Public Law 374, 78th Congress, June 28, 1944). The Governor of the Home may exempt at any time, not more than two physicians, if it is determined that such exemptions are necessary to recruit or retain well-qualified physicians for the Home. An exemption granted under this section shall terminate upon any break in employment with the Home by a physician of 3 days or more. (Public Law 99-145, Nov 8, 1985)
13. VA Consultant	Appointment to a position with the Department of Veterans Affairs under provisions of 38 U.S.C. 4114(a) as a consultant in a capacity on a fixed fee basis. (45 Comp Gen 559)
14. VISTA (Volunteers in Service to America)	Employees are not deemed to be federal employees except for the purpose of Internal Revenue, Social Security, Federal Employees Compensation and the Federal Tort Claims provisions of 28 U.S.C. (Public Law 88-452, August 20, 1964, Economic Opportunity Act of 1964)
15. VA Doctor or Osteopath	The Secretary of VA may make exception to the restrictions, when necessary, to meet special or emergency employment needs in DM&S resulting from a severe shortage of well-qualified candidates which otherwise cannot be readily met. (Public Law 98-528, October 19, 1984)

Table 5-3. Civilian Positions Exempt From Dual Compensation Restrictions (Continued)

Type Position and/or Employing Agency	Explanation
16. Uniformed Services University of the Health Sciences	The Board of Regents may exempt, at any time, not more than two physicians if it is determined that such exemptions are necessary to recruit or retain well-qualified physicians for the University. An exemption granted under this section shall terminate upon any break in employment with the University by a physician of 3 days or more. The effective date of this exemption is the first day of the month after the month the exemption is granted.
17. Board of Governors of the Federal Reserve Board	The Federal Reserve Board is a "nonappropriated fund" instrumentality and the only such instrumentalities covered by the law are those of the Armed Forces. (Denkler v. United States, 782 F.2d 1003 (Fed. Cir. 1986) and Comp Gen Dec B-226074, June 3, 1988)
18. Contract for Health Services	Retired personnel are not subject to dual compensation restrictions when they enter into contracts with the government under the authority of 10 U.S.C. 1091 (Supp. IV 1986) to provide health care services (B-231565, Nov 14, 1988).
19. 1990 Decennial Census	Temporary Bureau of the Census employees carrying out the 1990 census of population are granted a 6-month exemption between August 16, 1989 and December 31, 1990. The period of this exemption is computed in the same manner as described in 5 U.S.C. 5532(a). However, any employee who was in a position subject to dual compensation restrictions immediately before being placed in the temporary position is not eligible for this exemption. On May 17, 1990 this exemption was revised to eliminate the 6-month limitation and grant exemption through December 31, 1990 to all temporary employees. Those employees whose 6-month exemption had expired were again exempt beginning with May 17, 1990. (Public Law 101-86 as amended by Public Law 101-293) (See exception B-244417, July 1, 1992)
20. National Civilian Community Corps	Members of the CCC's permanent cadre pursuant to Title 42, U.S.C., section 12619(c)(2), (Public Law 103-337, Section 640, October 5, 1994 and ASD (Force Management Policy) Memo, December 23, 1994)

Table 5-3. Civilian Positions Exempt From Dual Compensation Restrictions (Continued)

EXEMPT AMOUNT BASED ON COST-OF-LIVING INCREASES		
A	B	C
Effective Date	Percentage of Increase	Yearly Rate
December 1, 1964		$2,000.00
September 1, 1965 (note 1)	4.4	2,088.00
December 1, 1966 (note 2)	3.7	2,074.00
April 1, 1968	3.9	2,154.89
February 1, 1969	4.0	2,241.09
Nov 1, 1969	5.3	2,359.87
August 1, 1970	5.6	2,492.02
June 1, 1971	4.5	2,604.16
July 1, 1972	4.8	2,729.16
July 1, 1973	6.1	2,895.64
January 1, 1974	5.5	3,054.90
July 1, 1974	6.3 (note 3)	3,247.36
January 1, 1975	7.3	3,484.42
August 1, 1975	5.1	3,662.13
March 1, 1976	5.4	3,859.89
March 1, 1977	4.8	4,045.16
September 1, 1977	4.3	4,219.10
March 1, 1978	2.4	4,320.36
September 1, 1978	4.9	4,532.06
March 1, 1979	3.9	4,708.81
September 1, 1979	6.9	5,033.72
March 1, 1980	6.0	5,335.74
September 1, 1980	7.7	5,746.59
March 1, 1981	4.4	5,999.40
March 1, 1982	8.7	6,521.39
April 1, 1983	3.3	6,736.60
	3.9 (note 4)	6,775.72
December 1, 1984	3.5 (note 4)	6,972.38
		7,012.87
December 1, 1986	1.3	7,104.04
December 1, 1987	4.2 (note 5)	7,402.41
	3.2 (note 6)	7,331.37
December 1, 1988	4.0 (note 5)	7,698.51
	3.0 (note 6)	7,551.31
December 1, 1989	4.7 (note 5)	8,060.34
	3.7 (note 6)	7,830.71
December 1, 1990	5.4 (note 5)	8,495.60
	4.4 (note 6)	8,175.26
December 1, 1991	3.7 (note 5)	8,809.94
	2.7 (note 6)	8,395.99
December 1, 1992	3.0 (note 5)	9,074.24
	2.0 (note 6)	8,563.91
December 1, 1993	2.6 (note 5)	9,310.17
	1.6 (note 6)	8,700.93
December 1, 1994	2.8 (note 5)	9,570.85
	1.8 (note 6)	8,857.55
December 1, 1995	2.6 (note 5)	9,819.69
	1.6 (note 6)	8,999.27
★December 1, 1996	2.9 (note 5)	10,104.46
	1.9 (note 6)	9,170.26

Table 5-4. Exempt Amount Based On Cost-Of-Living Increases

Notes:

1. The 4.4 percent cost-of-living index increase in retired pay authorized by Public Law 89-132, approved

August 21, 1965 (79 Stat 545-548), increased the $2,000 amount to $2,088 a year ($174 a month) effective September 1, 1965 for members entitled to retired pay computed on basic (A/D) pay rates authorized by laws in effect before September 1, 1965. Members who are entitled to retired pay based on A/D rates authorized by Public Law 89-132 are restricted to the $2,000 amount plus one-half of the balance of their retired pay. See 45 Comp Gen 164.

2. In 46 Comp Gen 549 and 46 Comp Gen 575, it was held that the amount exempt from reduction for all members irrespective of the date of retirement would be $2,074 effective December 1, 1966.
3. Because of an error in the Consumer Price Index for April 1974, the July 1974 cost-of-living increase was corrected from 6.4 percent to 6.3 percent. The dual compensation exemption amount was originally computed as $270.87 monthly and $3,250.41 yearly. No action is required to adjust the accounts that were reduced by the erroneous exempt amount for the period July 1, 1974 through December 31, 1974.
4. Under 5 U.S.C. 5532(b) and Section 301, Public Law 97-253, members who:
   a. As of March 1, 1983 are under age 62, are entitled to retired pay on such date, and are holding a federal civilian position on April 1, 1983, are entitled to the exempt amount adjusted by 3.3 percent plus one-half the remainder of retired pay, if any; or
   b. As of March 1, 1983 are age 62 or more, or military disability retirees who are entitled to retired pay and are holding a federal civilian position on April 1, 1983, are entitled to the exempt amount adjusted by 3.9 percent plus one-half the remainder of retired pay, if any.
   c. As of December 1, 1984 are under age 62, are entitled to retired pay on such date and are holding a federal civilian position on Dec 1, 1984, are entitled to the exempt amount adjusted 3.5 percent to $6,972.38 plus one-half the remainder of retired pay, if any; or
   d. As of December 1, 1984 are age 62 or more, or military disability retirees who are entitled to retired pay and are holding a federal civilian position on December 1, 1984, are entitled to the exempt amount adjusted by 3.5 percent to $7,012.87 plus one-half the remainder of retired pay, if any.
5. Applies to officers of the Regular Component who first became a member of a Uniformed Service before August 1, 1986.
6. Applies to officers of the Regular Component who first became a member of a Uniformed Service on or after August 1, 1986.

Table 5-4. Exempt Amount Based On Cost-Of-Living Increases (Continued)

FORMULA FOR COMPUTATION OF REDUCTION (ACT OF 1964)★					
A	**B**	**C**	**D**	**E**	**F**
Multiply	**multiply**	**subtract**	**subtract**	**divide**	**divide**
Monthly gross retired pay by 12 months (note 1)	**monthly VA compensation by 12 months (note 2)**	**results of column B from results of column A**	**the yearly rate Act of 1964 column C, Table 5-4, from column C (or column A if no VA comp)(note 3)**	**results of column D by 2**	**results of column E by 12. This is the monthly reduction Act of 1964**
EXAMPLES 1. 4,588.00 x 12 55,056.00			55,056.00 - 9,570.85 45,485.15	22,742.58 2√45,485.15	1,895.22 12√22,742.58
2. 4,588.00 x 12 55,056.00	170.00 x 12 2,040.00	55,056.00 -2,040.00 53,016.00	53,016.00 - 9,570.85 43,445.15	21,722.58 2√43,445.15	1,810.22 12√21,722.58
3. 4,588.00 x 12 55,056.00	790.00 x 12 9,480.00	55,056.00 -9,480.00 45,576.00	45,576.00 -9,570.85 36,005.15	18,002.58 2√36,005.15	1,500.22 12√18,002.58

NOTES:

1. Legend:

Gross pay	4,588.00
SBP	171.43
VA Comp	170.00
VA Comp	790.00

2. If member does not have VA Compensation, proceed to column D.
3. Use the effective date Table 5-4, column A, to determine applicable yearly rate for computation.

Table 5-5. Formula for Computation of Reduction (Act of 1964)

FORMULA FOR COMPUTING TAXABLE RETIRED PAY WITH ACT OF 1964 AND PARTIAL TAXABLE RETIRED PAY						
	A	B	C	D	E	F
RULE	If retired pay	subtract	subtract	Divide	subtract	multiply
1	is fully taxable	results of Table 5-5, column F, from gross monthly retired pay. Results equal taxable pay.				
2	is fully taxable with VA comp	results of Table 5-5, column F, from gross monthly retired pay	monthly VA comp from results column B. ★ Results equal taxable pay.			
3	is computed on years of service with disability pay	disability pay from gross monthly retired pay		results of column B by gross monthly retired pay; carry to 5, round to four decimal points	results of Table 5-5, column F, from monthly gross retired pay	results of column E by results of column D. Results equal taxable pay.
4	is computed on years of service with disability pay, VA comp	disability pay from gross monthly retired pay	monthly VA comp from gross monthly retired pay	results of column B by results of column C, carry to 5, round off to four decimal points	results of Table 5-5, column F, from results of column C	
5	is computed on years of service with disability pay, VA comp, and SBP	disability pay and cost of SBP from monthly retired pay	cost of SBP and VA comp from gross monthly retired pay			
6	is computed on years of service with disability pay	VA comp from gross monthly retired pay	results of Table 5-5, column F, from results of column B. Results equal taxable pay.			

Table 5-6. Formula for Computing Taxable Retired Pay With Act of 1964 and Partial Taxable Retired Pay

	A	B	C	D	E	F
	If retired pay is	subtract	subtract	divide	subtract	multiply
1	1,939.33 G.P.	1,939.33 - 801.12 1,138.21				
2	1,939.33 G.P. 139.00 V.A.	1,939.33 -731.62 1,207.71	1,207.71 - 139.00 1,068.71			
3	1,939.33 G.P. 775.73 D.P.	1,939.33 -775.73 1,163.60		.6000 1939.33√1163.60	1,939.33 -801.12 1,138.21	1,138.21 x .60 682.93
4	1,939.33 G.P. 775.73 D.P. 139.00 V.A.	1,939.33 -775.73 1,163.60	1,939.33 - 139.00 1,800.33	.6463 1800.33√1163.60	1,800.33 - 731.61 1,068.72	1,068.72 x .6463 690.71
5	1,939.33 G. P. 775.73 D. P. 139.00 V.A. 171.43 SBP	1,939.33 - 775.73 171.43 992.17	1,939.33 - 139.00 - 171.43 1,628.90	.6091 1628.90√992.17	1,628.90 -731.62 897.28	897.28 x .6091 546.53
6	1,939.33 G.P. 775.73 D.P. 790.00 V.A.	1,939.33 - 790.00 1,149.33	1,149.33 -406.12 743.21			

Table 5-6. Formula For Computing Taxable Retired Pay With Act of 1964 and Partial Taxable Retired Pay- Examples (Continued)

DECISIONS OF THE COMPTROLLER GENERAL-CONFLICT OF INTEREST			
SUMMARY			
No.	**Reference**	**Condition**	**Decision**
1.	38 Comp Gen 470	Employment under a contract for personal services with a person who manufactures and/or sells supplies of war materials to military departments, but no personal connection with sales or promotion of sales, is not engaged in selling, contracting, or negotiating to sell.	Not considered in violation of 37 U.S.C. 801(c), as amended.
		Employment requires contact with military departments to promote goodwill.	Such activity will result in sales and is in violation, even though the actual sale is made by another employee of the firm or the sale was not a result of the contact.
2.	39 Comp Gen 366	Retiree signs a proposal and a contract for construction of air field improvements.	This is a violation even though retiree signed only as president of the firm.
3.	39 Comp Gen 751	Retiree contracts for and operates a concession on a military installation.	Not concerned with sale of anything to the Government; not a violation of 37 U.S.C. 801(c), (repealed by Public Law 103-355, October 13, 1994) as amended
4.	40 Comp Gen 511	Consultant to advise a military supplier concerning government needs and assist in designing and manufacturing products for current or future military need.	Not a violation as long as employee does not personally contact the military departments. If contact is made, there is a conflict of interest.
		Employee demonstrates and explains products to representatives of military.	Such activity is aimed at eventual sales and is a violation of statutes.
5.	41 Comp Gen 642	Operations manager, in which capacity employee continued sporadic contact with military.	A violation of statute.
6.	41 Comp Gen 677	Retiree negotiates a contract for shipment of household goods of military personnel which does not transfer ownership of the property to the government.	Such a contract is for performance of services only and does not represent a violation.
7.	41 Comp Gen 784	Retiree is executive of a firm which sells to the military. Vice president for sales reports to the executive.	No violation as long as executive does not sign a bid, proposal, or contract; negotiate a contract; contact the military; or perform liaison activities to promote sales.
8.	41 Comp Gen 799	Retiree performs analytical services for a firm selling to the military. Provides assistance, information, and advice, but does not engage in any activity to induce sales.	No violation unless other information indicates selling may be involved.

Table 5-7. Decisions of the Comptroller General-Conflict of Interest

SUMMARY			
No.	**Reference**	**Condition**	**Decision**
9.	42 Comp Gen 32	Employee engaged in contracting activities, but later removed himself from any connection with a bid being considered by the military.	Is a violation only for contracts the employee signed before self-removal from such activity.
10.	42 Comp Gen 87	Over-the-counter sales by a retired Regular officer as owner or representative of the firm. Sales to military not the result of bid, proposal, or contract.	No violation.
		Employment activity which repairs equipment, sells public utilities or meals to military installations.	No violation since these activities are regarded as service rather than sale of tangible property.
		Supervisor responsibility over the sales department or salespersons, but makes no contacts in person or otherwise with military customers.	No violation.
		Retiree maintains lines of communication with military, but has no authority to make sales or negotiate contracts.	No violation.
		Retiree analyzes and reports on legislative or executive agency programs, attends conventions or meetings with military.	No violation unless for the purpose of making sales.
		Retiree arranges for travel and lodging, appointments, and general assistance for a corporation's office in Washington, D.C.	No violation.
		Retiree manages a local office of a company doing business with the military.	Depends on the scope of the job.
		Public relations activities.	Depends on the scope of the job.
		Liaison activities with representatives of foreign governments.	No violation of 37 U.S.C. 801 (c).
11.	42 Comp Gen 236	Precontract discussions with military personnel.	Depends on the nature of the discussions.
		Employment in a consultant firm that represents companies engaged in contracting or selling to military.	No violation solely by reason of such employment as long as selling for the companies is not involved.
		Contacts at places other than government offices, including social gatherings, which are made for the purpose of selling.	A violation of statute.

Table 5-7. Decisions of the Comptroller General-Conflict of Interest (Continued)

SUMMARY			
No.	**Reference**	**Condition**	**Decision**
12.	43 Comp Gen 408	Contact with procurement and budget personnel of the military to discuss general trends.	A violation, but see 42 Comp Gen 236.
13.	49 Comp Gen 85	Manufacturer's representative for companies selling to the military. Obtain data from invitations to bid, pass along to manufacturers, monitor progress of the contract, act as intermediary between military and manufacturer.	Considered liaison activities prohibited by 37 U.S.C. 801 (c).
14.	53 Comp Gen 616	Sales representative making calls on military for the purpose of technical assistance, updating catalog materials, providing information on productions and determining future markets.	Considered participating in the procurement process for the purpose of selling and is in violation of statute.
15.	53 Comp Gen 753	Foreign government.	Violation of article 1, section 9, clause 8 of the Constitution of the United States.
16.	B-203079, March 22, 1982	Retiree demonstrates an employer's product to customers in the Army and Air Force Exchange Service stores, stocks store with employer's sales literature, and takes inventory of company's sales.	No violation of 37 U.S.C. 801(c) (repealed by Public Law 103-355, October 13, 1994).
		Employee visits exchange service stores to perform warranty repairs on employer's product.	No violation.
		Conducts a seminar for the purpose of explaining the use of products already procured by the agency or service.	No violation.
17.	B-217096, March 11, 1985	Retiree employed by a law firm incorporated in Virginia as a professional corporation, serving as legal counsel for Office of Saudi Military Attache, an instrumentality of foreign government.	Violation of article 1, section 9, clause 8 of the Constitution of the United States.
18.	68 Comp Gen 240	Retiree employed by a DoD contractor discussed changes in specifications of a contract by coordinating a mutually satisfactory technical solution to a problem.	No violation.
19.	B-231498, June 21, 1989	During the period when retiree was employed by Arabian Oil Company (ARAMCO), if the corporation was owned by a foreign government, then the restrictions would be violated and any claim from the violation may be waived under 10 U.S.C. 2774.	Violation of article 1, section 9, clause 8 of the Constitution of the United States.

Table 5-7. Decisions of the Comptroller General-Conflict of Interest (Continued)

FORMULA FOR COMPUTATION OF REDUCTION (ACT OF 1978)								
A	**B**	**C**	**D**	**E**	**F**	**G**	**H**	**I**
From	**subtract**	**multiply**	**subtract (note 1)**	**divide**	**Add**	**add**	**subtract**	**divide**
Monthly gross retired pay	monthly VA comp-ensation	result of column B by 12 months	annual exempt amount 1964 Act	result by 2	Annual exempt amount	annual civilian salary to result from column F (note 2)	Executive Level V salary from result of column G	result from column H by 12 (note 3)

Example:

A.	$ 4,588.00	Monthly gross retired pay		
B.	- 170.00	VA compensation		
	$ 4,418.00	Reduced retired pay		
C.	x 12	Months		
	$ 53,016.00	Annual retired pay		
D.	- 9,570.85	Annual exempt amount (1964 Act)		
E.	43,445.15	Remainder of retired pay		
	= 2			
	$ 21,722.58		To adjust within a pay period:	
F.	+9,570.85	Exempt amount		
	$ 31,293.43	Annual retired pay reduced by 1964 Act	=26 pay periods =	$1,203.60 biweekly
G.	+83,512.09	Annual civilian salary (note 2)	=26 pay periods =	$3,212.00 biweekly (note 4)
	$114,805.52			
	$114,805.52	Annual combined salary	=26 pay periods =	$4,415.60 biweekly
H.	-108,200.00	Level V of the Executive Schedule	=26 pay periods =	$4,161.54 biweekly
I.	6,605.52	Annual pay in excess of Level V		
	= 12			
	$ 550.46	Monthly reduction under Civil Service Reform Act of 1978 (note 3)		$ 254.06 biweekly

NOTES:

1. Delete steps in column D, E, and F for a Reservist or enlisted member not subject to the 1964 Act. Add result of column C to column G and proceed with column H.
2. The civilian salary equals the annual rate provided on the Standard Form 50 divided by 2,087 hours and multiplied by 2,080 (the actual number of hours a member is entitled to civilian salary) and divided by 26 pay periods.
3. If the result of column I in the example leaves an insufficient amount to cover the cost of the member's participation in any survivor benefit program, the pay cap deduction is recomputed with survivor benefit program, the pay cap deduction is recomputed with the cost of that program collected from the result of column F.
4. To adjust Leave Without Pay (LWOP), divide the biweekly civilian salary amount by 80 hours (or use the hourly rate as it appears on the employee's LES) and multiply the results by the number of LWOP hours taken within that biweekly period. The resultant adjustment in the retired pay reduction for the hours of LWOP (pay loss) cannot exceed the biweekly reduction under Civil Service Reform Act of 1978.

Table 5-8. Formula for Computation of Reduction (Act of 1978)

EXECUTIVE LEVEL V RATES	
January 11, 1979	$47,500.00
October 1, 1979	$50,112.50
January 1, 1982	$57,500.00
December 18, 1982	$63,800.00
January 1, 1984	$66,400.00
January 1, 1985	$68,700.00
January 1, 1987	$70,800.00
February 8, 1987	$72,500.00
January 1, 1989	$75,500.00
January 1, 1990	$78,200.00
January 1, 1991	$101,300.00
January 1, 1992	$104,800.00
January 1, 1993	$108,200.00

Table 5-9. Executive Level V Rates

SUMMARY OF MAJOR CHANGES TO CHAPTER 06
DOD 7000.14-R, VOLUME 7B
MILITARY PAY POLICY AND PROCEDURES FOR RETIRED PAY

New and revised instructions are indicated by a star placed immediately before the new or revised section, paragraph, subparagraph, decision logic table, etc.

Page	Paragraph	Explanation of Change/Revision	Effective Date
6-2	060302, Table 6-1	IC 16-97 updates Comptroller General and General Accounting Office references	Jun 30, 1996

NOTE: Interim Change 16-97 is incorporated in this chapter. Interim change 16-97 affects other chapters and will not be deleted from the interim changes cited in the OUSD(C) web site until all such chapters are updated.

CHAPTER 6

FOREIGN CITIZENSHIP AFTER RETIREMENT

0601 GENERAL APPLICATION

060101. The right to retired pay based on years of active service or disability for Regular or Reserve officers and Regular enlisted personnel generally is contingent upon continuation of their military status; loss of citizenship is inconsistent with a continuation of that status.

060102. A member retains military status with the attendant obligation to conform to prescribed rules and regulations and to remain subject to recall to active duty.

A. Retired enlisted members of Regular Components are still considered to hold an office under the United States within the meaning of that term as used in the constitutional provision quoted in subparagraph 050501 of this volume.

B. Retired Regular officers of the Armed Forces are still in the military service of the United States.

060103. Termination of such military status by loss of United States citizenship would operate to deprive these members of entitlement to retired pay.

060104. A recognized distinction exists between the term "retired" and "entitled to retired pay."

A. It is the law under which a member is retired or becomes entitled to retired pay which governs member's "retired" status and fixes the rights. The award of disability retirement pay to Army of the United States officers under section 5 of the Act of April 3, 1939 (reference (bh)), did not confer a retired status to such personnel but merely authorized their entitlement to retired pay without relation to continued military status.

B. The effect of a member's loss of United States citizenship upon payment of retired pay must be viewed in light of circumstances in the individual's case.

0602 FOREIGN RESIDENCE

A citizen of the United States may live outside the United States indefinitely without losing United States citizenship.

0603 LOSS OF UNITED STATES CITIZENSHIP

060301. Generally, loss of citizenship requires a measure of voluntary positive action. A person who is a citizen of the United States loses that citizenship by voluntarily taking the following action with the intention of relinquishing United States citizenship:

A. Obtaining citizenship in a foreign state upon his or her application or upon an application filed on his or her behalf by a parent, guardian, or duly authorized agent; or

B. Taking an oath or making an affirmation or other formal declaration of allegiance to a foreign state or a political subdivision thereof.

★ *060302. See Table 6-1 for decisions of the Comptroller General pertaining to loss of United States citizenship upon acquisition of foreign citizenship. (IC 16-97)*

0604 CONDITIONS NOT SUBJECTED TO LOSS OF UNITED STATES CITIZENSHIP AND/OR LOSS OF ENTITLEMENT TO RETIRED PAY

060401. Retired pay benefits authorized for non-regular members of the Uniformed Services in 10 U.S.C., Chapter 1223 (reference (c)) are viewed as a pension and entitlement to retired pay under 10 U.S.C. 12731 (reference (c)) is not dependent on the continuation of military status.

A. A member eligible to receive retired pay at age 60 who, before attaining age 60, acquires foreign citizenship and/or status in a foreign military service, does not lose entitlement to retired pay at age 60.

B. A member who receives retired pay pursuant to 10 U.S.C. 12731 (reference (c)) is not required to forfeit such pay upon becoming a citizen of a foreign country. Further, entitlement continues if the member enters the armed forces of the foreign country if the foreign country is not one that is engaged in hostile military operations against the United States.

060402. A retired alien member of a Regular Component of the Armed Forces who lives in a foreign country does not lose the right to retired pay, in the absence of some provision of law or regulation affecting the member's right in such circumstances.

060403. A right to retirement pay for non-regular members retired for disability under the provisions of the Act of August 27, 1940 (reference (bi)), is not conditioned on their remaining in military service. Therefore, these non-regular members are entitled to retirement pay without regard to whether they remain citizens of the United States, since that retired pay is viewed as being in the nature of a pension.

0605 DUAL CITIZENSHIP AND/OR SERVICE IN THE ARMED FORCES OF A FOREIGN COUNTRY

060501. A retired member of a Regular Component, who resides in a foreign country and acquires foreign citizenship by operation of that country's law, and who does not relinquish United States citizenship is considered to have dual citizenship. Dual citizenship alone does not require a member to lose entitlement to retired pay.

060502. Service in the military force of a foreign country by a retired member of the Regular Component would be inconsistent with a Regular retired status, as well as being prohibited without congressional consent by article I, section 9, clause 8 of the Constitution (reference (bf)). Conditional congressional consent to accept foreign government "civil employment" granted by Section 509, Public Law 95-105 (reference (bg)) does not apply to foreign military service.

060503. Retired pay must be discontinued when a retired member becomes a member of a foreign military service without authorizing legislation. See section 0507 of this volume, for provisions regarding service in military forces of newly democratic nations.

COMPTROLLER GENERAL *DECISIONS-FOREIGN CITIZENSHIP*	
Decision Number	**Synopsis**
1. 37 Comp Gen 207	The right of a retired member of Regular Navy to receive retired pay is contingent upon continuation of a status in the Regular Navy and loss of United States citizenship by a member is inconsistent with continuation of military status. Therefore, the right to retired pay terminates if a member of the Regular Navy becomes a citizen of a foreign country.
2. 41 Comp Gen 715	★ a. Retired Reserve officers, receiving retired pay under laws other than 10 U.S.C. 12731, who lose U.S. citizenship by acquiring foreign citizenship are no longer eligible for involuntary recall to active duty in times of war or national emergency, and the acquisition of foreign nationality would be inconsistent with the oath prescribed for Reserve officers to support and defend the Constitution of the United States in section 16 of title 5. Therefore, in the absence of any law authorizing continuation of an officer's membership in a Reserve organization after the officer becomes a citizen of a foreign country, payment of retired pay may not be approved. b. A Reserve officer may not terminate retired status through resignation or other means, then acquire foreign citizenship and continue to receive retired pay. c. Retired enlisted members of the Regular Components remain a part of the Armed Forces, and their right to retired or retirement pay is dependent on continuation of their military status.
3. 44 Comp Gen 51	a. A retired enlisted member of a Regular Component of the Armed Forces who loses United States citizenship when he or she acquires citizenship in a foreign country has taken a voluntary action so inconsistent with the oath of allegiance to the United States and status as a member of the Armed Forces to warrant termination of retired pay. b. United States citizenship is not a prerequisite to receipt of retired pay; however, if a citizen of the United States by birth acquires foreign citizenship, his or her retired pay may be terminated.
4. 44 Comp Gen 227	A retired member who voluntarily loses U.S. citizenship by becoming a citizen of a foreign country is regarded as having taken a voluntary action inconsistent with an oath of allegiance to the United States to warrant termination of retired pay.
5. 48 Comp Gen 699	Retired pay benefits authorized non-Regular service members under 10 U.S.C. 12731, viewed as a pension, are not dependent on continuation of military status. Member acquiring foreign citizenship and/or status in a foreign military service before age 60 does not lose entitlement to retired pay at age 60. Neither is retired pay forfeited upon becoming a citizen of a foreign country, and/or entry in the armed forces of a foreign country, provided that country is not one engaged in hostile military operations against the United States.
6. 50 Comp Gen 269	Payment of retired pay to an alien who chooses to live outside the United States after retirement would not constitute a bar to the receipt of retired pay in the absence of some provision of law or regulation affecting retiree's right in such circumstances.

Table 6-1. Comptroller General Decisions-Foreign Citizenship

COMPTROLLER GENERAL *DECISIONS-FOREIGN CITIZENSHIP*	
Decision Number	**Synopsis**
7. MS Comp Gen B-144694, Feb 14, 1961	An enlisted member of the Regular Air Force-an alien who had met the statutory requirement for enlistment by filing a legal intention to become a citizen of the United States-when retired is entitled to receive retired pay. In the absence of a provision of law barring the payment of retired pay to an alien or indicating the lack of citizenship is consistent with status as a retired member of the Regular Air Force, it would appear that so long as member's allegiance status remains unchanged after retirement, the fact that he or she chooses to live outside the United States after retirement would not in and of itself constitute a bar to the receipt of retired pay.
8. MS Comp Gen B-157646, Oct 5, 1965	A naturalized citizen retired for disability under 10 U.S.C. 1201, who returned to the country of birth and resumes former nationality because of employment, loses retired status. Member receives retired pay, as distinguished from a grant of retirement pay, and upon transfer to the retired Reserve is subject to recall to active duty.
9. 58 Comp Gen 566	a. A retired Regular Army officer residing in Israel acquired Israeli citizenship by operation of Israeli law, but also remains a United States citizen. While the loss of United States citizenship is inconsistent with status as a retired Regular officer and thus results in loss of status as an officer and loss of entitlement to retired pay, dual Israeli/United States citizenship alone does not require loss of entitlement to retired pay. b. A retired Regular Army officer residing in Israel who has dual Israeli/United States citizenship is subject to service in the Israel Defense Forces, the Israeli armed force. Such service in a foreign armed force by a retired Regular officer appears inherently inconsistent with the position as a Regular Army officer, as well as being prohibited (without congressional consent) by article I, section 9, clause 8 of the Constitution of the United States. Thus, service in the foreign armed force would make the status as a retired Army officer very doubtful. Retired pay may not be paid without authorizing legislation.
10. MS Comp Gen B-212481, Feb 2, 1984	A retired member of the Armed Forces who becomes a citizen of a foreign country by naturalization and who voluntarily renounces United States citizenship loses the right to retired pay since entitlement to retired pay depends upon the continuation of the individual's status as a retired member of the military service available for service as required and that status is incompatible with renunciation of United States citizenship. Such a person , however, who elected to participate in the Survivor Benefit Plan and from whose retired pay the required deductions were being made for coverage under the plan when United States citizenship is renounced, may continue coverage under the plan by making the required payments into the Treasury.

Table 6-1. Comptroller General Decisions-Foreign Citizenship (Continued) (IC 16-97)

Chapter 06-Foreign Citizenship After Retirement

0601-General Application

060101	37 Comp Gen 207 41 Comp Gen 715
060102.A	MS Comp Gen B-159945, Jan 30, 1957
060102.B	US vs Tyler, 105 US 244 (1881) 10 U.S.C. 3075 (1970)
060103	48 Comp Gen 699
060104.A	40 Comp Gen 541

0602-Foreign Residence

0602	US vs Gay, 264 US 353 Schneider vs Rusk, 377 US 163 (1964)

0603-Loss of United States Citizenship

060302	8 U.S.C. 1481(a)

0604-Conditions Not Subjected to Loss of United States Citizenship and/or Loss of Entitlement to Retired Pay

060401	48 Comp Gen 699
060402	44 Comp Gen 51
060403	37 Comp Gen 207

0605-Dual Citizenship and/or Service in the Armed Forces of a Foreign Country

060503	58 Comp Gen 566

SUMMARY OF MAJOR CHANGES TO CHAPTER 07
DOD 7000.14-R, VOLUME 7B
MILITARY PAY POLICY AND PROCEDURES FOR RETIRED PAY

New and revised instructions are indicated by a star placed immediately before the new or revised section, paragraph, subparagraph, decision logic table, etc.

Page	Paragraph	Explanation of Change/Revision	Effective Date
7-12 7-19 through 7-20 7-21	Table 7-1, Table 7-2, Table 7-3	IC 6-98 adds the December 1997 cost-of-living adjustment	Dec 01, 1997
7-11 7-18 through 7-19 7-20	Table 7-1, Table 7-2, Table 7-3	IC 6-99 adds the December 1998 cost-ofliving adjustment.	Dec 01, 1998

NOTE: Interim Changes 6-98 and 6-99 are incorporated in this chapter. Interim changes 6-98 and 6-99 affect other chapters and will not be deleted from the interim changes cited in the OUSD(C) web site until all such chapters are updated.

CHAPTER 7

RECOMPUTATION AFTER ADDITIONAL ACTIVE DUTY

0701 GENERAL

070101. A retiree is not entitled to receive retired pay upon recall to active duty. On release from active duty, a retiree is entitled to credit the additional time served on active duty for recomputation of retired pay, and may be eligible to receive:

A. Retired pay based on a higher grade to which advanced while on active duty; or

B. Retired pay based on a disability incurred or aggravated while serving on active duty.

070102. A member of the Armed Forces who first becomes a member of a Uniformed Service after September 7, 1980, and who has become entitled to retired or retainer pay and later serves on active duty (other than for training) is entitled to recomputation of retired pay per paragraph 070607, below, and Table 7-4, rules 2 and 4.

070103. As an exception to section 0703, below, and subject to the following criteria, a member of the Armed Forces shall have retired or retainer pay recomputed under the rates of basic pay in effect at the time of that release from active duty and increased by the amount by which the member's retired or retainer pay would have increased during the period beginning on the date of the member's release from active duty and ending on October 18, 1984:

A. Was voluntarily called or ordered to active duty during the period beginning October 1, 1963, and ending September 30, 1971;

B. Was at the time of such call or order entitled to retired or retainer pay;

C. Served on such active duty under such call or order for a continuous period of at least 2 years; and

D. Was released from such active duty before October 1, 1973. This provision applies to monthly retired and retainer pay payable beginning on November 1, 1984.

0702 COMPUTATION OF ADDITIONAL ACTIVE SERVICE

070201. The additional time spent on active duty after retirement either:

A. Increases the years of service for percentage and basic pay purposes for recomputing retired pay reversion.

	YR	MO	DAY
Date released from active duty	74	05	28
Date recalled to active duty	71	09	09
Additional time on active duty	02	08	20

(1 day added for inclusive dates)

Service credited upon retirement	22	06	03
Plus additional active duty	02	08	20
Service credited for recomputation	25	02	23

B. Increases the years of service for percentage purposes, as shown in subparagraph 070201.A, above, and the retired or retainer pay base for recomputing retired pay upon reversion for members who first become members after September 7, 1980.

0703 LENGTH OF TIME ON ACTIVE DUTY

070301. A retiree who serves on active duty after retirement for a continuous period of at least 2 years and returns to the retired list not by reason of disability is entitled to:

A. Retired pay recomputed under the rates of basic pay in effect upon release from active duty if the retiree received these rates for at least 2 years, see paragraph 070103, above, for exception; or

B. Retired pay recomputed under the basic pay rates in effect before the current basic pay rate if the retiree did not receive the current rate for at least 2 years, plus applicable cost-of-living increases; or

C. Retired pay computed using the basic pay rates under which the member's retired pay was computed when the member entered on active duty, plus applicable cost-of-living adjustments made under 10 U.S.C. 1401a (reference (c)) after the member first became entitled to that pay.

070302. A retiree who does not serve on active duty for at least 2 years is entitled to retired pay recomputed under the rates of basic pay under which retired pay was computed when the retiree entered on that active duty, plus applicable cost-of-living adjustments.

070303. A retiree who reverts to retired status with a disability rating of 30 percent or more is entitled to recomputation of retired pay per paragraph 070603, below.

0704 APPLICABLE BASIC PAY RATES

070401. See Tables 7-1 and 7-3 for basic pay rates and cost-of-living adjustment percentages to use when a retiree reverts and is entitled to retired pay based on service.

070402. See Tables 7-2 and 7-3 for basic pay rates and cost-of-living adjustment percentages to use when a retiree reverts with a disability rating of 30 percent or more.

070403. See the provisions of 10 U.S.C. 1401a(f) (the Tower Amendment) (reference (c)) (section 0303 of this volume) to determine if basic pay rates authorized under that provision afford greater retired pay entitlement than the basic pay rates in Tables 7-1 and 7-2.

070404. See paragraph 070103, above, for certain recalled members who may receive retired or retainer pay recomputed using the current basic pay rate upon release from active duty although the member had not received the rate at least 2 years.

0705 GRADES AUTHORIZED FOR RECOMPUTATION

070501. A retiree advanced in grade on the retired list while serving on active duty after retirement may decline advancement to the higher grade upon release from active duty if advancement results in a reduction in retired pay entitlement. The retiree is entitled to recomputation:

A. At the higher grade based on the basic pay rates applicable at the time of retirement increased by an applicable adjustment in that pay, (see Chapter 8) or,

B. At the grade held before advancement based on the basic pay rates replaced by those in effect upon release from active duty if active duty after retirement was for a continuous period of at least 2 years.

070502. It is not mandatory that a retiree be advanced on the retired list. The retiree is "entitled" to be advanced, if the retiree so chooses. Once advanced, the retiree has retired pay rights determined under the section governing such advancement.

070503. A retired officer recalled to active duty (other than for training) in the grade held on the retired list, under former 10 U.S.C. 6150 (reference (c)) (repealed), or under any other law that authorized advancement on the retired list based on a special commendation for the performance of duty in actual combat, may have retired pay recomputed upon release from active duty based on that grade; and,

A. As prescribed in Table 7-4, rule 1, and

B. On the basis of the rates in effect upon release from active duty if the retiree received these rates for a continuous period of at least 3 years; or

C. On the basis of the rates replaced by those in effect upon release from active duty if the retiree did not receive the current rates for a continuous period of at least 3 years.

070504. A retiree recalled to active duty after retirement and promoted in grade while on active duty may elect, upon release from that active duty, to have retired pay recomputed based on either

A. The higher grade to which promoted in which the retiree served satisfactorily; or

B. The lower grade held at initial retirement.

070505. A retiree recalled to active duty after retirement and demoted in grade while on active duty may elect, upon release from that active duty, to have retired pay recomputed based on either

A. The grade to which demoted; or

B. The pay to which entitled in the grade held at initial retirement.

0706 RECOMPUTATION OF ENTITLEMENT

070601. A member of the Armed Forces entitled to retired pay, who thereafter serves on active duty (other than for training) and who does not incur a disability of at least 30 percent, is entitled to recomputation of retired pay upon release from active duty per Table 7-4, rules 1 or 2. (See Figures 7-1 and 7-2.)

070602. A member of the Armed Forces is entitled, upon release from active duty, to retired pay, as specified in paragraph 070604, below, if he or she:

A. Retired other than for physical disability; and

B. While on active duty incurs a physical disability of at least 30 percent for which the member would be otherwise eligible for disability retired pay.

070603. A member of the Armed Forces is entitled upon release from active duty, to recomputation of retired pay, per paragraph 070604, below, if he or she:

A. Retired for temporary disability or on the Temporary Disability Retired List (TDRL); and

B. Incurs, while on active duty after his or her name was placed on that list, an additional physical disability or one that aggravates the original physical disability; and

C. Is qualified for temporary or permanent disability retirement.

070604. A member of the Armed Forces covered by paragraph 070602 or 070603, above, may elect to receive either:

A. The retired pay to which entitled when the member retired, increased by applicable adjustments in that pay, as specified in, Chapter 8, after the member first became entitled to that pay; or

B. Retired pay computed per Table 7-4, rule 2.

070605. A retiree covered by paragraph 070602 or 070603, above, who is promoted to a higher grade in which he or she serves satisfactorily (as determined by the Secretary concerned) while on active duty after retirement or after member's name was placed on the TDRL, is entitled to retired pay of the grade in which:

A. The member would be eligible to retire if retiring upon that release from active duty in that higher grade; or

B. The member would be eligible to transfer to the FR/FMCR if transferring upon that release from active duty.

070606. Notwithstanding paragraph 070601, above, a retiree covered by that paragraph may elect, upon release from active duty, to have retired pay:

A. Recomputed according to the formula in Table 7-4, rule 1, but using the rate of basic pay under which retired pay was computed when the member entered on active duty; and

B. Increased by any applicable adjustments in that pay as specified in Chapter 8, after the member first became entitled to that pay.

070607. A member of the Armed Forces who first became a member of a Uniformed Service after September 7, 1980, and who has become entitled to retired or retainer pay and thereafter serves on active duty (other than for training) is entitled to have retired pay:

A. Recomputed according to the formula in Table 7-4, rule 2, but using the retired pay to which the member became entitled upon retirement, and

B. Increased by any applicable adjustments in that pay under 10 U.S.C. 1401a (reference (c)) after the member initially became entitled to that pay.

0707 HEROISM PAY. See section 0107 of this volume.

Retired 7/1/63 10 U.S.C. 6323
O-5 @ 775.00 (6/58 BP O-5 over 22 years) 24-6-23 [WHAT IS THIS?]

OAD 7/6/68 - 6/30/70 (1-11-25)
O-5 @ 1363.50 (1/70 BP O-5 over 22 years) 26-6-18[WHAT IS THIS?]

Saved Pay

2-1/2% x 25 yrs =	62-1/2%		
62-1/2% x 775.00	=	484.38	(6/58 BP O-5 over 22 yrs)
62-1/2% x 885.00	=	553.13	(10/63 BP O-5 over 22 yrs)
+4.4%	=	577.47	
+3.7%	=	598.84	
+3.9%	=	622.19	
+4.0%	=	647.08	
+5.3%	=	681.38	
+5.6%	=	719.54	

10 U.S.C. 1402(a) and (e)

10/63 BP O-5 over 22 yrs		
2-1/2% x 27 yrs =	67-1/2%	
67-1/2% x 885.00	=	597.38
+4.4%	=	623.66
+3.7%	=	646.74
+3.9%	=	671.96
+4.0%	=	698.84
+5.3%	=	735.88
+5.6%	=	777.09

For grade O-5 with "over 22 yrs" this is the maximum pay allowable.

Figure 7-1. Recomputation Upon Reversion (After Serving on Active Duty)

Transferred to the Fleet Reserve 8/14/59 BP 19-6-5
E-8 @ 360.00 (6/58 BP E-8 over 18 yrs) PCT 19-11-10

OAD 11/16/66 - 3/16/71 (4-4-1) BP 23-10-6
E-9 @ 975.00 (1/71 BP E-9 over 26 yrs) PCT 24-3-11

Promoted from E-8 to E-9 2/16/69

Transferred to the Retired List 10/1/69

Saved Pay

6/58 BP E-8 over 20 yrs			6/58 BP E-9 over 20 yrs		
2-1/2% x 20 yrs =	50%		2-1/2% x 20 yrs=	50%	
50% x 370.00	=	185.00	50% x 430.00	=	215.00
+5.0%	=	194.25	+5.0%	=	225.75
+4.4%	=	202.80	+4.4%	=	235.68
+3.7%	=	210.30	+3.7%	=	244.40
+3.9%	=	218.50	+3.9%	=	253.93
+4.0%	=	227.24	+4.0%	=	264.09
+5.3%	=	239.28	+5.3%	=	278.09
+5.6%	=	252.68	+5.6%	=	293.66
+4.5%	=	264.05	+4.5%	=	306.87

10 U.S.C. 1402(a)

1/70 BP E-8 over 22 yrs			1/70 BP E-9 over 22 yrs		
2-1/2% x 24 yrs =	60%		2-1/2% x 24 yrs=	60%	
60% x 726.30	=	435.78	60% x 823.50	=	494.10
+2.5%	=	446.67	+2.5%	=	506.45
+4.5%	=	466.77	+4.5%	=	529.24

10 U.S.C. 1402(e)

6/58 BP E-8 over 22 yrs			6/58 BP E-9 over 22 yrs		
2-1/2% x 24 yrs =	60%		2-1/2% x 24 yrs=	60%	
60% x 380.00	=	228.00	60% x 440.00	=	264.00
+3.7%	=	236.44	+3.7%	=	273.77
+3.9%	=	245.66	+3.9%	=	284.45
+4.0%	=	255.49	+4.0%	=	295.83
+5.3%	=	269.03	+5.3%	=	311.51
+5.6%	=	284.10	+5.6%	=	328.95
+4.5%	=	296.88	+4.5%	=	343.75

Figure 7-2. Recomputation Upon Reversion (Transfer to Fleet Reserve or FMC)

SERVICE REVERT - RATES OF ENTITLEMENT UPON REVERSION TO RETIRED LIST (10 U.S.C. 1402) (WITH AT LEAST 2 YEARS OF ACTIVE SERVICE AFTER RECALL)						
	A	B	C	D	E	F
RULE	If date of release from active duty is during	and the current active duty rate is	then revert to active duty rate	and entitlement at time of recomputation is	increased by cost-of-living adjustment applicable at time of recomputation	and apply later cost-of-living adjustment per Table 7-3, rule (note 5)
1	Oct 1, 63-Aug 31, 64	Oct 1, 63	Jun 1, 58	Jun 1, 58		1 through end.
2	Sep 1, 64-Aug 31, 65	Sep 1, 64	Oct 1, 63	Oct 1, 63		
3	Sep 1, 65-Jun 30, 66	Sep 1, 65	Sep 1, 64	Sep 1, 64	4.4	2 through end.
4	Jul 1, 66-Nov 30, 66	Jul 1, 66	Sep 1, 65	Sep 1, 65		
5	Dec 1, 66-Sep 30, 67				3.7	3 through end.
6	Oct 1, 67-Dec 15, 67	Oct 1, 67		Sep 1, 65 (note 1)		
7	Dec 16, 67-Mar 31, 68		Jul 1, 66	Jul 1, 66		
8	Apr 1, 68-Jun 30, 68				3.7 + 3.9	4 through end.
9	Jul 1, 68-Jan 31, 69	Jul 1, 68	Oct 1, 67	Oct 1, 67 (note 2)	1.3	
10	Feb 1, 69-Jun 30, 69			Oct 1, 67 (note 3)	1.3 + 4.0	5 through end.
11	Jul 1, 69-Oct 31, 69	Jul 1, 69	Jul 1, 68	Jul 1, 68	2.1	
12	Nov 1, 69-Apr 14, 70				2.1 + 5.3	6 through end.
13	Apr 15, 70-Jul 31, 70	Apr 15, 70	Jul 1, 69	Jul 1, 69	0.9	
14	Aug 1, 70-Jan 1, 71				0.9 + 5.6	7 through end.
15	Jan 2, 71-May 31, 71	Jan 1, 71	Apr 15, 70	Apr 15, 70	2.5	
16	Jun 1, 71-Sep 30, 71				2.5 + 4.5	8 through end.
17	Oct 1, 71-Dec 31, 71	Oct 1, 71	Jan 1, 71	Jan 1, 71	0.6	
18	Jan 1, 72-Jun 30, 72	Jan 1, 72	Oct 1, 71	Oct 1, 71		Apply 1.7% on Jul 1, 72 then 9 through end.
19	Jul 1, 72-Sep 30, 72				1.7	9 through end.

Table 7-1. Service Revert - Rates of Entitlement Upon Reversion to Retired List (10 U.S.C. 1402) With at Least 2 Years of Active Service After Recall)

SERVICE REVERT - RATES OF ENTITLEMENT UPON REVERSION TO RETIRED LIST (10 U.S.C. 1402) (WITH AT LEAST 2 YEARS OF ACTIVE SERVICE AFTER RECALL)						
	A	B	C	D	E	F
RULE	If date of release from active duty is during	and the current active duty rate is	then revert to active duty rate	and entitlement at time of recomputation is (note 4)	increased by cost-of-living adjustment applicable at time of recomputation	and apply later cost-of-living adjustment per Table 7-3, rule (note 5)
20	Oct 1, 72-Jun 30, 73	Oct 1, 72	Jan 1, 72	Jan 1, 72	1.0	9 through end.
21	Jul 1, 73-Sep 30, 73				1.0 + 6.1	10 through end.
22	Oct 1, 73-Dec 31, 73	Oct 1, 73	Oct 1, 72	Oct 1, 72	3.6	
23	Jan 1, 74-Jun 30, 74				3.6 + 5.5	11 through end.
24	Jul 1, 74-Sep 30, 74				3.6 + 5.5 +6.3	12 through end.
25	Oct 1, 74-Dec 31, 74	Oct 1, 74	Oct 1, 73	SP Oct 1, 72		
26	Jan 1, 75-Jul 31, 75				3.6+5.5+6.3+7.3	13 through end.
27	Aug 1, 75-Sep 30, 75				3.6+5.5+6.3+7.3 +5.1	14 through end.
28	Oct 1, 75-Feb 29, 76	Oct 1, 75	Oct 1, 74	SP Oct 1, 73	6.2+7.3+5.1	
29	Mar 1, 76-Sep 30, 76				6.2+7.3+5.1+5.4	15 through end.
30	Oct 1, 76-Feb 28, 77	Oct 1, 76	Oct 1, 75	SP Oct 1, 74	5.0+5.4	
31	Mar 1, 77-Aug 31, 77				5.0+5.4+4.8	16 through end.
32	Sep 1, 77-Sep 30, 77				5.0+5.4+4.8+4.3	17 through end.
33	Oct 1, 77-Feb 28, 78	Oct 1, 77	Oct 1, 76	SP Oct 1, 75	1.7+4.8+4.3	
34	Mar 1, 78-Aug 31, 78				1.7+4.8+4.3+2.4	18 through end.
35	Sep 1, 78-Sep 30, 78				1.7+4.8+4.3+2.4 +4.9	19 through end.
36	Oct 1, 78-Feb 28, 79	Oct 1, 78	Oct 1, 77	SP Oct 1, 76	5.3+2.4+4.9	
37	Mar 1, 79-Aug 31, 79				5.3+2.4+4.9+3.9	20 through end.
38	Sep 1, 79-Sep 30, 79				5.3+2.4+4.9+3.9 +6.9	21 through end.

Table 7-1. Service Revert-Rates of Entitlement Upon Reversion to Retired List (10 U.S.C. 1402) (With at Least 2 Years of Active Service After Recall) (Continued)

SERVICE REVERT - RATES OF ENTITLEMENT UPON REVERSION TO RETIRED LIST (10 U.S.C. 1402) (WITH AT LEAST 2 YEARS OF ACTIVE SERVICE AFTER RECALL)						
	A	B	C	D	E	F
RULE	If date of release from active duty is during	and the current active duty rate is	then revert to active duty rate	and entitlement at time of recomputation is (note 4)	increased by cost-of-living adjustment applicable at time of recomputation(note 8)	and apply later cost-of-living adjustment per Table 7-3, rule (notes 5, 9)
39	Oct 1, 79-Feb 29, 80	Oct 1, 79	Oct 1, 78	SP Oct 1, 77	6.1+3.9+6.9	21 through end.
40	Mar 1, 80-Aug 31, 80				6.1+3.9+6.9+6.0 +7.7	22 through end.
41	Sep 1, 80-Sep 30, 80				6.1+3.9+6.9+6.0 +7.7	23 through end.
42	Oct 1, 80-Feb 28, 81	Oct 1, 80	Oct 1, 79	SP Oct 1, 78	8.9+6.0+7.7	
43	Mar 1, 81-Sep 30, 81				8.9+6.0+7.7+4.4	24 through end.
44	Oct 1, 81-Feb 28, 82 (note 6)	Oct 1, 81	Oct 1, 80	SP Oct 1, 79	10.8+4.4	
45	Mar 1, 82-Sep 30, 82 (note 6)				10.8+4.4+8.7	25 through end.
46	Oct 1, 82-Mar 31, 83 (note 7)	Oct 1, 82	Oct 1, 81	SP Oct 1, 80	2.7+8.7	
47	Apr 1, 83-Sep 23, 83				2.7+8.7+ 3.3/3.9 [??]	26 through end.
48	Sep 24, 83-Dec 31, 83			Oct 1, 81	0.7+3.3/3.9 [??]	
49	Jan 1, 84-Nov 30, 84	Jan 1, 84	Oct 1, 82	Oct 1, 82		
50	Dec 1, 84-Dec 31, 84				3.5	27 through end.
51	Jan 1, 85-Sep 30, 85	Jan 1, 85	Jan 1, 84	Jan 1, 84	2.8	
52	Oct 1, 85-Nov 30, 86	Oct 1, 85	Jan 1, 85	Jan 1, 85		
53	Dec 1, 86-Dec 31, 86				1.3	28 through end
54	Jan 1, 87-Nov 30, 87	Jan 1, 87	Oct 1, 85	Oct 1, 85		
55	Dec 1, 87-Dec 31, 87				4.2	29 through end.
56	Jan 1, 88-Nov 30, 88	Jan 1, 88	Jan 1, 87	Jan 1, 87	3.7	
57	Dec 1, 88-Dec 31, 88	Jan 1, 88	Jan 1, 87	Jan 1, 87	3.7+4.0	30 through end.
58	Jan 1, 89-Nov 30, 89	Jan 1, 89	Jan 1, 88	Jan 1, 88	3.2	
59	Dec 1, 89-Dec 31, 89				3.2+4.7	31 through end.

Table 7-1. Service Revert-Rates of Entitlement Upon Reversion to Retired List (10 U.S.C. 1402) (With at Least 2 Years of Active Service After Recall) (Continued)

SERVICE REVERT - RATES OF ENTITLEMENT UPON REVERSION TO RETIRED LIST (10 U.S.C. 1402) (WITH AT LEAST 2 YEARS OF ACTIVE SERVICE AFTER RECALL)						
	A	B	C	D	E	F
RULE	If date of release from active duty is during	and the current active duty rate is	then revert to active duty rate	and entitlement at time of recomputation is (note 4)	increased by cost-of-living adjustment applicable at time of recomputation (note 8)	and apply later cost-of-living adjustment per Table 7-3, rule (notes 5, 9)
60	Jan 1, 90-Nov 30, 90	Jan 1, 90	Jan 1, 89	Jan 1, 89	3.6	
61	Dec 1, 90-Dec 31, 90				3.6+5.4	32 through end.
62	Jan 1, 91-Nov 30, 91	Jan 1, 91	Jan 1, 90	Jan 1, 90	4.4	
63	Dec 1, 91-Dec 31, 91				4.4+3.7	33 through end.
64	Jan 1, 92-Nov 30, 92.	Jan 1, 92	Jan 1, 91	Jan 1, 91	2.0	
65	Dec 1, 92-Dec 31, 92				2.0+3.0	34 through end
66	Jan 1, 93-Nov 30, 93	Jan 1, 93	Jan 1, 92	Jan 1, 92	2.3	
67	Dec 1, 93-Dec 31, 93				2.3 + 2.6	35 through end
68	Jan 1, 94-Nov 30, 94	Jan 1, 94	Jan 1, 93	Jan 1, 93	1.9	
69	Dec 1, 94-Dec 31, 94				1.9 + 2.8	36 through end
70	Jan 1, 95-Nov 30, 95	Jan 1, 95	Jan 1, 94	Jan 1, 94	2.2	
71	Dec 1, 95-Dec 31, 95				2.2 + 2.6	37 through end
72	Jan 1, 96-Nov 30, 96	Jan 1, 96	Jan 1, 95	Jan 1, 95	2.0	
★ 73	*Dec 1, 96-Dec 31, 96 (IC 6-98)*				*2.0 + 2.9*	*38 through end*
★74	*Jan 1, 97 – Nov 30, 97 (IC 6-98)*	*Jan 1, 97*	*Jan 1, 96*	*Jan 1, 96*	*2.5*	
★75	*Dec 1, 97–Dec 31, 97 (IC 6-09)*				*2.5 + 2.1*	*39 through end*
★76	*Jan 1, 98 – Nov 30, 98 (IC 6-99)*	*Jan 1, 98*	*Jan 1, 97*	*Jan 1, 97*	*1.3*	
★77	*Dec 1, 98 – Dec 31, 98 (IC 6-99)*				*1.3 + 1.3*	--
★78	*Jan 1, 99 (IC 6-99)*	*Jan 1, 99*	*Jan 1, 98*	*Jan 1, 98*	*1.0*	--

★Table 7-1. Service Revert-Rates of Entitlement Upon Reversion to Retired List (10 U.S.C. 1402) (With at Least 2 Years of Active Service After Recall) (Continued) (IC 6-98, 6-99)

NOTES:

1. See 48 Comp Gen 398.
2. See 50 Comp Gen 232.
3. See 48 Comp Gen 204.
4. If member was first retired on or after October 1, 1967, was recalled to active duty on or after October 1, 1967, andreverted to retired status, the provision of 10 U.S.C. 1401a(e) may be applied (52 Comp Gen 469). Note, however, that 10 U.S.C. 1401a(e) was repealed by Public Law 98-94, September 24, 1983. (See paragraph 030203.)
5. If member was initially retired on or after Oct 1, 1983, the amount computed, if not a multiple of $1, shall be rounded to the next lower multiple of $1. Any future adjustments to such pay must be made on the roundedfigure. Retired pay of members retired on Sep 30, 1983 will not be rounded until there is an adjustment under10 U.S.C. 1401a; then, and with each subsequent adjustment, the amount adjusted, if not a multiple of $1, shall be rounded to the next lower multiple of $1. The rounded amount becomes the member's entitlement and any future adjustments shall be based on this rounded entitlement.
6. Public Law 97-92 established new rates for Executive Level V personnel effective January 1, 1982, which permitted an increase in the maximum amount payable for grades O-7, O-8, O-9, and O-10. Members received a 0.7 percent cost-of-living adjustment effective March 1, 1982, and rule 25 through end from Table 7-3.
7. Public Law 97-377 permitted an increase in the maximum amount payable for Executive Level V personnel effective December 18, 1982. Grades O-8, O-9, and O-10 were affected. Members received cost-of-living adjustment under Table 7-3, rule 26 through end.
8. See section 0804 of this volume for the applicable first cost-of-living adjustment for members who enter a Uniformed Service after July 31, 1986, or before August 1, 1986 and whose retired pay is computed using a retired pay average (high 36 month pay average).
9. Members who enter a Uniformed Service on or after August 1, 1986 receive the difference between the full cost-of-living adjustment and 1% vice the full cost-of-living adjustment shown on Table 7-3.

Table 7-1. Service Revert-Rates of Entitlement Upon Reversion to Retired List (10 U.S.C. 1402) (With at Least 2 Years of Active Service After Recall) (Continued)

DISABILITY REVERT - RATES OF ENTITLEMENT UPON REVERSION TO RETIRED LIST (10 U.S.C. 1402) (WITH DISABILITY OF AT LEAST 30 PERCENT AFTER RECALL)						
	A	B	C	D	E	F
RULE	If date of release from active duty is during	and the current active duty rate is	Then revert to active duty rate	and entitlement at time of recomputation is	increased by cost-of-living adjustment applicable at time of recomputation	and apply later cost-of-living adjustment per Table 7-3, rule
1	Oct 1, 63-Aug 31, 64	Oct 1, 63	Oct 1, 63	Oct 1, 63		1 through end.
2	Sep 1, 64-Aug 31, 65	Sep 1, 64	Sep 1, 64	Sep 1, 64		
3	Sep 1, 65-Jun 30, 66	Sep 1, 65	Sep 1, 65	Sep 1, 65		2 through end.
4	Jul 1, 66-Nov 30, 66	Jul 1, 66	Jul 1, 66	Jul 1, 66		3 through end.
5	Dec 1, 66-Sep 30, 67				3.7	
6	Oct 1, 67-Nov 15, 67	Oct 1, 67		Jul 1, 66 (note 1)		
7	Dec 16, 67-Mar 31, 68		Oct 1, 67	Oct 1, 67		apply 1.3 % on Apr 1, 68 then 4 through end.
8	Apr 1, 68-Jun 30, 68				1.3	4 through end.
9	Jul 1, 68-Jan 31, 69	Jul 1, 68	Jul 1, 68	Jul 1, 68		apply 2.1% on Feb 1, 69 then 5 through end.
10	Feb 1, 69-Jun 30, 69				2.1	5 through end.
11	Jul 1, 69-Oct 31, 69	Jul 1, 69	Jul 1, 69	Jul 1, 69		apply .9% on Nov 1, 69 then 6 through end.
12	Nov 1, 69-Apr 14, 70				0.9	6 through end.
13	Apr 15, 70-Jul 31, 70	Jan 1, 70-Apr 15, 70	Jan 1, 70-Apr 15, 70	Apr 15, 70		apply 2.5% on Aug 1, 70 then 7 through end.

Table 7-2. Disability Revert - Rates of Entitlement Upon Reversion to Retired List (10 U.S.C. 1402) (With Disability of at Least 30 Percent After Recall)

DISABILITY REVERT - RATES OF ENTITLEMENT UPON REVERSION TO RETIRED LIST (10 U.S.C. 1402) (WITH DISABILITY OF AT LEAST 30 PERCENT AFTER RECALL)						
	A	B	C	D	E	F
RULE	If date of release from active duty is during	and the current active duty rate is	then revert to active duty rate	and entitlement at time of recomputation is	increased by cost-of-living adjustment applicable at time of recomputation	and apply later cost-of-living adjustment per Table 7-3, rule
14	Aug 1, 70-Dec 31, 70	Jan 1, 70-Apr 15, 70	Jan 1, 70-Apr 15, 70	Apr 15, 70	2.5	7 through end.
15	Jan 1, 71-May 31, 71	Jan 1, 71	Jan 1, 71	Jan 1, 71		apply .6% on Jun 1, 71 then 8 through end.
16	Jun 1, 71-Sep 30, 71				0.6	8 through end.
17	Oct 1, 71-Dec 31, 71	Oct 1, 71	Oct 1, 71	Oct 1, 71		if receiving pay on Oct 1, 71 increased rate apply 1.7% on Jul 1, 72 then 9 through end.
18	Jan 1, 72-Jun 30, 72	Jan 1, 72	Jan 1, 72	Jan 1, 72		if receiving pay on Jan 1, 72 increased rate apply 1.0% on Jul 1, 72 then 9 through end.
19	Jul 1, 72-Sep 30, 72				1.0	9 through end.
20	Oct 1, 72-Jun 30, 73	Oct 1, 72	Oct 1, 72	Oct 1, 72		apply 3.6% on Jul 1, 73 then 10 through end.
21	Jul 1, 73-Sep 30, 73				3.6	10 through end.
22	Oct 1, 73-Dec 31, 73	Oct 1, 73	Oct 1, 73	Oct 1, 73		change to Oct 1, 72 saved pay on Jan 1, 74 then apply 3.6% then 10 through end.
23	Jan 1, 74-Jun 30, 74			SP Oct 1, 72	3.6 + 5.5	11 through end.
24	Jul 1, 74-Sep 30, 74				3.6 + 5.5 + 6.3	12 through end.
25	Oct 1, 74-Dec 31, 74	Oct 1, 74	Oct 1, 74	SP Oct 1, 73	6.2	13 through end.

Table 7-2. Disability Revert - Rates of Entitlement Upon Reversion to Retired List (10 U.S.C. 1402) (With Disability of at Least 30 Percent After Recall) (Continued)

DISABILITY REVERT - RATES OF ENTITLEMENT UPON REVERSION TO RETIRED LIST (10 U.S.C. 1402) (WITH DISABILITY OF AT LEAST 30 PERCENT AFTER RECALL)						
	A	B	C	D	E	F
RULE	If date of release from active duty is during	and the current active duty rate is	then revert to active duty rate	and entitlement at time of recomputation is	increased by cost-of-living adjustment applicable at time of recomputation	and apply later cost-of-living adjustment per Table 7-3, rule
26	Jan 1, 75-Jul 31, 75	Oct 1, 74	Oct 1, 74	SP Oct 1, 73	6.2 + 7.3	13 through end.
27	Aug 1, 75-Sep 30, 75				6.2 + 7.3 + 5.1	14 through end.
28	Oct 1, 75-Feb 29, 76	Oct 1, 75	Oct 1, 75	SP Oct 1, 74	5.0	
29	Mar 1, 76-Sep 30, 76				5.0 + 5.4	15 through end.
30	Oct 1, 76-Feb 28, 77	Oct 1, 76	Oct 1, 76	Oct 1, 76		Recompute Mar 1, 77 on Oct 1, 75 plus cost-of-living adjustment 1.7 + 4.8 and 16 through end.
31	Mar 1, 77-Aug 31, 77			SP Oct 1, 75	1.7 + 4.8	16 through end.
32	Sep 1, 77-Sep 30, 77				1.7 + 4.8 + 4.3	17 through end.
33	Oct 1, 77-Feb 28, 78	Oct 1, 77	Oct 1, 77	Oct 1, 77		Recompute Mar 1, 78 on Oct 1, 76 plus cost-of-living adjustment 5.3 + 2.4 and 18 through end.
34	Mar 1, 78-Aug 31, 78	Oct 1, 77	Oct 1, 77	SP Oct 1, 76	5.3 + 2.4	18 through end.
35	Sep 1, 78-Sep 30, 78				5.3 + 2.4 + 4.9	19 through end.
36	Oct 1, 78-Feb 28, 79	Oct 1, 78	Oct 1, 78	Oct 1, 78	6.1	
37	Mar 1, 79-Aug 31, 79			SP Oct 1, 77	6.1 + 3.9	20 through end.

Table 7-2. Disability Revert - Rates of Entitlement Upon Reversion to Retired List (10 U.S.C. 1402) (With Disability of at Least 30 Percent After Recall) (Continued)

DISABILITY REVERT - RATES OF ENTITLEMENT UPON REVERSION TO RETIRED LIST (10 U.S.C. 1402) (WITH DISABILITY OF AT LEAST 30 PERCENT AFTER RECALL)						
	A	B	C	D	E	F
RULE	If date of release from active duty is during	and the current active duty rate is	then revert to active duty rate	and entitlement at time of recomputation is	increased by cost-of-living adjustment applicable at time of recomputation	and apply later cost-of-living adjustment per Table 7-3, rule
38	Sep 1, 79-Sep 30, 79	Oct 1, 78	Oct 1, 78	SP Oct 1, 77	6.1 + 3.9 + 6.9	21 through end.
39	Oct 1, 79-Feb 29, 80	Oct 1, 79	Oct 1, 79	Oct 1, 79	8.9	
40	Mar 1, 80-Aug 31, 80			SP Oct 1, 78	8.9 + 6.0	22 through end.
41	Sep 1, 80-Sep 30, 80			WHAT IS "SP"?	8.9 +6.0 +7.7	23 through end.
42	Oct 1, 80-Feb 28, 81	Oct 1, 80	Oct 1, 80	Oct 1, 80		Recompute Mar 1, 81 on Oct 1, 79 plus cost-of-living adjustment 10.8 + 4.4 and 24 through end.
43	Mar 1, 81-Sep 30, 81			SP Oct 1, 79	10.8 + 4.4	24 through end.
44	Oct 1, 81-Feb 28, 82	Oct 1, 81	Oct 1, 81	Oct 1, 81	.7 (note 2)	0.7 (note 2) and 25 through end.
45	Mar 1, 82-Sep 30, 82					25 through end.
46	Oct 1, 82-Mar 31, 83	Oct 1, 82	Oct 1, 82	Oct 1, 82		Recompute Apr 1, 83 on Oct 1, 81 plus cost-of-living adjustment .7 and 25 through end (note 3).
47	Apr 1, 83-Dec 31, 83			SP Oct 1, 81	0.7 + 3.9 (note 3)	26 through end.
48	Jan 1, 84-Nov 30, 84	Jan 1, 84	Jan 1, 84	Jan 1, 84		2.8 and 27 through end.
49	Dec 1, 84-Dec 31, 84				2.8	27 through end.

Table 7-2. Disability Revert - Rates of Entitlement Upon Reversion to Retired List (10 U.S.C. 1402) (With Disability of at Least 30 Percent After Recall) (Continued)

DISABILITY REVERT - RATES OF ENTITLEMENT UPON REVERSION TO RETIRED LIST (10 U.S.C. 1402) (WITH DISABILITY OF AT LEAST 30 PERCENT AFTER RECALL)						
	A	B	C	D	E	F
RULE	If date of release from active duty is during	and the current active duty rate is	then revert to active duty rate	and entitlement at time of recomputation is	increased by cost-of-living adjustment applicable at time of recomputation (notes 6, 7)	and apply later cost-of-living adjustment per Table 7-3, rule (notes 6, 7)
50	Jan 1, 85-Sep 30, 85	Jan 1, 85	Jan 1, 85	Jan 1, 85		27 through end.
51	Oct 1, 85-Nov 30, 86	Oct 1, 85	Oct 1, 85	Oct 1, 85		27 through end (note 4).
52	Dec 1, 86-Dec 31, 86				1.3	28 through end.
53	Jan 1, 87-Nov 30, 87	Jan 1, 87 (note 5)	Jan 1, 87	Jan 1, 87		3.7 and 29 through end.
54	Dec 1, 87 Dec 31, 87				3.7	29 through end.
55	Jan 1, 88-Nov 30, 88	Jan 1, 88	Jan 1, 88	Jan 1, 88		3.2 and 30 through end.
56	Dec 1, 88-Dec 31, 88				3.2	30 through end.
57	Jan 1, 89-Nov 30, 89	Jan 1, 89	Jan 1, 89	Jan 1, 89		3.6 and 31 through end.
58	Dec 1, 89-Dec 31, 89				3.6	31 through end.
59	Jan 1, 90-Nov 30, 90	Jan 1, 90	Jan 1, 90	Jan 1, 90		4.4 and 32 through end.

Table 7-2. Disability Revert - Rates of Entitlement Upon Reversion to Retired List (10 U.S.C. 1402) (With Disability of at Least 30 percent After Recall) (Continued)

DISABILITY REVERT - RATES OF ENTITLEMENT UPON REVERSION TO RETIRED LIST (10 U.S.C. 1402) (WITH DISABILITY OF AT LEAST 30 PERCENT AFTER RECALL)						
	A	B	C	D	E	F
RULE	If date of release from active duty is during	and the current active duty rate is	then revert to active duty rate	and entitlement at time of recomputation is	increased by cost-of-living adjustment applicable at time of recomputation (notes 6, 7)	and apply later cost-of-living adjustment per Table 7-3, rule (notes 6, 7)
60	Dec 1, 90-Dec 31, 90	Jan 1, 90	Jan 1, 90	Jan 1, 90	4.4	32 through end.
61	Jan 1, 91-Nov 30, 91	Jan 1, 91	Jan 1, 91	Jan 1, 91		2.0 and 33 through end.
62	Dec 1, 91-Dec 31, 91				2.0	33 through end.
63	Jan 1, 92-Nov 30, 92	Jan 1, 92	Jan 1, 92	Jan 1, 92		2.3 and 34 through end.
64	Dec 1, 92-Dec 31, 92				2.3	34 through end
65	Jan 1, 93-Nov 30, 93	Jan 1, 93	Jan 1, 93	Jan 1, 93		1.9 and 35 through end.
66	Dec 1, 93-Dec 31, 93				1.9	35 through end.
67	Jan 1, 94-Nov 30, 94	Jan 1, 94	Jan 1, 94	Jan 1, 94		2.2 and 36 through end.
68	Dec 1, 94-Dec 31, 94	Jan 1, 94	Jan 1, 94	Jan 1, 94	2.2	36 through end.
69	Jan 1, 95-Nov 30, 95	Jan 1, 95	Jan 1, 95	Jan 1, 95		2.0 and rule 37 through end.
70	Dec 1, 95-Dec 31, 95				2.0	37 through end.
★*71*	*Jan 1, 96-Nov 30, 96 (IC 6-98)*	*Jan 1, 96*	*Jan 1, 96*	*Jan 1, 96*		*2.5 and rule 38 through end.*
★*72*	*Dec 1, 96-Dec 31, 96 (IC 6-98)*				*2.5*	*38 through end.*
★*73*	*Jan 1, 97 – Nov 30, 97 (IC 6-99)*	*Jan 1, 97*	*Jan 1, 97*	*Jan 1, 97*	--	*1.3 and rule 39 through end.*

★Table 7-2. Disability Revert - Rates of Entitlement Upon Reversion to Retired List (10 U.S.C. 1402) (With Disability of at Least 30 Percent After Recall (Continued) (IC 6-98, 6-99)

DISABILITY REVERT - RATES OF ENTITLEMENT UPON REVERSION TO RETIRED LIST (10 U.S.C. 1402) (WITH DISABILITY OF AT LEAST 30 PERCENT AFTER RECALL)						
	A	B	C	D	E	F
RULE	If date of release from active duty is during	and the current active duty rate is	then revert to active duty rate	and entitlement at time of recomputation is	increased by cost-of-living adjustment applicable at time of recomputation (notes 6, 7)	and apply later cost-of-living adjustment per Table 7-3, rule (notes 6, 7)
★74	*Dec 1, 97-Dec 31, 97 (IC 6-99)*	*Jan 1, 97*	*Jan 1, 97*	*Jan 1, 97*	*1.3*	*39 through end*
★75	*Jan 1, 98-Nov 30, 98 (IC 6-99)*	*Jan 1, 98*	*Jan 1, 98*	*Jan 1, 98*		*1.0*
★76	*Dec 1, 98-Dec 31, 98 (IC 6-99)*				*1.0*	--
★77	*Jan 1, 99 (IC 6-99)*	*Jan 1, 99*	*Jan 1, 99*	*Jan 1, 99*		--

NOTES:

1. See 48 Comp Gen 398.
2. On Mar 1, 1982, members eligible for recomputation on October 1, 1980 rate plus cost-of-living adjustment 2.7 (March 1981) and 8.7 (March 1982), and Table 7-3, rules 25 through end are: grades 31, 32, 33, O-7,O-8, O-9, and O-10. Members in grade O-7, O-8, O-9, and O-10 eligible for computation under January 1982 rates (see para 080450) remain under January 1982 rates plus cost-of-living adjustment 0.7 (March 1982) and rules 25 through end, Table 7-3.
3. On April 1, 1983, grades O-7 are recomputed on January 1, 1982 rate plus cost-of-living adjustment 0.7 and Table 7-3, rules 25 through end. Grades O-8, O-9, and O-10, who retire October 1, 1982 through December 17,1982, remain under January 1982 rate plus cost-of-living adjustment .7 (March 1982) and rules 25 through end. Grades O-8, O-9, and O-10, who retire December 18, 1982, or later, remain under rates effective December 18, 1982, plus cost-of-living adjustment for rule 26 through end, Table 7-3.
4. On December 1, 1986, pre-August 1986 members received a 1.3 cost-of-living adjustment. Post-August 1986 members entitled to retired pay based on October 1985 rates did not receive a cost-of-living adjustment.

5.Executive Level V increased effective March 1, 1987 for grades O-8, O-9, and O-10.

6. See Chapter 8, section 0804 for the applicable first cost-of-living adjustment for members who enter a Uniformed Service after July 31, 1986, or before August 1, 1986 and whose retired pay is computed using a retired pay average (high 36 month pay average).
7. Members who enter a Uniformed Service on or after August 1, 1986 receive the difference between the full cost-of-living adjustment and 1% vice the full cost-of-living adjustment shown on Table 7-3.

★Table 7-2. Disability Revert - Rates of Entitlement Upon Reversion to Retired List (10 U.S.C. 1402) (With Disability of at Least 30 Percent After Recall) (Continued) IC 6-99

COST-OF-LIVING ADJUSTMENT PERCENTAGE TABLE					
No.	**Date of COLADJ**	**Percent**	**No.**	**Date of COLADJ**	**Percent**
1	Sep 1, 65	4.4	24	Mar 1, 82	8.7
2	Dec 1, 66	3.7	25	Apr 1, 83 (note 1)	3.3
3	Apr 1, 68	3.9			3.9
4	Feb 1, 69	4.0	26	Dec 1, 84	3.5
5	Nov 1, 69	5.3	27	Dec 1, 86	1.3
6	Aug 1, 70	5.6	28	Dec 1, 87	4.2 Pre-Aug 86 Member
7	Jun 1, 71	4.5			3.2 Post-Aug 86 Member
8	Jul 1, 72	4.8	29	Dec 1, 88	4.0 Pre-Aug 86 Member
9	Jul 1, 73	6.1			3.0 Post-Aug 86 Member
10	Jan 1, 74	5.5	30	Dec 1, 89	4.7 Pre-Aug 86 Member
11	Jul 1, 74	6.3			3.7 Post-Aug 86 Member
12	Jan 1, 75	7.3	31	Dec 1, 90	5.4 Pre-Aug 86 Member
13	Aug 1, 75	5.1			4.4 Post-Aug 86 Member
14	Mar 1, 76	5.4	32	Dec 1, 91	3.7 Pre-Aug 86 Member
15	Mar 1, 77	4.8			2.7 Post-Aug 86 Member
16	Sep 1, 77	4.3	33	Dec 1, 92	3.0 Pre-Aug 86 Member
17	Mar 1, 78	2.4			2.0 Post-Aug 86 Member
18	Sep 1, 78	4.9	34	Dec 1, 93 (note 2)	2.6 Pre-Aug 86 Member
19	Mar 1, 79	3.9			1.6 Post-Aug 86 Member
20	Sep 1, 79	6.9	35	Dec 1, 94 (note 2)	2.8 Pre-Aug 86 Member
21	Mar 1, 80	6.0			1.8 Post-Aug 86 Member
22	Sep 1, 80	7.7	36	Dec 1, 95 (note 2)	2.6 Pre-Aug 86 Member
23	Mar 1, 81	4.4			1.6 Post-Aug 86 Member
			37	Dec 1, 96 (note 2)	2.9 Pre-Aug 86 Member
					1.9 Post-Aug 86 Member
			★38 (IC 6-98)	*Dec 1, 97 (note 2)*	*2.1 Pre-Aug 86 Member*
					1.1 Post-Aug 86 Member
			★39 (IC 6-99)	*Dec 1, 98 (note 2)*	*1.3 Pre-August 86 Member*
					.3 Post-August 86 Member

NOTES

1. See paragraph 080454.
2. See associated cost-of-living adjustment paragraph in section 0804 to determine whether member's cost-of-living adjustment is delayed.

Table 7-3. Cost-of-Living Adjustment Percentage Table

COMPUTATION OF RETIRED PAY UPON REVERSION TO THE RETIRED LIST

	A	B	C	D	E	F
RULE	If the	and	take	multiply by	add	subtract (note 3)
1	member reverts and is entitled to pay based on years of service	member first became member before Sep 8, 1980	monthly basic pay (note 1) of the grade in which member would be eligible: (1) to retire if retiring upon that release from active duty; or (2) to transfer to the Fleet Reserve (FR) or Fleet Marine Corps Reserve (FMCR) if transferring to either upon that release from active duty	2-1/2 percent of the sum of: (1) the years of service that may be credited to the retiree in computing retired pay or retainer pay; and (2) years of active service after becoming entitled to retired pay or retainer pay (note 2)		excess over 75 percent of pay upon which computation is based.
2		member first became member after Sep 7, 1980	retired pay base or retainer pay base to which member would be entitled to use if: (1) retiring upon release from that active duty; or (2) transferring to the FR or FMCR upon that release from active duty	the retired pay multiplier or the retainer pay multiplier (with reduction under paragraph 080315 for post-Aug 1, 1986 members) for the sum of: (1) the years of service that may be credited to the retiree in computing retired pay; and (2) years of active service after becoming entitled to retired or retainer pay		excess over 75 percent of retired or retainer pay base upon which computation is based
3	member reverts with a disability rating of 30 percent or more	member first became member before Sep 8, 1980	highest monthly basic pay that member received while on active duty after retirement or after date when member's name was placed on Temporary Disability Retired List (TDRL)	as a member elects: (1) 2-1/2 percent of years of service credited under 10 U.S.C. 1208; (note 2) or (2) the highest disability percentage attained while on active duty after retirement or after the date member's name was placed on TDRL	amount necessary to increase product of columns C and D to 50 percent of pay upon which computation is based, if member is on TDRL	excess over 75 percent of pay upon which computation is based

Table 7-4. Computation of Retired Pay Upon Reversion to the Retired List

COMPUTATION OF RETIRED PAY UPON REVERSION TO THE RETIRED LIST						
	A	B	C	D	E	F
RULE	If the	and	take	multiply by	add	subtract (note 3)
4	member reverts with a disability rating of 30 percent or more	member first became member after Sep 7, 1980	the retired pay base	as member elects (1) 2-1/2 percent of years of service credited under 10 U.S.C. 1208 (note 2); or (2) the highest disability percentage attained while on active duty after retirement or after the date when member's name was placed TDRL	amount necessary to increase product of columns C and D to 50 percent of pay upon which computation is based, if the member is on TDRL	excess over 75 percent of retired or retainer pay base upon which computation is based

NOTES:

1. For a member who has been entitled, for a continuous period of at least 2 years, to basic pay under the rates of basic pay in effect upon release from active duty, compute under those rates. For a member who has been entitled to basic pay for a continuous period of at least 2 years upon that release from active duty, but who is not covered by the preceding sentence, compute under the rates of basic pay replaced by those in effect uponthat release from active duty. For any other member, compute under the rates of basic pay under which the member's retired pay or retainer pay was computed when member entered on that active duty.
2. Before applying percentage factor, credit each full month of service that is in addition to the number of full years of service creditable to the member as one-twelfth of a year. Disregard any remaining fractional part of a month.
3. If member was initially retired on or after October 1, 1983, the amount computed, if not a multiple of $1, shall berounded to the next lower multiple of $1. Any future adjustments to such pay must be made on the rounded figure. Retired pay of members retired on September 30, 1983 will not be rounded until there is an adjustment under10 U.S.C. 1401a; then, and with each subsequent adjustment, the amount as adjusted, if not a multiple of $1, shall be rounded to the next lower multiple of $1. The rounded amount becomes the member's entitlement and any future adjustments shall be based on this rounded entitlement.

Table 7-4. Computation of Retired Pay Upon Reversion to the Retired List (Continued)

Chapter 07-Recomputation After Additional Active Duty

0701-General

070101.A	OASD/FM&P (MPP) Memo, Apr 29, 1996 51 Comp Gen 98
070102	10 U.S.C. 1402a
070103	Public Law 98-525, section 655, Oct 19, 1984

0702-Computation of Additional Active Service

070202	Public Law 96-342, section 813, Sep 8, 1980

0703-Length of Time on Active Duty

	10 U.S.C. 1402(a), footnote 1
070301.B	MS Comp Gen B-234888, July 16, 1990
070302	69 Comp Gen 141

0705-Grades Authorized for Recomputation

070501.B	51 Comp Gen 137
070502	44 Comp Gen 510
070503	10 U.S.C. 1402(a),
070503.C	10 U.S.C. 1402(a) 10 U.S.C. 6150 (repealed)
070504	47 Comp Gen 289
070504.B	10 U.S.C. 1402(e)
070505.B	10 U.S.C. 1402(e) 10 U.S.C. 1402a(e)

0706-Recomputation of Entitlement

070602	10 U.S.C. 1402(b) 10 U.S.C. 1402a(b)
070603	10 U.S.C.1402(c) 10 U.S.C. 1402a(c)
070604	10 U.S.C. 1402(d)

		10 U.S.C. 1402a(d)
	070605	10 U.S.C. 1402(d)
		10 U.S.C. 1402a(d)
	070606	10 U.S.C. 1402(e)
		10 U.S.C. 1402a(e)
0707-Heroism Pay		10 U.S.C. 1402(f)
		10 U.S.C. 1402a(f)

CHAPTER 8

BASIC PAY RATES, LEGISLATIVE AND COST-OF-LIVING ADJUSTMENTS TO RETIRED PAY

0801 PURPOSE

080101. Information in this chapter enables the reader to determine the accuracy of a member's current retired pay through a history of basic pay rates, retired pay increases, and the application of special provisions in determining retired pay since October 1949. Retired pay for members who have entered a Uniformed Service after September 7, 1980 is computed using a retired or retainer pay base. See Chapter 3 for gross pay computation. This chapter explains the effect of legislative and cost-of-living adjustments on retired pay that has been computed using a retired or retainer pay base.

080102. Before June 1, 1958, compiling tables to show the actual rates of retired pay was relatively simple since all members (except the pre-October 1, 1949, "saved pay" accounts) received a direct percentage of the active duty basic pay rates in effect October 1, 1949 through May 31, 1958. With the enactment of Public Law 85-422 (reference (ac)), and later active duty and retired pay adjustments, it became increasingly more difficult to prepare and maintain tables reflecting the pay of members on the retired rolls and, eventually, preparing such tables was no longer feasible. The applicable active duty pay tables are now serve as the basis for determining the rate of retired pay.

080103. For members who have entered a Uniformed Service after September 7, 1980:

A. The amount of retired pay is individualized. Members who retire with the same grade and years of service for percentage and basic pay purposes may or may not receive the same amount of retired pay.

B. The member's current retired pay can be verified from the retired or retainer pay base, years of service for percentage purposes or percentage of disability, retired pay increases, and the application of any special provisions in retired pay identified in this chapter.

0802 DEFINITIONS

080201. The terms used in this chapter are:

A. Pay Table Code. The designation by number (or other means) used by the Military Services to identify active duty pay rates in effect during the different time periods.

★B Cost-of-Living Adjustment. Percentage change increases applied to retired pay based on laws using the Consumer Price Index (CPI), Urban Wage Earners and Clerical

Workers-U.S. City Average, CPI-W, as published by the Bureau of Labor Statistics, to determine the amount of the increase. Full cost-of-living adjustment percentages appear in Table 7-3.

1. Full Cost-of-Living Adjustment. Members on the retired rolls receive the full cost-of-living adjustment if their retired pay is computed using the basic pay rates which were effective before the previous cost-of-living adjustment.

2. Partial Cost-of-Living Adjustment. Members whose retired pay is computed using the basic pay rates that become effective at the same time or after the previous cost-of-living adjustment receive a partial cost-of-living adjustment. This increase is effective from the later of the date of the full cost-of-living adjustment or date of retirement.

C. One Percent Add-On. This is an additional 1 percent added to all full cost-of-living adjustment in retired pay from November 1, 1969 through March 31, 1976. The 1 percent did not apply to partial cost-of-living adjustment. The add-on was provided to make up for the 3-month time lag between the rise in the CPI and the actual increase in retired pay. Public Law 94-440 (reference (bj)), eliminated the 1 percent add-on.

D. Legislative Increases. This is any adjustment in retired pay authorized by legislation that identifies a percentage increase rather than being based on the CPI.

E. Recomputation. This is the provision for recomputing retired pay using a pay table other than that used in the first computation of retired pay.

F. Uniform Retirement Date Act (URDA) (reference (x)). This statute (1) provides, under certain retirement laws, that members cannot be retired before the first day of the month after the date of first eligibility, and (2) determines the pay table used in computing retired pay. This provision is especially significant when the retirement date coincides with the effective date of an active duty basic pay rate increase, because of the additional requirement to compute pay on the rates in effect as of the date retirement would have occurred except for this restriction.

G. Otherwise Qualified. This term refers to members, retired under a particular law, who are eligible for retirement under another law that may provide greater benefits. It pertains primarily to disability retirees when members have enough service to be retired for non-disability.

H. Years of Service for Basic Pay. Computation of service years creditable in determining the basic pay rate upon which retired pay is to be based, may vary depending upon retirement law. (See Chapter 1.)

I. Years of Service for Percentage Multiplier. This refers to service years creditable in determining the percentage multiplier factor (2-1/2 percent times years of service of basic pay) in retired pay computation. Computation of years of service may vary depending upon retirement law. For Reserve retirements under 10 U.S.C., Chapter 1223 (reference (c)), Reserve service points are converted to years of service (i.e., total points divided by 360 = years of service). (See Chapter 1.)

J. Burchinal Decision. This Comptroller General decision held that, under 10 U.S.C. 1401a(e) (reference (c)), retired pay is computed only under the current pay rates or the pay rates in effect immediately before the current rate.

K. Pay Inversion. A condition that exists during the periods when the cost-of-living adjustment in retired pay exceeds the percentage increases applied to active duty basic pay rates.

L. Retired Pay Base. This is an average of the highest monthly basic pay rates applicable to a member determined by the length of time member was a member of a Uniformed Service (less than or at least 36 months) and/or the type of retirement (e.g., disability or voluntary). The retired pay base or retainer pay base applies to members who entered a Uniformed Service after September 7, 1980. It replaced the monthly basic pay rate formerly used to compute of retired or retainer pay.

0803 MAJOR CHANGES IN THE USE OF BASIC PAY RATES AND CONDITIONS APPLICABLE TO COMPUTATION OF RETIRED PAY

080301. The Career Compensation Act (reference (w)) stipulated that basic pay rates would be based both on pay grade and total years of service. The Act also established new methods for computing disability retirements.

080302. Before June 1, 1958, the pay of all members on the retired rolls (except "saved pay" accounts under the Career Compensation Act (reference (w))) represented a direct percentage of a basic pay rate of a member on active duty and whenever the active duty rates increased, the retired pay increased accordingly. Public Law 85-422 (reference (ac)), effective June 1, 1958, prohibited the recomputation of retired pay based on changes in the active duty basic pay rates after retirement. Essentially, the date of retirement was an added factor in computing retired pay since the retired member's pay was fixed to the basic pay rate in effect on the date of retirement (with exceptions permitting members to use another basic pay rate under certain conditions and circumstances which are outlined in later paragraphs).

080303. Retirees receiving saved pay under laws in effect on September 30, 1949, received legislative increases in 1952 and 1955. The pay for retirees receiving pay computed under the Career Compensation Act (reference (w)) was recomputed on the 1952 and 1955 basic pay rates. Effective October 1, 1963, 10 U.S.C. 1401a (reference (c)), as added by Public Law 88-132 (reference (am)), stipulated that future adjustments to retired pay would be based on the CPI. Each January, the Secretary of Defense was to review the CPI for the previous calendar year and, if it had increased 3 percent or more, would effect a percentage increase in retired pay as of April 1, using the percentages of increase in the CPI.

080304. Public Law 89-132 (reference (bk)), effective September 1, 1965, changed the provisions for determining the retired pay cost-of-living adjustment. Instead of the yearly determination, the Secretary of Defense would determine the retired pay increase once the CPI had increased at least 3 percent over the previous CPI base and remained at that rate for 3 consecutive

months. The adjustment in retired pay was the highest percent of increase reached during the 3-month period. The cost-of-living adjustment was effective the first day of the third month beginning after the 3-month period.

080305. Public Law 90-207 (reference (bl)), effective October 1, 1967, added subsections (c) through (e) under 10 U.S.C. 1401a (reference (c)). Subsections (c) and (d) of reference (c) stipulated that retired pay, when computed from the current basic pay rates, would increase at the later of the next cost-of-living adjustment or retirement date by a partial adjustment. The partial adjustment represented the percent by which the new base index exceeded the index in effect on the day before the basic pay increase. Subsection (e) (reference (c)), a saved-pay provision, permitted computation of retired pay on the basic pay rates in effect immediately preceding those in effect on retirement date if they were more favorable because of a cost-of-living adjustment. Title 10 United States Code, section 1401a(e) (reference (c)) was repealed by Public Law 98-94 (reference (aj)), effective September 24, 1983. See paragraph 080313, below. Section 8(a) of Public Law 90-207 (reference (bl)) provided that, effective January 1, 1968, whenever the General Schedule of Compensation for federal classified employees increased, an adjustment in the monthly basic pay authorized members of the Uniformed Services immediately would become effective.

080306. Public Law 91-179 (reference (bm)) effective October 31, 1969, stipulated that 1 percent would be added to the percentage increase each time there was a general cost-of-living adjustment to retired pay. Partial cost-of-living adjustment increases did not include the 1 percent.

080307. Public Law 94-440 (reference (bj)) again changed the provisions for determining the cost-of-living adjustments to retired pay. Beginning with March 1977, cost-of-living adjustments occurred twice each year; effective March 1 and September 1. The March adjustment was determined by the percentage change in the consumer price index (CPI) between June and December of the previous year. The September adjustment was determined by the percentage change in the CPI between the previous December and June. In accordance with Public Law 94-361 (reference (bn)), these adjustments were the actual percentage change (nearest 1/10 of 1 percent) without the additional 1 percent. Beginning October 1976, partial cost-of-living adjustment changes were made for members whose retired pay was computed using the basic pay rates which became effective in months other than January or July. The partial cost-of-living adjustment was the percentage (closest 1/10 of one percent) of change in the CPI between the month before establishment of the new basic pay rates and the following June or December (which was used as the new base CPI).

080308. Pay Inversion. Effective with Public Law 85-422 (reference (ac)) on June 1, 1958 (which prohibited recomputation of retired pay each time active duty pay was increased), it was assumed that members, of the same pay grade and years of service retired under later active duty pay increases, would receive a greater retired pay. Beginning in 1971, however there were instances where the cumulative cost-of-living adjustment applied to retired pay was greater than the increases in the active duty pay rates. This was popularly known as "pay inversion" and created some retention problems because, through early retirement, members could increase their retired

pay rather than remaining on active duty. Under 53 Comp Gen 698 (reference (bo)), known as the "Burchinal Decision," members were restricted to the greater amount, based on two computations of retired pay, of pay computed on the active duty pay rqates in effect:

A. At the time of retirement using the pay grade and years of service for both basic pay and percentage multiplier at the time of retirement, or

B. Immediately before the active duty basic pay rates in effect on the date of retirement, plus the cost-of-living adjustment in retired pay applicable to those basic pay rates. For this computation, the same pay grade and years of service for both basic pay and multiplier at time of retirement were used even though the computation used the earlier basic pay rates.

080309. Tower Amendment. Public Law 94-106, October 7, 1975, (reference (fg)), added subparagraph (f) to 10 U.S.C. 1401a (reference (c)). The new provision stipulated another method to offset partially the effect of "pay inversion." This method involved computing pay based on any previous basic pay rates, on and after January 1, 1971, plus cost-of-living adjustment, if the member was eligible for retirement at the time those rates were in effect. The computation was restricted to the pay grade and years of service at that earlier time. (For retirements on October 5, 1994 or later, the computation may not be based on a grade higher than that held at time of retirement.) The statute applies to all members retired on or after January 1, 1971. There were no retroactive pay adjustments however, for the period before October 7, 1975. A member who is recalled to active duty after retirement is not entitled to recomputation of retired pay under the Tower Amendment upon release from that active duty. Pay recomputation upon that release is restricted to the methods prescribed in 10 U.S.C. 1402 (reference (c)) covered in Chapter 7 of this Regulation. The Tower Amendment did not repeal or modify those provisions.

080310. Basic Pay Average. Public Law 96-342 (reference (bp)), as codified at 10 U.S.C. 1407 (reference (c)), established a Retired Pay Base for use in computing retired or retainer pay. Section 1407 of reference (c) applies to members who have entered a Uniformed Service after September 7, 1980. The percentage of cost-of-living increases is determined by the most recent basic pay rate used in the computation of the retired or retainer pay base.

080311. On August 13, 1981, Public Law 97-35 (reference (bq)) revised the frequency for cost-of-living adjustment from semiannual to annual for retired pay, retainer pay, survivor annuities, and dual compensation amounts. This legislation became effective with the amendment to 5 U.S.C. 8340(b) (reference (az)), also enacted by Public Law 97-35 (reference (bq)). The annual cost-of-living adjustment, effective March 1 of each year, was based on the accumulative percentage change in the price index published for December of the preceding year over the price index published for December of the year prior to the preceding year, adjusted to the nearest 1/10th of 1 percent.

080312. Public Law 97-253 (reference (ax)), revised the cost-of-living adjustment mechanism under federal retirement systems during fiscal year 1983. The revision affected the eligibility, percentage, and effective dates of such adjustments. See Chapter 5, paragraph 050210,

of this Regulation for the civilian dollar offset reduction coincident to the military cost-of-living increase (repealed in Public Law 98-369 (reference (br)).

A. First (partial) Adjustment. Members who had entitlement to a first adjustment in initial amounts of retired or retainer pay under 10 U.S.C. (reference (c)), as computed on the active duty base pay scale, became entitled to a first adjustment in retired or retainer pay equal to the percentage increase in CPI occurring between September and December 1982.

B. Members Under Age 62. Any member under age 62 on or before March 1, 1983, who was entitled to an adjustment under 10 U.S.C. 1401a(b) (reference (c)), received an adjustment based on an assumed increase in the price index. The assumed increase in the price index was 6.6 percent for fiscal year 1983. Retired or retained pay increased by one-half the assumed increase plus the amount by which the actual percentage increase in the price index increased over the assumed increase from December through December of the preceding time period.

C. Members Age 62 or Over. Any member who was age 62 or more on March 1, 1983, and entitled to an adjustment under 10 U.S.C. 1401a(b) (reference (c)) in retired or retainer pay on that date, became entitled to that increase without limitation.

D. Military Disability Retirees. Any member who was retired by reason of physical disability under 10 U.S.C., Chapter 61 (reference (c)), and entitled to an adjustment of retired pay under 10 U.S.C. 1401a(b) (reference (c)) on March 1, 1983, received that adjustment without limitation.

E. Effective Date. The effective date for cost-of-living adjustments for FY 1983 was changed from March 1 to April 1.

080313. The DoD Authorization Act, FY 1984 (reference (aj)), affected computation of retired and retainer pay.

A. Section 921 of the Act (reference (aj)) repealed the 1-year look-back provision (10 U.S.C. 1401a(e)) (reference (c)). Members who first become eligible to retire or transfer after September 24, 1983, would not use the 1-year look-back provision in computing their retired pay. Section 921 of (reference (aj), however, had a savings provision that permitted any member, who was eligible to retire on September 24, 1983, to use the 1-year look-back as though that provision had not been repealed, provided that the member retired on or before September 24, 1986. If such member retired after September 24, 1986, the retired or retainer pay could not be less than what it would have been if the member actually retired on September 23, 1986.

NOTE: Section 921 reference (aj) did not affect the Tower Amendment (10 U.S.C. 1401a(f) (reference (c))). Under this statute, any member who used the Tower Amendment to compute his or her retired pay, as though he or she had retired on a date when he or she otherwise would have been entitled to use the 1-year look-back provision, could apply the 1-year look-back

provision to ensure that their retired pay was not less than what it would have been had they actually retired on the earlier date.

B. Section 922 of reference (aj) amended all statutes that previously had authorized the rounding of monthly retired or retainer pay. All members who retire on or after October 1, 1983 had their retired or retainer pay rounded. In the initial computation of gross retired pay, any amount that was not a multiple of $1 was rounded down to the next lower multiple of $1. All further reductions, deductions, withholdings, and allotments were made from the rounded entitlement. Future adjustments to such pay were made on the rounded figure. For members retired on September 30, 1983, no rounding was made until there was an adjustment under 10 U.S.C. 1401a (reference (c)); then, and with each subsequent adjustment, the amount as adjusted, if not a multiple of $1, is rounded to the next lower multiple of $1. This became the member's entitlement and any future adjustments were based on this rounded figure.

080314. Public Law 98-270 (reference (ay)), amended 5 U.S.C. 8340(a) and (b) (reference (az)) to modify cost-of-living adjustments that also applied to military retired and retainer pay under 10 U.S.C. 1401a(b) (reference (c)). The effective date for cost-of-living adjustments was changed from March 1 to December 1. The cost-of-living adjustment equaled the percentage change in the price index for the base quarter of such year over the price index for the base quarter of the preceding year. The price index for a base quarter was defined as the arithmetical mean of such index for the 3 months of the base quarter. The partial cost-of-living adjustment equaled the percentage increase of the average CPI for July, August, and September over the CPI for the preceding December.

080315. The Military Retirement Reform Act of 1986, Public Law 99-348 (reference (bs)):

A. Reduced the retired pay multiplier for any member who first became a member of a Uniformed Service after July 31, 1986, and who retired before age 62 with less than 30 years of creditable service (excluding retirements under Title 10, Chapters 61 and 1223 (reference (c))). The multiplier was reduced by:

1. 1 percentage point for each full year that the member's years of creditable service were less than 30; and

2. 1/12 of 1 percentage point for each month by which the member's years of creditable service (after counting all full years of such service) was less than a full year,

B. Stipulated cost-of-living increases for any member who first became a member of a Uniformed Service on or after August 1, 1986, when the increase in the CPI exceeded 1 percent. The cost-of-living increase was 1 percentage point less than the increase in CPI; and

C. Restored the reduction in retired pay multiplier under (1) above at age 62 and provided a one-time restoral at age 62 for the reduction in cost-of-living increase under

(2) above. Sample calculations of retired pay catch up at age 62 and the average monthly CPI by quarter are in Appendix U.

080316. Public Law 99-576 (reference (bt)) guaranteed that military retired pay cost-of-living adjustments were unaffected by Public Law 99-177 (reference (bu)) during fiscal years 1987 through 1989.

080317. The grade Chief Warrant Officer, W-5, was established, effective February 1, 1992, for the four Military Services.

080318. Effective January 1, 1993, a longevity step for "over 24," but less than 26 years, was added for pay grades E-7, E-8, E-9, W-4, W-5, and O-6.

080319. Public Law 103-66, August 10, 1993 (reference (fm)) delayed the payment of the December 1, 1993, military retirement cost-of-living adjustment until March 1, 1994. Disability retirements and survivor annuities were unaffected.

080320. The FY 1995 DoD Authorization Act (reference (fi)) and the FY 1995 DoD Appropriation Act (reference (fj)) prohibited the payment of increased retired pay associated with the cost-of-living adjustment for December 1994 for months before March 1, 1995, excluding disability retirements under 10 U.S.C., Chapter 61 (reference (c)), and survivor annuities.

080321. In FY 1996, the cost-of-living adjustment became effective December 1, 1995. Certain adjustments, however, were not payable for periods before March 1996: increases in retired or retainer pay for members and former members retired on the basis of longevity, age, or non-Regular service (10 U.S.C., Chapter 1223, (reference (c)). Adjustments, which became payable beginning December 1, 1995, included the increases in survivor annuities and survivor benefit program costs, retired pay based on disability, and the exclusion amounts for dual compensation.

★080322. The FY 1997 DoD Authorization Act (reference (fp)) clarified the method of computing the first cost-of-living adjustment of retired pay for members who entered a Uniformed Service after September 7, 1980, but before August 1, 1986.

0804 PROVISIONS OF PAY CHANGES, EXCEPTIONS, AND SPECIAL COMPUTATIONS

080401. The Career Compensation Act (reference (w)) stipulated the:

A. Establishment of new basic pay rates, using a combination of pay grade and total years of service pay.

B. Disability retirement based on a percentage of disability, using the Department of Veterans Affairs Schedule of Ratings for establishing such percentages with pay computed based on years of service or percentage of disability, as the member elected.

C. A revised method for recomputing pay for members who served on active duty after retirement.

D. Automatic recomputation for members retired for non-disability reasons before October 1, 1949, on the October 1, 1949 basic pay rates, if greater than rates in effect before October 1, 1949.

E. An option for members retired for disability before October 1, 1949, upon physical evaluation and assignment of a percentage of disability, to elect not later than October 1, 1954, to:

1. Remain at the rates in effect before October 1, 1949 (saved pay);

2. Have pay computed on the October 1, 1949 rates, using either disability percentages assigned or years of active service; or

3. Receive severance pay.

F. An option for members who were hospitalized on October 1, 1949, and retired before January 1, 1951 for the disability for which they were hospitalized, to elect pay based on the laws and pay tables in effect before October 1, 1949 (saved pay).

080402. Public Law 82-346 (reference (bv)), effective May 1, 1952, provided for an increase of 4 percent applied to retired saved pay accounts, regular retired accounts, and active duty basic pay rates.

080403. Public Law 84-20 (reference (bw)), effective April 1, 1955, provided for:

A. Increased basic pay rates.

B. A 6 percent increase for disability retired saved pay accounts.

C. Recomputation of retired accounts (other than saved pay) on the new basic pay rates.

D. A 6 percent increase for non-disability retirees receiving pay computed on pre-October 1, 1949 rates or recomputation on April 1, 1955 basic pay rates, whichever was greater.

E. For officers with less than 3 years of service and warrant officers and enlisted members with less than 2 years of service retired for disability or placed on the TDRL. Pay computed on the April 1, 1955 rates, plus 6 percent.

080404. The Military Pay Act 1958 (reference (ac)), effective June 1, 1958, provided for:

A. Increased basic pay rates.

B. Retired pay increase of 6 percent for members receiving retired pay on May 31, 1958.

C. Pay computed on the June 1, 1958 basic pay rates, plus 6 percent for members retired for disability on or after June 1, 1958, with 2 or less years of service.

D. An additional new basic pay rate for certain pay grades with more than 20 years of service.

E. Two new enlisted pay grades, E-8 and E-9, and two new officer pay grades, O-9 and O-10.

F. Basic pay rates for new pay grades O-1E, O-2E, O-3E, for officers in grades O-1, O-2, O-3 with 4 or more years of active enlisted service.

G. Computation of retired pay on the April 1, 1955 basic pay rates (active duty saved-pay rates), if greater.

H. Retired pay computed on the April 1, 1955 pay rates, but not the 6 percent increase, for members retired after June 1, 1958, and receiving active duty saved pay.

I. The greater of pay computed on the June 1, 1958, basic pay rates, or the April 1, 1955 rates plus 6 percent, for members retired on June 1, 1958.

J. Retired pay recomputed effective June 1, 1958, for officers retired before June 1, 1958, who served on active duty before that date in the grade of general, admiral, lieutenant general, or vice admiral for at least 180 days. This recomputation was computed on the April 1, 1955 basic pay rates of pay grade O-8 increased by $100 for pay grade O-9 and $200 for pay grade O-10 with the result increased by 6 percent.

080405. The Uniformed Services Pay Act (reference (am)), effective October 1, 1963, provided for:

A. Increased basic pay rates.

B. Retired pay computed on the October 1, 1963 basic pay rates plus 6 percent for members retired for disability on or after October 1, 1963, with 2 years of service or less.

C. A 5 percent increase in retired pay for members retired before September 30, 1963, except that:

1. Nondisability retirees receiving pay computed on the rate in effect before October 1, 1949, were entitled to the 5 percent increase or recomputation on the June 1, 1958, basic pay rates, using the 2-1/2 percent formula, whichever was greater.

2. Retirees receiving pay computed on the April 1, 1955 basic pay rates plus 6 percent were entitled to that pay plus 5 percent, or recomputation on the June 1, 1958 basic pay rates, whichever was greater.

3. Members retired on April 1, 1963, who were not subject to the URDA (5 U.S.C. 8301) (reference (x)) and members retired between April 2, 1963, and September 30, 1963, were entitled to a 5 percent increase or recomputation on the October 1, 1963 basic pay rates, whichever was greater.

D. Amendment to 10 U.S.C. 1401a (reference (c)) to provide for adjustments to retired pay based on the CPI.

080406. Public Law 88-422 (reference (bx)), and effective September 1, 1964, provided for:

A. Increased basic pay rates.

B. No increase in retired pay except that:

1. Members retired for disability on September 1, 1964, with 2 years of service or less, were entitled to pay computed on the October 1, 1963 basic pay rates plus 6 percent.

2. Members retired for disability on or after September 2, 1964, with 2 years of service or less, were entitled to pay computed on the September 1, 1964 basic pay rates plus 6 percent.

C. No entitlement to pay computed on the September 1, 1964 basic pay rates for members retired on September 1, 1964, who were subject to the URDA (reference (x)), warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (August 31, 1964 transfers). Their pay was computed on the October 1, 1963, basic pay rates.

080407. Public Law 89-132 (reference (bk)) effective September 1, 1965, together with the cost-of-living formula, provided for:

A. Increased basic pay rates.

B. A 4.4 percent cost-of-living adjustment in retired pay for all members on the rolls on August 31, 1965.

C. Pay computed on the September 1, 1964 basic pay rates, plus 4.4 percent for members retired on September 1, 1965 who were:

1. Subject to the URDA (reference (x)),

2. Navy Fleet Reservists and Fleet Marine Corps Reservists (August 31, 1965, transfers), or

3. Warrant officers.

D. Pay computed on the September 1, 1964 basic pay rates, plus 6 percent and 4.4 percent for members retired for disability on September 1, 1965, with 2 years of service or less.

080408. Public Law 89-501 (reference (by)), effective July 1, 1966, provided for:

A. Increased basic pay rates.

B. No increase for members on the retired rolls on June 30, 1966.

C. Pay computed on the July 1, 1966 basic pay rates, notwithstanding the URDA (reference (x)) for all members who first became entitled to retired pay on or after July 1, 1966.

080409. A cost-of-living adjustment, effective December 1, 1966, provided for:

A. Increased retired pay by 3.7 percent for all members on the rolls on November 30, 1966.

B. Pay computed on the July 1, 1966 basic pay rates, plus 3.7 percent from date of retirement for entitled members retired on or after December 1, 1966.

080410. Public Law 90-207 (reference (bl)), effective retroactive to October 1, 1967, provided for:

A. Increased basic pay rates.

B. No increase in retired pay for members on the rolls on September 30, 1967.

C. Pay computed on the October 1, 1967 basic pay rates, notwithstanding the URDA (reference (x)) for all members who first became entitled to retired pay on or after October 1, 1967.

D. A 3.7 percent increase in retired pay from the date of retirement for members who retired after November 30, 1966, whose retired pay was computed using the July 1, 1966, active duty pay rates.

E. An adjustment of military active duty basic pay whenever the General Schedule for Classified Employees was adjusted upward, effective January 1, 1968.

080411. A cost-of-living adjustment, effective April 1, 1968, provided for:

A. Increased retired pay by 3.9 percent for all retirees receiving pay computed on basic pay rates in effect before October 1, 1967.

B. Entitled members whose pay was computed on the October 1, 1967 basic pay rates to:

1. An increase of 1.3 percent of the pay they were receiving on March 31, 1968, or

2. Pay computed on the July 1, 1966, basic pay rates, increased by 7.7443 percent, from April 1, 1968, or date of retirement, if later.

080412. Executive Order 11414 (reference (bz)), effective July 1, 1968, provided for:

A. Increased basic pay rates.

B. No increase to retired members on the rolls on June 30, 1968.

C. No entitlement to pay computed on the July 1, 1968 basic pay rates for members retired on July 1, 1968, who were subject to the URDA (reference (x)), warrant officers, Navy Fleet Reservists, and Fleet Marine Corps Reservists (June 30, 1968, transfers). Their pay was computed on the July 1, 1966, basic pay rates, plus 7.7443 percent.

080413. A cost-of-living adjustment, effective February 1, 1969, provided for:

A. Increased retired pay by 4 percent for retirees receiving retired pay computed on the basic pay rates in effect before July 1, 1968.

B. Entitled members whose pay was computed on the July 1, 1968, basic pay rates, to:

1. A 2.1 percent increase in the pay they were receiving on January 31, 1969, or

2. Recomputation of pay on the July 1, 1966 basic pay rates plus 7.7443 percent and 4 percent.

080414. Executive Order 11475 (reference (ca)), effective July 1, 1969, provided for:

A. Increased basic pay rates.

B. No increase for retired members on the rolls on June 30, 1969.

C. No entitlement to pay computed on the July 1, 1969 basic pay rates for members retired on July 1, 1969, who were subject to the URDA (reference (x)), warrant officers, Navy Fleet Reservists, and Fleet Marine Corps Reservists (June 30, 1969, transfers). Their pay was computed on the July 1, 1968, basic pay rates, plus 2.1 percent.

080415. A cost-of-living adjustment, effective from November 1, 1969, provided for:

A. Members whose retired pay was computed on the basic pay rates in effect before July 1, 1969, were entitled to an increase of 4.3 percent.

B. Members whose retired pay was computed on the July 1, 1969 basic pay rates, received a 0.9 percent increase.

C. Members who retired after November 1, 1969, received a 0.9 percent increase from the date of retirement.

080416. Public Law 91-179 (reference (bm)) amended 10 U.S.C. 1401a(b) (reference (c)) to provide an additional 1 percent to all cost-of-living adjustments. The additional 1 percent was retroactive to the November 1, 1969 cost-of-living adjustment, which effectively made the increase 5.3 percent.

080417. Executive Order 11525 (reference (cb)), effective January 1, 1970, provided for:

A. Increased basic pay rates.

B. Pay computed on the January 1, 1970 basic pay rates for members who first became entitled to retired pay on or after April 15, 1970.

C. No entitlement to pay computed on the January 1, 1970 basic pay rates for members who first became entitled to retired pay before April 15, 1970. Their pay was computed using the July 1, 1969 basic pay rates, plus .9 percent.

080418. A cost-of-living adjustment, effective from August 1, 1970, provided for:

A. Members whose retired pay was computed on the basic pay rates in effect before January 1, 1970, were entitled to a 5.6 percent increase, effective August 1, 1970.

B. Members whose retired pay was computed on the January 1, 1970, basic pay rates, were entitled to a 2.5 percent increase in retired pay effective August 1, 1970, or date of retirement, if later.

080419. Executive Order 11577 (reference (cc)), increased active duty basic pay rates, effective January 1, 1971, and provided for:

A. Increased basic pay rates.

B. No entitlement to pay computed on January 1, 1971 basic pay rates for members who retired on January 1, 1971, who were subject to the URDA (reference (x)), warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (December 31, 1970 transfers). Their pay was computed on the rates effective January 1, 1970.

C. No increase for retired members whose pay was computed on basic pay rates in effect before January 1, 1971.

080420. A cost-of-living adjustment, effective from June 1, 1971, provided for:

A. Members whose retired pay was computed on basic pay rates in effect before January 1, 1971, were entitled to an increase of 4.5 percent.

B. Members whose retired pay was computed on the January 1, 1971, basic pay rates, were entitled to a .6 percent increase effective June 1, 1971, or date of retirement, if later.

080421. Public Law 92-129 (reference (cd)), effective October 1, 1971, increased basic pay rates for only certain pay grades and years of service. (Because of an economic pay freeze, the rates were not effective until November 14, 1971.) It provided for:

A. Increased basic pay rates for:

1. Pay grades E-1 through E-4, regardless of years of service,

2. Pay grades E-5 through E-7 with less than 2 years of service,

3. Pay grade O-1, regardless of years of service, and

4. Pay grade O-2 with less than 2 years of service.

B. Computation of retired pay of members who retired on or after October 1, 1971, in all other pay grades, on the January 1, 1971 basic pay rates, increased by 0.6 percent.

080422. Executive Order 11638 (reference (ce)), increased active duty basic pay rates, effective January 1, 1972, and provided for:

A. Increased basic pay rates.

B. No entitlement to pay computed on the January 1, 1972, basic pay rates for members retired on January 1, 1972, who were subject to the URDA (reference (x)), warrant

officers, Fleet Reservists, and Fleet Marine Corps Reservists (December 31, 1971 transfers). Their pay was computed on the basic pay rates effective October 1, 1971, or January 1, 1971.

C. No increase for retired members whose pay was computed on basic pay rates in effect before January 1, 1972.

080423. A cost-of-living adjustment, effective July 1, 1972, provided for:

A. Members whose pay was computed on basic pay rates in effect before October 1, 1971, were entitled to an increase of 4.8 percent.

B. Members whose pay was computed on the basic pay rates effective October 1, 1971, were entitled to an increase of 1.7 percent.

C. Entitlement to a 1 percent increase, effective July 1, 1972, or date of retirement, if later, for members whose retired pay was computed on the January 1, 1972 basic pay rates.

080424. Executive Order 11692 (reference (cf)), increased active duty basic pay rates, effective January 1, 1973, and provided for:

A. Increased basic pay rates.

B. No increase for members whose retired pay was computed on basic pay rates in effect before January 1, 1973. Executive Order 11778 (reference (cg)) changed the effective date of the basic pay rates from January 1, 1973 to October 1, 1972.

C. No entitlement to pay computed on the October 1, 1972 basic pay rates for members who on October 1, 1972, were subject to the URDA (reference (x)), warrant officers, Navy Fleet Reservists, and Fleet Marine Corps Reservists (September 30, 1972 transfers). Their pay was computed on the basic pay rates effective January 1, 1972.

080425. A cost-of-living adjustment, effective July 1, 1973, provided for:

A. Members whose retired pay was computed on basic pay rates in effect before January 1, 1973, later changed to computation on October 1, 1972 rates, received a 6.1 percent increase.

B. Entitlement to an increase of 2.7 percent from July 1, 1973, or date of retirement, if later, for members whose retired pay was computed on the January 1, 1973 basic pay rates. These accounts were later recomputed to provide 3.6 percent instead of 2.7 percent from July 1, 1973.

080426. Executive Order 11740 (reference (ch)), effective October 1, 1973, provided for:

A. Increased basic pay rates.

B. No entitlement to pay computed on the October 1, 1973 basic pay rates for members who retired on October 1, 1973 and who were subject to the URDA (reference (x)), warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (September 30, 1973 transfers).

C. No increase for members on retired rolls on September 30, 1973.

080427. A cost-of-living adjustment, effective January 1, 1974, provided for:

A. An increase of 5.5 percent for members whose retired pay was computed on the basic pay rates in effect before October 1, 1973.

B. Entitlement to a 0.8 percent increase effective January 1, 1974, or retired pay computed on the January 1, 1973 basic pay rates, increased by 2.7 percent (later 3.6 percent) and 5.5 percent for members whose retired pay was computed on the October 1, 1973 basic pay rates.

080428. A cost-of-living adjustment, effective July 1, 1974, provided for:

A. Entitlement to an increase of 6.4 percent for members whose retired pay was computed on basic pay rates in effect before October 1, 1973.

B. Entitlement to a 6.3 percent increase (0.8 not applied) effective July 1, 1974, or date of retirement for members whose retired pay was computed on the October 1, 1973 basic pay rates.

Note: Because of an error in the Consumer Price Index, all accounts were overpaid by 0.1 percent from July 1974 through December 1974. (The Office of the Secretary of Defense waived the overpayments.) The accounts were corrected on a current basis to 6.3 percent and 6.2 percent effective January 1975.

080429. Executive Order 11812 (reference (ci)), effective October 1, 1974, provided for:

A. Increased basic pay rates.

B. Retired pay computed on the October 1, 1973 rates, plus 6.3 percent, which was reduced to 6.3 percent, which was reduced to 6.2 percent effective January 1, 1975 for members retired on or after October 1, 1974.

C. No increase for members on retired rolls on September 30, 1974.

080430. A cost-of-living adjustment, effective January 1, 1975, provided that members whose retired pay was computed on the basic pay rates in effect before October 1, 1974, received a 7.3 percent increase. To adjust accounts for the error in the CPI for July 1, 1974, the accounts were increased by 7.1992 percent, effective January 1, 1975.

080431. A cost-of-living adjustment, effective August 1, 1975, provided for:

A. Entitlement to an increase of 5.1 percent for members whose retired pay was computed on the basic pay rates in effect before October 1, 1974.

B. Pay increased by 5 percent, or computed on the October 1, 1973 basic pay rates, plus 6.2 percent, 7.3 percent, and 5.1 percent for members whose retired pay was computed on the October 1, 1974, basic pay rates.

080432. Executive Order 11883 (reference (cj)), effective October 1, 1975, provided for:

A. Increased basic pay rates.

B. No increase for members retired before October 1, 1975.

C. No entitlement to pay computed on the October 1, 1975 basic pay rates for members retired on October 1, 1975, who were subject to the URDA (reference (x)), warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (September 30, 1975 transfers). Their pay was computed on the October 1, 1974 basic pay rates.

D. Pay computed on the October 1, 1974, basic pay rates, plus 5 percent for members whose retired pay was computed on the October 1, 1975 basic pay rates. In computing the first retirements, some members benefited by using the October 1, 1974, rates plus 5 percent and for others, the October 1, 1975 rates were slightly higher.

080433. A cost-of-living adjustment, effective March 1, 1976, provided for:

A. An increase of 5.4 percent for members whose retired pay was computed on the basic pay rates in effect before October 1, 1975.

B. A 1.7 percent increase or recomputation on the October 1, 1974 basic pay rates, plus 5 percent and 5.4 percent for members whose retired pay was computed on the October 1, 1975 basic pay rates.

080434. Executive Order 11941 (reference (ck)), effective October 1, 1976, provided for:

A. Increased basic pay rates.

B. No entitlement to pay computed on the October 1, 1976 basic pay rates for members who retired on October 1, 1976, who were subject to the URDA (reference (x)), warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (September 30, 1976, transfers). Their pay was computed on the October 1, 1975 basic pay rates.

C. No increase in retired pay for members on the retired rolls on September 30, 1976.

080435. A cost-of-living adjustment, effective March 1, 1977, provided for:

A. A 4.8 percent increase for members whose retired pay was computed on the basic pay rates in effect before October 1, 1976.

B. A 1 percent increase or pay computed on the October 1, 1975 basic pay rates plus 1.7 percent and 4.8 percent for members whose retired pay was computed on the October 1, 1976 basic pay rates.

080436. Special rates, effective March 1, 1977, for Executive Level V personnel, increased maximum rates for grades O-9 and O-10. Members entitled to retired pay computed under these new rates were also entitled to a 1 percent cost-of-living adjustment from date of retirement.

080437. A cost-of-living adjustment effective September 1, 1977, provided a 4.3 percent increase for all members whose retired pay was computed on the basic pay rates in effect prior to October 1, 1976. Members whose retired pay was computed on the October 1, 1976 basic pay rates were entitled to a 5.3 percent increase. The 1 percent cost-of-living adjustment credited March 1, 1977 must be reversed prior to applying the 5.3 percent increase. If determined to be advantageous to retired members, 10 U.S.C. 1401a(f) (reference (c)) was applied to members and former members whose retired pay was computed on the October 1, 1976 basic pay rates.

080438. Executive Order 12010 (reference (cl)), effective October 1, 1977, provided for:

A. Increased basic pay rates.

B. No increase for members retired before October 1, 1977.

C. No entitlement to pay computed on the October 1, 1977 basic pay rates for members who retired on October 1, 1977, and were subject to the URDA (reference (x)), warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (September 30, 1977, transfers). Their pay was computed on the October 1, 1976, basic pay rates.

080439. A cost-of-living adjustment, effective March 1, 1978, provided for:

A. A 2.4 percent increase for members whose retired pay was computed on the basic pay rates in effect prior to October 1, 1977.

B. A 1.1 percent increase or pay computed on the October 1, 1976 basic pay rates plus 5.3 percent and 2.4 percent for members whose retired pay was computed on the October 1, 1977, basic pay rates.

080440. A cost-of-living adjustment, effective September 1, 1978, provided a 4.9 percent increase for all members whose retired pay was computed on the basic pay rates in effect prior to October 1, 1977. Members whose retired pay was computed on the October 1, 1977 basic pay rates were entitled to a 6.1 percent increase. The 1.1 percent cost-of-living adjustment credited March 1, 1978, must be reversed prior to applying the 6.1 percent increase. If determined to be advantageous to retired members, 10 U.S.C. 1401a(f) (reference (c)) was applied to members and former members whose retired pay was computed on the October 1, 1977, basic pay rates.

080441. Executive Order 12087 (reference (cm)), effective October 1, 1978, provided for:

A. Increased basic pay rates.

B. No increase for members retired before October 1, 1978.

C. No entitlement to pay computed on the October 1, 1978, basic pay rates for members who retired on October 1, 1978, and were subject to the URDA (reference (x)), warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (September 30, 1978, transfers). Their pay was computed on the October 1, 1977, basic pay rates.

080442. A cost-of-living adjustment, effective March 1, 1979, provided for:

A. A 3.9 percent increase for members whose retired pay was computed on the basic pay rates in effect prior to October 1, 1978.

B. A 1.9 percent increase or pay computed on the October 1, 1977 basic pay rates plus 6.1 percent and 3.9 percent for members whose retired pay was computed on the October 1, 1978 basic pay rates.

080443. A cost-of-living adjustment, effective September 1, 1979, provided a 6.9 percent increase for all members whose retired pay was computed on the basic pay rates in effect prior to October 1, 1978. Members whose retired pay was computed on the October 1, 1978 basic pay rates were entitled to an 8.9 percent increase. The 1.9 percent cost-of-living adjustment credited March 1, 1979, must be reversed prior to applying the 8.9 percent increase. If determined to be advantageous to retired members, 10 U.S.C. 1401a(f) (reference (c)) was applied to members and former members whose retired pay was computed on October 1, 1978, basic pay rates.

080444. Executive Order 12165 (reference (cn)), effective October 1, 1979, provided for:

A. Increased basic pay rates.

B. No increase for members retired before October 1, 1979.

C. No entitlement to pay computed on the October 1, 1979 basic pay rates for members who retired on October 1, 1979, and were subject to the URDA (reference (x)), warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (September 30, 1979, transfers). Their pay was computed on the October 1, 1978, basic pay rates.

080445. A cost-of-living adjustment, effective March 1, 1980, provided for:

A. A 6.0 percent increase for members whose retired pay was computed on the basic pay rates in effect prior to October 1, 1979.

B. A 2.8 percent increase or pay computed on the October 1, 1978, basic pay rates plus 8.9 percent and 6.0 percent for members whose retired pay was computed on the October 1, 1979, basic pay rates.

080446. A cost-of-living adjustment, effective September 1, 1980, provided a 7.7 percent increase for all members whose retired pay was computed on the basic pay rates in effect before October 1, 1979. Members, whose retired pay was computed on the October 1, 1979, basic pay rates were entitled to a 10.8 percent increase. The 2.8 percent cost-of-living adjustment credited March 1, 1980, must be reversed prior to applying the 10.8 percent increase. If determined to be advantageous to retired members, 10 U.S.C. 1401a(f) (reference (c)) was applied to members and former members whose retired pay was computed on October 1, 1979, basic pay rates.

080447. Public Law 96-342 (reference (bp)), that became effective October 1, 1980, provided for:

A. Increased basic pay rates.

B. No increase for members retired before October 1, 1980.

C. No entitlement to pay computed on the October 1, 1980 basic pay rates for members who retired on October 1, 1980, and were subject to the URDA (reference (x)), warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (September 30, 1980 transfers). Their pay was computed on the October 1, 1979 basic pay rates.

080448. A cost-of-living adjustment, effective March 1, 1981, provided for:

A. A 4.4 percent increase for members whose retired pay was computed on the basic pay rates in effect prior to October 1, 1980.

B. A 2.7 percent increase or pay computed on the October 1, 1979 basic pay rates plus 10.8 and 4.4 percent for members whose retired pay was computed on the October 1, 1980, basic pay rates.

080449. Executive Order 12330 (reference (co)), effective October 14, 1981, provided for:

A. Increased basic pay rates.

B. No increase for members retired before October 1, 1981.

C. No entitlement to pay computed on the October 1, 1981, basic pay rates for members who retired on October 1, 1981, and were subject to the URDA (reference (x)), warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (September 30, 1981, transfers). Their pay was computed on the October 1, 1980, basic pay rates.

080450. Public Law 97-92 (reference (cp)), effective January 1, 1982, established new rates for Executive Level V personnel which permitted an increase in the maximum amount payable under the October 1, 1981, basic pay rates, for grades O-7, O-8, O-9, O-10, and the Joint Chiefs of Staff. Members were entitled to a 0.7 percent cost-of-living adjustment effective March 1, 1982.

080451. A cost-of-living adjustment, effective March 1, 1982, provided for:

A. An 8.7 percent increase for members whose retired pay was computed on the basic pay rates in effect prior to October 1, 1981.

B. A 0.7 percent increase or pay computed on the October 1, 1980, basic pay rates plus 2.7 and 8.7 percent for members whose retired pay was computed on the October 1, 1981, basic pay rates. If determined to be advantageous to retired members, 10 U.S.C. 1401a(f) (reference (c)) was applied to members and former members whose retired pay was computed on the October 1, 1981, basic pay rates.

080452. Executive Order 12387 (reference (cq)), effective October 1, 1982, provided for:

A. Increased basic pay rates.

B. No increase for members retired before October 1, 1982.

C. No entitlement to pay computed on the October 1, 1982, basic pay rates for members who retired on October 1, 1982, and were subject to the URDA (reference (x)), warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (September 30, 1982 transfers). Their pay was computed on the October 1, 1981, basic pay rates.

080453. Public Law 97-377, approved December 21, 1982 (reference (cr)), effective December 18, 1982, established new rates for Executive Level V personnel which permitted an increase in the maximum amount payable under October 1982 basic pay rates, for grades O-8, O-9, and O-10, and the Joint Chiefs of Staff.

080454. A cost-of-living adjustment, effective April 1, 1983, provided for:

A. A 3.3 or 3.9 percent adjustment for members whose pay was computed on basic pay rates in effect before October 1, 1982. Members who are age 62 or more on March 1, 1983, or who retired by reason of physical disability under Chapter 61, 10 U.S.C. (reference (c)), were entitled to a 3.9 percent increase. Members under age 62 on March 1, 1983, were entitled to a 3.3 percent increase.

B. No entitlement to a partial cost-of-living adjustment on April 1, 1983, for members whose pay was computed on the basic pay rates effective October 1, 1982. (The CPI declined from 292.8 in September 1982 to 290.0 in December 1982.)

080455. Executive Order 12456 (reference (cs)), effective January 1, 1984, provided for:

A. Increased basic pay rates.

B. No increase for members retired before January 1, 1984.

C. No entitlement to pay computed on the January 1, 1984, basic pay rates for members who retired on January 1, 1984, and were subject to the URDA (reference (x)), warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (December 31, 1983, transfers). Their pay was computed on the October 1, 1982, basic pay rates.

080456. A cost-of-living adjustment effective December 1, 1984, provided for:

A. A 3.5 percent adjustment for members whose pay was computed on basic pay rates in effect before January 1, 1984.

B. A partial cost-of-living adjustment of 2.8 percent for members whose pay was computed on the basic pay rates effective January 1, 1984.

080457. Executive Order 12496 (reference (ct)), effective January 1, 1985, provided for:

A. Increased basic pay rates.

B. No increase for members retired before January 1, 1985.

C. No entitlement to pay computed on the January 1, 1985 basic pay rates for members who retired on January 1, 1985, and were subject to the URDA (reference (x)), warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (December 31, 1984, transfers). Their pay was computed on the January 1, 1984, basic pay rates.

080458. Executive Order 12540 (reference (cu)), effective October 1, 1985, provided for:

A. Increased basic pay rates.

B. No increase for members retired before October 1, 1985.

C. No entitlement to pay computed on the October 1, 1985 basic pay rates for members who retired on October 1, 1985, and were subject to the URDA (reference (x)), warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (September 30, 1985, transfers). Their pay was computed on the January 1, 1985, basic pay rates.

080459. The cost-of-living adjustment, effective December 1, 1985, of 3.1 percent (2.4 percent partial cost-of-living adjustment) was suspended under Public Law 99-177 (reference (bu)).

080460. A cost-of-living adjustment effective December 1, 1986, provided for:

A. A 1.3 percent adjustment for members whose pay was computed on basic pay rates in effect before October 1, 1985.

B. A 1.3 percent adjustment for members whose pay was computed on the basic pay rates effective October 1, 1985.

080461. Executive Order 12578 (reference (cv)), effective January 1, 1987, provided for:

A. Increased basic pay rates.

B. No increase for members retired before January 1, 1987.

C. No entitlement to pay computed on the January 1, 1987, basic pay rates for members who retired on January 1, 1987, and were subject to the URDA (reference (x)), warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (December 31, 1986, transfers). Their pay was computed on the October 1, 1985, basic pay rates.

080462. Executive Level V rates increased to $72,500 effective March 1, 1987. The increase in the salaries of senior government officials recommended in the January 5, 1987, Presidential Budget message to Congress (reference (cw)), became effective on February 4, 1987. The new, maximum basic pay amounts for grades O-8, O-9, and O-10, and the Joint Chiefs of

Staff, under 2 U.S.C. 359 (reference (cx)), are effective March 1, 1987. **Note**: Table 5-9 shows rate of $72,500 effective February 8, 1987 (first full pay period), for pay cap purposes.

080463. A cost-of-living adjustment effective December 1, 1987, provided for:

A. Pre-August 1986 members:

1. Members who first entered service before August 1, 1986 and whose retired pay has been computed on active duty pay rates in effect before January 1, 1987, received a 4.2 percent adjustment.

2. Members who first entered service before August 1, 1986, and who became entitled to retired pay computed on the January 1, 1987, active duty pay rate received to a 3.7 partial cost-of-living adjustment.

B. Post-August 1986 members:

1. Members who first entered service on or after August 1, 1986, and who became entitled to retired pay before January 1, 1987, received a 3.2 percent adjustment.

2. Members who first entered service on or after August 1, 1986, and who became entitled to retired pay on or after January 1, 1987, received to a pro-rata initial adjustment as follows:

Retired Between	Percent Increase
Jan 1, 1987 - Mar 31, 1987	3.7
Apr 1, 1987 - Jun 30, 1987	2.5
Jul 1, 1987 - Sep 30, 1987	1.2
Oct 1, 1987 - Dec 31, 1987	-0-

080464. Executive Order 12622 (reference (cy)), effective January 1, 1988, provided for:

A. Increased basic pay rates.

B. No increase for members retired before January 1, 1988.

C. No entitlement to pay computed on the January 1, 1988, basic pay rates (exception: certain grades O-8, O-9, O-10 members were computed on rates effective March 1, 1987) for members who retired on January 1, 1988, and were subject to the URDA (reference (x)), warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (December 31, 1987, transfers).

080465. A cost-of-living adjustment effective December 1, 1988, provided for:

A. Pre-August 1986 members:

1. Members who first entered service before August 1, 1986, and whose retired pay has been computed on active duty pay rates in effect before January 1, 1988, received a 4.0 percent adjustment.

2. Members who first entered service before August 1, 1986 and who became entitled to retired pay computed on the January 1, 1988, active duty pay rate received a 3.2 percent adjustment.

B. Post-August 1986 members:

1. Members who first entered service on or after August 1, 1986 and who became entitled to retired pay before January 1, 1988, received a 3.0 percent adjustment.

2. Members who first entered service on or after August 1, 1986, and who became entitled to retired pay on or after January 1, 1988, received a pro-rata initial adjustment as follows:

Retired Between	Percent Increase
Jan 1, 1988 - Mar 31, 1988	2.4
Apr 1, 1988 - Jun 30, 1988	2.1
Jul 1, 1988 - Sep 30, 1988	1.1
Oct 1, 1988 - Dec 31, 1988	-0-

080466. Executive Order 12663 (reference (cz)), effective January 1, 1989, provided for:

A. Increased basic pay rates.

B. No increase for members retired before January 1, 1989.

C. No entitlement to pay computed on the January 1, 1989, basic pay rates for members who retired on January 1, 1989, and were subject to the URDA (reference (x)), warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (December 31, 1988, transfers). Their pay was computed on the January 1, 1988, basic pay rates.

080467. A cost-of-living adjustment effective December 1, 1989, provided for:

A. Pre-August 1986 members:

1. Members who first entered service before August 1, 1986, and whose retired pay has been computed on active duty pay rates in effect before January 1, 1989, received a 4.7 percent adjustment.

2. Members who first entered service before August 1, 1986, and who became entitled to retired pay on January 1, 1989, active duty pay rates received a 3.6 percent adjustment.

B. Post-August 1986 members:

1. Members who first entered service on or after August 1, 1986, and who became entitled to retired pay before January 1, 1989, received a 3.7 percent adjustment.

2. Members who first entered service on or after August 1, 1986, and who became entitled to retired pay on or after January 1, 1989, received a pro rata initial adjustment as follows:

Retired Between	Percent Increase
Jan 1, 1989 - Mar 31, 1989	2.9
Apr 1, 1989 - Jun 30, 1989	2.1
Jul 1, 1989 - Sep 30, 1989	0.5
Oct 1, 1989 - Dec 31,1989	-0-

080468. Executive Order 12698 (reference (da)), effective January 1, 1990, provided for:

A. Increased basic pay rates.

B. No increase for members retired before January 1, 1990.

C. No entitlement to pay computed on the January 1, 1990, basic pay rates for members who retired on January 1, 1990, and were subject to the URDA (reference (x)), warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (December 31, 1989, transfers).

080469. A cost-of-living adjustment effective December 1, 1990, provided for:

A. Pre-August 1986 members:

1. Members who first entered service before August 1, 1986, and whose retired pay has been computed on active duty pay rates in effect before January 1, 1990, received a 5.4 percent adjustment.

2. Members who first entered service before August 1, 1986, and who became entitled to retired pay computed on the January 1, 1990, active duty pay rate received a 4.4 percent adjustment.

B. Post-August 1986 members:

1. Members who first entered service on or after August 1, 1986, and who became entitled to retired pay before January 1, 1990, received a 4.4 percent adjustment.

2. Members who first entered service on or after August 1, 1986, and who became entitled to retired pay on or after January 1, 1990, received a pro-rata initial adjustment as follows:

Retired Between	Percent Increase
Jan 1, 1990 - Mar 31, 1990	3.7
Apr 1, 1990 - Jun 30, 1990	2.2
Jul 1, 1990 - Sep 30, 1990	1.5
Oct 1, 1990 - Dec 31, 1990	-0-

080470. Executive Order 12736 (reference (db)), effective January 1, 1991, provided for:

A. Increased basic pay rates.

B. No increase for members retired before January 1, 1991.

C. No entitlement to pay computed on the January 1, 1991, basic pay rates for members who retired on January 1, 1991, and who were subject to the URDA (reference (x)), warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (December 31, 1990, transfers).

080471. A cost-of-living adjustment effective December 1, 1991 provided for:

A. Pre-August 1986 members:

1. Members who first entered service before August 1, 1986, and whose retired pay has been computed on active duty pay rates in effect before January 1, 1991, received a 3.7 percent adjustment.

2. Members who first entered service before August 1, 1986, and who became entitled to retired pay computed on the January 1, 1991, active duty pay rate received a 2 percent adjustment.

B. Post-August 1986 members:

1. Members who first entered service on or after August 1, 1986, and who became entitled to retired pay before January 1, 1991, received a 2.7 percent adjustment.

2. Members who first entered service on or after August 1, 1986 and who became entitled to retired pay on or after January 1, 1991, received a pro-rata initial adjustment as follows:

Retired Between	Percent Increase
Jan 1, 1991 - Mar 31, 1991	1.2
Apr 1, 1991 - Jun 30, 1991	.9
Jul 1, 1991 - Sep 30, 199	1.5
Oct 1, 1991 - Dec 31, 1991	-0-

080472. Executive Order 12786 (reference (dc)), effective January 1, 1992, provided for:

A. Increased basic pay rates.

B. No increase for members retired before January 1, 1992.

C. No entitlement to pay computed on the January 1, 1992, basic pay rates for members who retired on January 1, 1992, and who were subject to the URDA (reference (x)), warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (December 31, 1991, transfers).

080473. Effective February 1, 1992, pay rates were added for the new pay grade Chief Warrant Officer, W-5.

080474. A cost-of-living adjustment effective December 1, 1992, provided for:

A. Pre-August 1986 members:

1. Members who first entered service before August 1, 1986, and whose retired pay has been computed on active duty pay rates in effect before January 1, 1992, received a 3 percent adjustment.

2. Members who first entered service before August 1, 1986, and who became entitled to retired pay computed on the January 1, 1992, active duty pay rate received a 2.3 percent adjustment.

B. Post-August 1986 members:

1. Members who first entered service on or after August 1, 1986, and who became entitled to retired pay before January 1, 1992, received a 2 percent adjustment.

2. Members who first entered service on or after August 1, 1986, and who became entitled to retired pay on or after January 1, 1992, received a pro-rata initial adjustment as follows:

Retired Between	Percent Increase
Jan 1, 1992 - Mar 31, 1992	1.5
Apr 1, 1992 - Jun 30, 1992	1.2
Jul 1, 1992 - Sep 30, 199	2.5
Oct 1, 1992 - Dec 31, 1992	-0-

080475. Executive Order 12826 (reference (dd)), effective January 1, 1993, provided for:

A. Increased basic pay rates.

B. No increase for members retired before January 1, 1993.

C. No entitlement to pay computed on the January 1, 1993, basic pay rates for members who retired on January 1, 1993, and who were subject to the URDA (reference (x)), warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (December 31, 1992, transfers).

080476. A cost-of-living adjustment effective December 1, 1993 provides the following increases. Public Law 103-66, August 10, 1993 (reference (fm)), prohibits the payment for months before March 1994 of any increase in retired pay associated with the cost-of-living adjustment except for those members retired for disability under 10 U.S.C., Chapter 61 (reference (c)).

A. Pre-August 1986 members:

1. Members who first entered service before August 1, 1986, and whose retired pay has been computed on active duty pay rates in effect before January 1, 1993, received a 2.6 percent adjustment.

2. Members who first entered service before August 1, 1986, and who became entitled to retired pay computed on the January 1, 1993, active duty pay rate received a 1.9 percent adjustment.

B. Post-August 1986 members:

1. Members who first entered service on or after August 1, 1986, and who became entitled to retired pay before January 1, 1993, received a 1.6 percent adjustment.

2. Members who first entered service on or after August 1, 1986, and who became entitled to retired pay on or after January 1, 1993, received a pro-rata initial adjustment as follows:

Retired Between	Percent Increase
Jan 1, 1993 - Mar 31, 1993	1.2
Apr 1, 1993 - Jun 30, 1993	.7
Jul 1, 1993 - Sep 30, 199	3.2
Oct 1, 1993 - Dec 31, 1993	-0-

080477. Executive Order 12886 (reference (fk)), effective January 1, 1994, provided for:

A. Increased basic pay rates.

B. No increase for members retired before January 1, 1994.

C. No entitlement to pay computed on the January 1, 1994, basic pay rates for members who retired on January 1, 1994, and who were subject to the URDA (reference (x)), warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (December 31, 1993, transfers).

080478. A cost-of-living adjustment effective December 1, 1994, provides the following increases. 10 U.S.C. 1401ab2Bii (reference (c)), as amended by Public Law 103-337, October 5, 1994 (reference (fi)), and Public Law 103-335, September 30, 1994 (reference (fj)), prohibited payment for months before March 1995, of any increased retired pay associated with cost-of-living adjustments except for those members or former members retired for disability. The delay did not pertain to SBP base amounts and associated annuities and premiums, or to the exclusion amounts for dual compensation.

A. Pre-August 1986 members:

1. Members who first entered service before August 1, 1986, and whose retired pay has been computed on active duty pay rates in effect before January 1, 1994, received a 2.8 percent adjustment.

2. Members who first entered service before August 1, 1986, and who became entitled to retired pay computed on the January 1, 1994, active duty basic pay rate, received a 2.2 percent adjustment.

B. Post-August 1986 members:

1. Members who first entered service on or after August 1, 1986, and who became entitled to retired pay before January 1, 1994, received a 1.8 percent adjustment.

2. Members who first entered service on or after August 1, 1986, and who became entitled to retired pay on or after January 1, 1994, received a pro-rata initial adjustment as follows:

Retired Between	Percent Increase
Jan 1, 1994 - Mar 31, 1994	1.4
Apr 1, 1994 - Jun 30, 1994	1.2
Jul 1, 1994 - Sep 30, 199	4.7
Oct 1, 1994 - Dec 31, 1994	-0-

080479. Executive Order 12944 (reference (fl)), effective January 1, 1995, provided for:

A. Increased basic pay rates.

B. No increase for members retired before January 1, 1995.

C. No entitlement to pay computed on the January 1, 1995, basic pay rates for members who retired on January 1, 1995, and who were subject to the URDA (reference (x)), warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (December 31, 1994, transfers).

080480. A cost-of-living adjustment effective December 1, 1995, provides the following increases: increases in survivor annuities (including SBP base amounts and associated annuities and premiums), retired pay based on disability, and exclusion amounts for dual compensation. Under 10 U.S.C. 1401a(b)(2) (reference (c)) and Public Law 104-106 (reference (fn)), the payment of increased retired pay associated with the FY 1996 cost-of-living adjustment was prohibited for all other members for periods before March 1, 1996.

A. Pre-August 1986 members:

1. Members who first entered service before August 1, 1986, and whose retired pay has been computed on active duty basic pay rates in effect before January 1, 1995, received a 2.6 percent adjustment.

2. Members who first entered service before August 1, 1986, and who became entitled to retired pay computed on the January 1, 1995, active duty pay rate received a 2.0 percent adjustment.

B. Post-August 1986 members:

1. Members who first entered service on or after August 1, 1986, and who became entitled to retired pay before January 1, 1995, received a 1.6 percent adjustment.

2. Members who first entered service on or after August 1, 1986, and who became entitled to retired pay on or after January 1, 1995, received a pro-rata initial adjustment as follows:

Retired Between	Percent Increase
Jan 1, 1995 - Mar 31, 1995	1.3
Apr 1, 1995 - Jun 30, 1995	.8
Jul 1, 1995 - Sep 30, 199	5.2
Oct 1, 1995 - Dec 31, 1995	-0-

080481. Executive Order 12990 (reference (fo)), effective January 1, 1996, provided for:

A. Increased basic pay rates.

B. No increase for members retired before January 1, 1996.

C. No entitlement to pay computed on the January 1, 1996, basic pay rates for members who retired on January 1, 1996, and who were subject to the URDA (reference (x)), warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (December 31, 1995, transfers).

★080482. A cost-of-living adjustment effective December 1, 1996, provided for:

★A. Pre-August 1986 members:

1. Members who first entered service before August 1, 1986, and whose retired pay has been computed under active duty pay rates in effect before January 1, 1996, received a 2.9 percent adjustment.

2. Members who first entered service before September 8, 1980, and who become entitled to an initial amount of retired pay computed on the January 1, 1996, active duty pay rate received a 2.5 percent adjustment.

3. Members who first entered service after September 7, 1980, but before August 1, 1986, and who became entitled to an initial amount of retired pay on or after January 1, 1996, received a pro rata initial adjustment as follows:

Retired Pay Effective Date	Percent Increase
Jan 1, 1996 - Mar 31, 1996	2.5
Apr 1, 1996 - Jun 30, 1996	1.5
Jul 1, 1996 - Sep 30, 1996	.5
Oct 1, 1996 - Dec 31, 1996	0

★B. Post-August 1986 members:

1. Members who first entered service on or after August 1, 1986, and who become entitled to retired pay before January 1, 1996, received a 1.9 percent adjustment.

2. Members who first entered service on or after August 1, 1986, and who became entitled to an initial amount of retired pay on or after January 1, 1996, received a pro rata initial adjustment as follows:

Retired Pay Effective Date	Percent Increase
Jan 1, 1996 - Mar 31, 1996	1.7
Apr 1, 1996 - Jun 30, 1996	1.0
Jul 1, 1996 - Sep 30, 199	6.2
Oct 1, 1996 - Dec 31, 1996	0

★080483. Executive Order 13033 (reference (fq)) effective January 1, 1997, provided for:

A. Increased basic pay rates.

B. No increase for members retired before January 1, 1997.

C. No entitlement to pay computed on the January 1, 1997 basic pay rates for members who retired on January 1, 1997 and who were subject to the URDA (reference (x)), warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (December 31, 1996, transfers).

SUMMARY OF MAJOR CHANGES TO CHAPTER 09
DOD 7000.14-R, VOLUME 7B
MILITARY PAY POLICY AND PROCEDURES FOR RETIRED PAY

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Page	Paragraph	Explanation of Change/Revision	Effective Date
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CHAPTER 9

ADVANCEMENTS ON RETIRED LIST

0901 PURPOSE

090101. This chapter covers advancements of retired members, Fleet Reservists, and Fleet Marine Corps Reservists who are retired when:

A. Their active service, inactive service (Navy or Marine Corps members only), and service on the retired list or in the Fleet Reserve or Fleet Marine Corps Reserve totals 30 years; or

B. Members are found not physically qualified for retention in the Fleet Reserve or Fleet Marine Corps Reserve.

0902 GENERAL

090201. Section 0103 of this volume covers members retired from active service in:

A. A higher grade because of serving on active duty in special positions,

B. The highest grade or rating held while serving on active duty, or

C. The grade to which members would have been promoted had it not been for the physical disability for which retired and which was found to exist as a result of physical examination for promotion.

0903 ADVANCEMENTS

090301. Army and Air Force. Each warrant officer of the Army or Air Force and each enlisted member of the Regular Army or Air Force is entitled, when active service plus service on the retired list totals 30 years, to be advanced on the retired list to the highest temporary or permanent grade in which the member served satisfactorily as determined, respectively, by the Secretary of the Army or the Secretary of the Air Force.

090302. Navy and Marine Corps

A. When an enlisted member of the Fleet Reserve or Fleet Marine Corps Reserve has completed 30 years of service, or when he or she is found not physically qualified for retention in the Fleet Reserve or Fleet Marine Corps Reserve as a result of the required quadrennial physical examination, the member is transferred to the retired list.

B. Such a member may be advanced on the retired list to the highest officer grade in which the he or she served satisfactorily under a temporary or permanent appointment as determined by the Secretary of the Navy.

0904 EFFECTS ON PAY

090401. There is no absolute requirement that a member of the Armed Forces must be advanced on the retired list. When a member would receive a lesser rate of the retired pay when advanced than when originally retired or transferred, the member should be consulted and advised that retired pay would be less if he or she elects to be advanced on the retired list.

090402. Warrant officers advanced on the retired list are entitled to use only years of active service in determining the percentage multiplier to be used in computing retired pay for the advanced grade. When recomputation results in a reduction of retired pay and is effected solely on the basis of administrative determination without regard to member's wishes, the member may elect advancement and reduction in pay or remain in the grade in which retired with benefits of original retirement.

090403. If an enlisted member is, in fact, advanced on the retired list, retired pay must be recomputed, even though a reduction of retired pay would result. Before being advanced, the member should be consulted and advised that the retired pay entitlement will be less if the member elects to be advanced.

090404. Retired pay may be computed at the higher grade in which a member had served satisfactorily, without regard to whether the higher grade was temporary or permanent, even though the Military Service in which he or she held the higher grade is not the Military Service from which retired. Where required by statute, an administrative approval that the service at the higher grade was satisfactorily performed shall be issued by the Secretary of the Military Department (or designee) in which the member performed service at the higher grade.

090405. An enlisted member who, when retired or transferred, was awarded a 10 percent increase in retired pay because of extraordinary heroism performed in the line of duty is not eligible to continue receiving the additional 10 percent upon advancement to officer rank.

090406. A member of the Armed Forces advanced on the retired list is entitled to retired pay recomputed by:

A. Using the rate of monthly basic pay for the grade on the initial date of retirement or transfer (or using the monthly retired pay base if the member entered a Uniformed Service after September 7, 1980);

B. Multiplying two and one-half percent times the total number of years of active service (using 6 months or more as a whole year) for members advanced before

October 1, 1983, and using whole months actually served, in excess of whole years, as 1/12 of a year for members advanced after September 30, 1983;

C. Subtracting the excess over 75 percent of pay upon which computation is based; and

D. Adding all applicable cost-of-living adjustments from the date of initial retirement or transfer.

0905 RESTORATION OF FORMER GRADE

Each retired warrant officer, enlisted member of the Regular Army or Air Force, or enlisted member retired from the Fleet Reserve or Fleet Marine Corps Reserve who has been advanced on the retired list to a higher temporary or permanent commissioned officer grade may, within 3 months after advancement, apply to the Secretary of the Militray Department concerned for restoration to the former enlisted or warrant officer grade. If the Secretary of the Military Department concerned approves the request, the member may be restored to the former warrant officer or enlisted grade. A member so restored thereafter is considered for all purposes to be a warrant officer or an enlisted member, as applicable.

Chapter 09-Advancements on Retired List

0903-Advancements

090301	10 U.S.C. 3964, 8964 49 Comp Gen 618 Friestedt vs US 173 Court of Claims 447, 1965
090302.B	10 U.S.C. 6151(a), 6331, 6485

0904-Effects on Pay

090401	44 Comp Gen 510 51 Comp Gen 137
090402	MS Comp Gen B-156576, July 22, 1965
090404	49 Comp Gen 113, 618
090406.A	Public Law 96-352, Sep 8, 1980
090406.B	Public Law 98-94, Sep 24, 1983
090406.D	10 U.S.C. 1401a(f), 3992, 8992, 6151a, b, c, d

SUMMARY OF MAJOR CHANGES TO CHAPTER 10
DOD 7000.14-R, VOLUME 7B
MILITARY PAY POLICY AND PROCEDURES FOR RETIRED PAY

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CHAPTER 10

CORRECTION OF RECORDS

1001 AUTHORITY

100101. The Secretary of a Military Department, under procedures established by that Secretary and approved by the Secretary of Defense, and acting through boards of civilians of the executive part of that Military Department, may correct any military record of that department when the Secretary concerned considers it necessary to correct an error or remove an injustice.

100102. Corrections of military records are final and conclusive on all officers of the United States except when such corrections were obtained through fraud.

100103. If there is to be a proper correction and a right to the payment of money as a result of that proper correction, there must be a change of facts as set out in the original record, or an addition or deletion of a fact. A reaffirmation of the existing facts already in the original record does not constitute a proper correction of that record. A recital of existing facts does not avoid the operation of a statute of limitations. The statute of limitations on a proper correction of the record begins to run from the date of the correction. Example: A member of the Naval service is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve. If his or her record is corrected to show additional service credits, the 6-year (10-year before July 1975) limitation period starts from the date of the record correction rather than from the date of the transfer. Upon correction, the member is entitled to retainer pay from the date of transfer in accordance with his or her grade and number of years of creditable service, as corrected.

100104. Corrections may be made when:

A. The member, the member's heir, or legal representative filed a request before October 26, 1961, or within 3 years after member has discovered the error or injustice, whichever is later, or

B. The Board excuses a failure to file within 3 years when it is in the interest of justice.

1002 PAY COMPUTATION

100201. Payments based on a correction of military records must be made in the amounts determined to be due by applying pertinent laws and regulations to all the material facts shown in the corrected record. Generally, the payments resulting from the correction of military records are based on the:

A. Pay entitlement the member had before the correction,

B. Actual payments made for these entitlements, and

C. New pay entitlements that accrue as a result of the correction. For specific computation, see the chapters concerning the entitlement to and computation of retired or retainer pay, and participation in and payment of survivor annuities under the Retired Serviceman's Family Protection Plan (RSFPP) and/or the Survivor Benefit Plan (SBP).

100202. The settlement of retired pay, retainer pay, or survivor annuities due as a result of the correction of a military record must be reduced, as applicable, by:

A. Any previous settlements of active duty pay and allowances involving the same periods

B. Prior payments of readjustment pay or disability severance pay

C. Prior payments of disability compensation, pensions, or Dependency and Indemnity Compensation (DIC) made by the Department of Veterans Affairs

D. Federal income tax

E. Cost of participation in the Retired Serviceman's Family Protection Plan and/or Survivor Benefit Plan

F. Prior to [Insert effective date], dual compensation statutes if a retired Regular officer was employed by the United States Government

G. Prior payments of the mother's benefit received from social security and the amount of the spouse's social security entitlement, if any, resulting from the retiree's active military service.

100203. When payment cannot be made to the member because of member's death, payment may be made to member's legal representative. In the absence of a demand for payment by the legal representative, payments are made:

A. To the surviving spouse, heir, or beneficiaries, in the order prescribed by the law applicable to that kind of payment,

B. In the order of precedence in Chapter 30 or if there is no such law covering order of payment,

C. As otherwise prescribed by the law applicable to that kind of payment.

100204. A claimant's acceptance of settlement fully satisfies the claim concerned. Settlement of this claim does not preclude payment of a separate and distinct claim and acceptance of settlement does not preclude recomputation and adjustment when there is a mutual mistake. Payments are not authorized for any claim compensated by private law before October 25, 1951.

1003 TAX ADJUSTMENT

See section 2412 of this volume.

1004 APPROPRIATION CHARGES

The payments that become due and payable as a result of the correction are charged to the applicable current retired pay appropriation for all amounts due on and after the date of approval by the Secretary concerned. Amounts due for periods before date of approval by the Secretary of the Military Department concerned (or designee) are charged to the Claims, Department of Defense appropriation.

1005 RESTRICTIONS

No payment resulting from a correction of records may be made for a benefit to which the claimant might later become entitled under the laws and regulations administered by the Secretary of Veterans Affairs.

Chapter 10-Correction of Records

1001-Authority		
	100101	10 U.S.C. 1552
	100104.B	10 U.S.C. 1552(a) and (b) 39 Comp Gen 178 54 Comp Gen 116
1005-Restrictions	1005	10 U.S.C. 1552(e)

SUMMARY OF MAJOR CHANGES TO CHAPTER 11
DOD 7000.14-R, VOLUME 7B
MILITARY PAY POLICY AND PROCEDURES FOR RETIRED PAY

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CHAPTER 11

REMOVAL FROM THE TEMPORARY DISABILITY RETIRED LIST

1101 ENTITLEMENT TO DISABILITY SEVERANCE PAY

A member on the TDRL is given a physical examination at least once every 18 months. The Secretary concerned may make a final determination as to the member's disability at that time or at the end of the 5-year TDRL period. If the physical disability is rated less than 30 percent and if the member has less than 20 years of active service, his or her name is removed from the TDRL and he or she may be separated with severance pay.

1102 COMPUTATION OF SEVERANCE PAY

110201. When the member is removed from the TDRL with entitlement to disability severance pay, the pay is computed by multiplying years of active service, but not more than 12, by the highest of these amounts:

A. Twice the amount of monthly basic pay to which the member would be entitled if serving on active duty on the date of removal from the TDRL and in the grade or rank in which serving on the date of transfer to the TDRL.

B. Twice the amount of monthly basic pay to which the member would be entitled if serving on active duty when the his or her name was placed on the TDRL or on the date of separation, if not carried on TDRL. This basic pay rate reflects any temporary grade or rank higher than that in subparagraph 110201.A, above, in which the member served satisfactorily as determined by the Secretary of the Military Department concerned.

C. Twice the amount of monthly basic pay to which the member would be entitled if serving on active duty when his or her name was placed on TDRL or on the date of separation, if not carried on TDRL. This basic pay rate reflects the permanent Regular or Reserve grade to which the member would have promoted had it not been for the physical disability for which the member was separated and which was found on physical examination for promotion.

D. Twice the amount of monthly basic pay to which the member would be entitled if serving on active duty when his or her name was placed on TDRL or on the date of separation, if not carried on TDRL. This basic pay rate reflects the temporary grade or rank to which the member would have been promoted had it not been for the physical disability for which the member was separated and which was found on physical examination for promotion, if promotion eligibility was required to be based on cumulative years of service or years in grade.

110202. To compute the years of active service multiplier, count a part of a year of active service that is 6 months or more as a whole year, and disregard a part of a year that is less than 6 months. A member with less than 6 months of active service is not entitled to disability severance pay.

110203. To determine the taxability of the disability severance pay, see section 2413 of this volume.

1103 SEVERANCE PAY AND DEPARTMENT OF VETERANS AFFAIRS (VA) DISABILITY COMPENSATION

The amount of disability severance pay received under 10 U.S.C. 1212 (reference (c)) is deducted from any compensation for the same disability to which the former member of the Armed Forces or the member's dependents become entitled under any law administered by the Department of Veterans Affairs. No deduction, however, is made from any death compensation to which the former member's dependents become entitled after the member's death.

1104 RETURN TO ACTIVE DUTY

If, as a result of the physical examination or determination by the Secretary of the Military Department concerned (as referenced in section 1101, above), it is determined that the member is physically fit to perform the duties of the office, grade, rank, or rating, the member shall be removed from the TDRL. Any member removed may, with his or her consent, be recalled to active duty, appointed, reappointed, enlisted, reenlisted, or resume status in the Fleet Reserve or Fleet Marine Corps Reserve. See Table 11-1.

1105 DISABILITY OF A PERMANENT NATURE

110501. If, as a result of the physical examination or determination by the Secretary of the Military Department concerned (as referenced in section 1101, above):

A. The member's physical disability is determined to be permanent and is at least 30 percent under the standard schedule of rating disabilities in use by the Department of Veterans Affairs at the time of the determination, then his or her name is removed from the TDRL and he or she is retired by reason of permanent physical disability.

B. The member's physical disability is determined to be permanent and is less than 30 percent under the standard schedule of rating disabilities in use by the Department of Veterans Affairs at the time of the determination and, if he or she has at least 20 years of service, then his or her name is removed from the TDRL and he or she is retired by reason of permanent physical disability with retired pay computed under 10 U.S.C. 1401 (reference (c)). See Table 11-1.

1106 TERMINATION OF TEMPORARY DISABILITY RETIRED PAY

110601. The disability retired pay of a member terminates on the earlier of:

A. The date of removal from TDRL because of

1. Recall to active duty,

2. Resumption of status in Fleet Reserve and Fleet Marine Corps Reserve,

3. Appointment, reappointment, enlistment, or reenlistment,

4. Physical examination in which the member is found fit for duty or the disability is less than 30 percent; or

B. Upon the expiration of 5 years after the date when his or her name was placed on the TDRL.

1107 NOTIFICATION TO DEPARTMENT OF VETERANS AFFAIRS (VA)

When a total or partial VA waiver of retired pay is in effect on the date of the retiree's discharge from the TDRL, the supporting DFAS Center notifies the cognizant VA office of the effective date of discharge, amount of disability severance pay entitlement, if applicable, and the VA disability codes, if available, for which severance pay was paid.

REMOVAL FROM TEMPORARY DISABILITY RETIRED LIST (TDRL)			
	A	B	C
RULE	If the member's disability	then member may be	and is entitled to
1	is less than 30 percent and member has less than 20 years of service as determined by 10 U.S.C. 1208	discharged under 10 U.S.C. 1203 or 1206	disability severance pay computed by multiplying years of active service not to exceed 12, times twice the highest basic pay rate determined by reference to subparagraphs 110201.A, B, C, or D. The retiree's pay entitlement terminates the effective date of separation under 10 U.S.C. 1203 or 1206 (note).
2	is less than 30 percent and member has at least 20 years of service	removed from the TDRL and retired under 10 U.S.C. 1201 and 1204	retired pay computed under 10 U.S.C. 1401. TDRL entitlement terminates on date of removal and transfer to PDRL (note).
3	is 30 percent or more		
4	no longer exists and member is found fit for duty and is a member of the Army or Air Force	with his or her consent recalled to active duty, appointed, reappointed, enlisted or reenlisted	retired pay terminating (1) on the date of removal from TDRL. (2) on the date of expiration of 5 years on the TDRL.
5	no longer exists and member is found fit for duty and is a member of the Navy, Marine Corps, or Coast Guard	with his or her consent recalled to active duty, appointed, reappointed, enlisted, reenlisted, or resume status in the Fleet Reserve or Fleet Marine Corps Reserve	
6	no longer exists and member is found fit for duty	discharged without severance pay if member does not consent to be recalled, appointed, reappointed, enlisted, or reenlisted	no retired pay after effective date of separation under 10 U.S.C. 1203 or 1206 (note).

NOTE: The date the member completes 5 years on TDRL supersedes this effective date. Rules 4, 5, and 6: If member is fit, there is no disability percent. See 10 U.S.C. 1210(f).

Table 11-1. Removal From Temporary Disability Retired List (TDRL)

Chapter 11-Removal From the Temporary Disability Retired List

1101-Entitlement to Disability Severance Pay

1101	10 U.S.C. 1210(a) and (e)

1102-Computation of Severance Pay

110201.A	10 U.S.C. 1212(a)(2)(A)
110201.B	10 U.S.C. 1212(a)(2)(B)
110201.C	10 U.S.C. 1212(a)(2)(C)
110201.D	10 U.S.C. 1212(a)(2)(D)
110202	10 U.S.C. 1212(b) 39 Comp Gen 291

1104-Return to Active Duty

1104	10 U.S.C. 1210, 1211

1105-Disability of a Permanent Nature

110501.A	10 U.S.C. 1210(c)
110501.B	10 U.S.C. 1210(d)

1106-Termination of Temporary Disability Retired Pay

110602	10 U.S.C. 1210(b)

CHAPTER 12

WAIVER OF RETIRED PAY

1201 WAIVER CONDITIONS AND BENEFITS

120101. General

A. Retired pay is a statutory right and, as such, cannot be waived except as authorized by law. These two laws authorize a member to waive entitlement to retired pay:

1. 38 U.S.C. 5305 (reference (ar)) permits a member to receive compensation or pension from the Department of Veterans Affairs (VA).

2. 5 U.S.C. 8332(c) (reference (az)) permits a member to include creditable military service in computing a civil service retirement annuity.

★B. A member may not waive his or her right to retired pay. Even if retired pay is not being sent to a member on a monthly basis (for example, the member's whereabouts is unknown), the retired pay continues to accrue. Since, for income tax purposes, such retired pay is deemed to have been constructively received by the member once it is made available and can be drawn upon, it is subject to the withholding and reporting requirements of ordinary wages.

C. A member who waive his or her retired pay in order to receive VA compensation or a pension may benefit for these reasons:

1. VA benefits are nontaxable income for federal, state, and local income taxation. See Chapter 24 of this volume for computation of taxable pay and federal income tax withholding.

2. VA benefits may exceed the retired pay entitlement.

3. A retired Regular officer who also is employed by the federal government and is subject to the dual compensation statutes may have that reduction reduced because of the waiver of retired pay to receive VA benefits. See Chapter 5 of this volume for computation of the dual compensation deduction.

1202 DEPARTMENT OF VETERANS AFFAIRS BENEFITS

120201. Dual Benefits. A retiree receiving retired pay who is also eligible to receive disability compensation/pension from the Department of Veterans Affairs is barred from receiving concurrent payments of both retired pay and the VA benefit, unless the member elects to waive that portion of retired pay that is equal to the amount of the VA benefit awarded. A retiree receiving retired pay who also is eligible to receive an improved VA pension from the Department of

Veterans Affairs is not required to waive any retired pay effective October 1, 1980. See Appendix G, article III, paragraph 3-1.

120202. Initial Award. See Appendix G, article I, paragraph 1-2.

A. The timeframe for processing the initial waiver is in accordance with agreements in the VA-DoD Memorandum of Understanding in Appendix G, article II, paragraphs 2-1 and 2-2.

B. Responsibility for recouping overpayments in accordance with the VA-DoD Memorandum of Understanding is in Appendix G, article II, paragraphs 2-1 and 2-2.

C. When a Regular retired officer is employed by the federal government or instrumentality thereof during the period of a retroactive initial award of VA benefits, all amounts classified as retired pay are subject to reduction under the dual compensation formula. Disability compensation payable by the Department of Veterans Affairs is not retired pay. Payments equal to the VA compensation entitlement, and received after the effective date of the waiver, are classified as disability compensation and are not subject to reduction under the Dual Compensation Act (reference (at)). When a member executes a retroactive waiver of retired pay, the DFAS-Cleveland Center must recompute any dual compensation reduction as of the retroactive effective date of the waiver. A DD Form 2279 (Request for Retroactive Waiver of Military Retired Pay), once completed by the member, authorizes the Department of Veterans Affairs to pay the member any additional compensation due. This form also authorizes the Department of Veterans Affairs to deduct the overpayment of retired pay from compensation and refund it to the DFAS-Cleveland Center.

120203. Change in Awards

A. For increased, reduced awards, or a statutory increase, see Appendix G, article II, paragraphs 2-1 and 2-2.

B. A retiree may receive VA compensation while receiving Federal Employees Compensation Act (FECA) benefits as long as such payment is not for the same injury or retainer pay; and retired pay or retainer pay while receiving FECA benefits subject to the limitations on receipt of dual compensation by retired officers.

120204. Withdrawal. A retiree who has waived retired pay in favor of VA benefits may withdraw the waiver and elect to receive retired pay at any time. The notification of the withdrawal of the previous waiver of retired pay must be submitted to the Department of Veterans Affairs in writing over the retiree's signature. This renouncement of VA benefits terminates the retiree's right to these benefits from such filing of notification. Renouncement of VA benefits does not preclude the retiree from filing a new waiver of retired pay at a later date, enabling the retiree to receive VA benefits again. The effective date or reinstatement of retired pay is determined by the VA procedures outlined below.

A. When the Department of Veterans Affairs is the initial recipient of the request or withdrawal, the Department of Veterans Affairs notifies the appropriate retired pay activity of the effective date of termination of VA benefits. The effective date is the first of the month after the month of the request for withdrawal or termination of VA benefits, whichever is later. See Appendix G.

B. When a retired pay activity is the first recipient of the request for withdrawal, it sends the request to the appropriate VA office by a cover letter indicating the monthly gross retired pay. Upon receipt, the Department of Veterans Affairs follows the procedure in subparagraph 12004.A, above.

120205. Incompetents. See Appendix G, article III, paragraph 3-2. The effective date for restoration of retired pay will be the first of the month following the month of the restoration request or termination of VA benefits, whichever is later.

120206. RSFPP and SBP. Any retiree participating in RSFPP and/or SBP who waives retired pay in favor of VA benefits may:

A. Authorize the Department of Veterans Affairs to withhold the cost of the RSFPP and/or SBP from the benefits awarded and remit that amount to the cognizant retired pay activity. (See Chapters 36, 45 and 56 of this volume); or

B. Be subject to involuntary collection action by the DFAS. Such collection action is subject to the provisions of the Public Law 97-365 (reference (de)). For procedures, see Appendix V, Interagency Agreement Between the Department of Veterans Affairs and the Department of Defense Military Retired Pay, September 6, 1990.

1203 CIVIL SERVICE RETIREMENT

120301. General. A retiree receiving retired pay, pursuant to any provision of law authorizing such payments, who applies for a retirement annuity under the laws administered by the Office of Personnel Management (OPM), or the Foreign Service, which bar credit for the military service, may elect to waive the retired pay in order to credit military service for computing civil service annuity. To avoid a delay in adjudicating a civil service retirement claim, the member should execute a waiver and send it to the DFAS at least 60 days before the anticipated starting date of the annuity.

120302. Creditable Service. All periods of military service before the date of separation on which title to annuity is based are creditable. However, if a member is awarded retired pay on account of military service, the military service may not be credited unless:

A. The retired pay is awarded on account of a service-connected disability

1. Incurred in combat with an enemy of the United States; or

2. Caused by an instrumentality of war and incurred in line of duty during a period of war as defined by 38 U.S.C. 1101 (reference (ar)). The term "period of war" includes, in the case of any veteran:

a. Any period of service performed after November 11, 1918, and before July 2, 1921, if such veteran served in the active military, naval, or air service after April 5, 1917, and before November 12, 1918; and

b. Any period of continuous service performed after December 31, 1946, and before July 26, 1947, if such period began before January 1, 1947.

B. The retired pay is awarded under 10 U.S.C., Chapter 1223 (reference (c)); or

C. The member waives retired pay.

120303. Initial Waiver. A retiree may request waiver of retired pay so that military service may be used in establishing eligibility for and/or computation of civil service retirement annuity. The request for waiver of retired pay must be submitted over the retiree's signature and should contain the effective date of the waiver of retired pay. Certain civil service annuities, starting on or after October 1, 1982, commence the first day of the month after separation from civil service or pay ceases and the service and age requirements for title to annuity are met. Individuals retiring during the first 3 days of a month are excluded; their annuities begin the following day. Also excluded are survivor annuities, disability annuities, or discontinued service annuities based on involuntary separation, death, or last day of pay. The member should also authorize the OPM to withhold amounts necessary from the civil service retirement annuity to repay amounts of retired pay paid beyond the effective date of waiver. The retired pay activity notifies the OPM of the date retired pay is waived. The OPM, in turn, advises the retired pay activity of the actual date member's retirement annuity started, enabling the retired pay activity to make any final settlement that might be due the retired member.

120304. Dual Waivers. Civil service regulations prohibit the credit of military service for retirement annuity purposes if the retiree is receiving retired pay except retired pay awarded in accordance with paragraph 120302, above. When a retiree has a total waiver of retired pay in effect to receive VA compensation, the OPM interprets its regulations as providing for crediting military service for retirement annuity purposes.

120305. Withdrawal of Waiver. The waiver of military retired pay to receive an increased civil service retirement annuity may be withdrawn and military retired pay reinstated under these conditions:

A. The member becomes a reemployed annuitant and the civil service annuity is terminated.

B. When the member becomes eligible for social security benefits based on the member's wages and/or self-employment income, military service performed after 1956 must be

excluded from the computation of civil service annuity. The waiver may be withdrawn, and retired pay must be reinstated, but only if the military service was not used to establish eligibility for a civil service retirement annuity.

C. Any time a member revokes a waiver of military retired pay, provided that this will not produce dual retirement benefits based on the same period of service.

120306. Relationship of Civil Service Survivor Annuity to Military RSFPP/SBP. When a retiree, who is participating in the survivor annuity program, elects to waive retired pay in favor of civil service retirement, the retiree is required to:

A. Pay the RSFPP cost during the period the waiver is in effect.

B. Pay the SBP cost during the period the waiver is in effect unless the OPM notifies the DFAS that the member elected to provide spouse coverage under the civil service annuity program.

120307. Addresses. The correspondence addresses for the OPM and the Foreign Service are:

Office of Personnel Management
Retirement and Insurance Group
1900 E. Street NW
Washington, D.C. 20415

Foreign Service
Department of State
Washington, D.C. 20520

1204 RESERVE TRAINING (ARMY AND AIR FORCE ONLY)

120401. Definitions

A. Retired member, as used in this section, refers to:

1. Army and Air Force Reserve officers who retire under 10 U.S.C. 3911 or 8911 (reference (c)), and

2. Army and Air Force Regular officers or enlisted members who transfer to a Reserve unit of the Armed Forces after retirement.

B. Active duty, as used in this section, does not include extended active duty (more than 30 days) where strength accountability passes from the Reserve Components to the active military establishment.

120402. Reserve Training Category. Each Armed Forces Reserve Component, is divided into three categories: ready (active status), standby (inactive status) and retired (retired status).

A. Ready Reserve

1. A member of the ready Reserve may, without consent, be ordered to active duty by the Secretary concerned during a period of war or national emergency, or when otherwise authorized by law.

2. Retired personnel having Ready Reserve status may participate in active duty for training or inactive duty training required by virtue of their assignment in a Reserve Component. Each period of training must be a duration of at least 2 hours with a maximum of two training periods in 1 calendar day. Compensation for each regular period of instruction or period of appropriate duty is at the rate of 1/30 of the member's authorized monthly pay and allowance, including that performed on a Sunday or holiday. Where the duty performed is for a continuous period of less than 1 month, compensation for each day of the period is at the rate of 1/30 of the monthly pay and allowances. The 31st day may not be excluded from computation. A member may perform inactive duty training without pay.

a. Active duty for training. This duty may include full-time training, annual training tours, or attendance at a school designated as a Military Service school by the Secretary concerned.

b. Inactive duty training. This training may include assemblies, additional flying training periods, and other additional duties as authorized by the Secretary concerned.

B. Standby Reserve. A member of the Standby Reserve may be called to active duty only in time of war or national emergency declared by the Congress or when otherwise authorized by law. This member does not participate in the duty referred to in subparagraph 120402.A.2.a or b, above.

C. Retired Reserve. A member of the Retired Reserve who is entitled to retired pay not be placed in the Ready Reserve unless the Secretary concerned makes a special finding that the member's services in the ready Reserve are indispensable. The Secretary may not delegate authority in this instance.

120403. Entitlement. A Reservist entitled to retired pay who performed Reserve training for compensation may elect to receive for that duty:

A. The retired pay to which entitled because of earlier military service; or

B. The pay and allowances authorized for the duty being performed, if the member specifically waives retired pay.

120404. Effect on Pay. A retired member who elects to receive compensation for periods of active duty for training or inactive duty training must waive 1 day of retired pay for each calendar day on which the Reserve training is performed. Performance of more than one drill in 1 calendar day requires the withholding of only 1 day of retired pay for that calendar day.

A. Waiver of Pay. The member must prepare in advance a waiver of retired pay for the entire or remainder of the fiscal year in which the training is to be performed. The waiver form should show, by month, the number of training periods for inactive duty and the inclusive dates of each anticipated active duty tour. Timely preparation of the waiver will prevent a possible overpayment of pay.

B. Supplemental Certificate of Waiver. The certificate is required when a member performs active or inactive duty not covered by the first declaration. This certification shows, by month, the additional days of duty performed and is added to the first declaration.

C. Certificate of Recoupment. The certificate recovers previously waived benefits that exceed active or inactive duty training performed. This request for recoupment must be signed by the unit commander and may not be submitted earlier than the last day of the fiscal year involved. The schedule for both the active and inactive duty for training may be shown on the same waiver form or certificate.

D. Adjustment of Pay. Pay is adjusted on an individual basis. Procedures for liquidating an outstanding debt or for collecting cash for RSFPP and SBP coverage are the same as for all other retired members.

SUMMARY OF MAJOR CHANGES TO CHAPTER 13
DOD 7000.14-R, VOLUME 7B
MILITARY PAY POLICY AND PROCEDURES FOR RETIRED PAY

New and revised instructions are indicated by a star placed immediately before the new or revised section, paragraph, subparagraph, decision logic tables, etc.

Page	Paragraph	Explanation of Change/Revision	Effective Date
13-2	130203	IC 18-97 pertains to the suspension of retired pay when a retiree is absent from the U.S. to avoid prosecution	May 29, 1997

Interim change 18-97 is incorporated in this chapter.

CHAPTER 13

SUSPENSION OF PAY

1301 GENERAL

The pay account of a retiree may be placed in a suspended (non-payment) status for a definite or indefinite period of time. The pay may be suspended to comply with statutory or regulatory requirements, or Military Service procedures. Such suspension may not necessarily affect continued or future entitlement when the requirements or procedures that were the basis for the suspension no longer apply. When a retired member is missing, and there is no information concerning the his or her whereabouts, the member's retired pay must be suspended from the date that he or she last was known to be alive.

1302 STATUTORY REQUIREMENTS

130201. As specified herein, applicable statutes may prohibit the retiree's receipt of concurrent payments, payments after a specific period of time, or payments if a member fails to comply with statutory requirements.

130202. A retiree's pay is suspended if he or she:

A. Is recalled to active duty; or

B. Requests waiver of retired pay because of

1. Award of Department of Veterans Affairs disability compensation or pension payments, or

2. Military service being used for purposes of qualifying for a United States civil service retirement annuity; or

C. Completes 5 years on the TDRL; or

D. Fails to report for a required physical examination while on the TDRL or while a member of the Fleet Reserve/Fleet Marine Corps Reserve; or

E. Is employed by a foreign government (to include local government units within a foreign country, as well as the national government itself) without applicable congressional or secretarial approvals; or

F. Is reported to be, or is found to be, mentally incapable of managing his or her personal affairs, and no guardian, trustee, or other legal representative has been appointed. (See Table 13-1); or

G. Is repaying readjustment pay.

★ *130203. The Secretary of the Military Department concerned may order a retiree's pay suspended after determining that:*

A. A felony warrant has been issued against the absent member by the United States under the authority of 18 U.S.C. 1073 (reference (bc)), "Flight to avoid prosecution or giving testimony," and the Department of Justice has sought extradition, or

B. A felony warrant has been issued against the absent member by the United States for violation of the International Parental Kidnapping Act, 18 U.S.C. 1204 (reference (bc)); or for a crime stated in 5 U.S.C. 8312 (reference (az)); and

C. The member is outside the United States, and has willfully remained outside the United States to avoid criminal prosecution for 30 or more consecutive days subsequent to the date of issue of the felony warrant. As a result:

1. The DFAS-Cleveland Center shall suspend retired pay until the DFAS receives orders from the Secretary of the Military Department concerned (or designee) to resume monthly payments and to pay the balance of suspended payments. No interest may be paid on any suspended amounts.

2. Payment of any amounts subject to involuntary withholding or paid as insurance premiums by previously established allotments shall not be suspended, but shall continue to be paid from the member's pay unless otherwise directed by the Secretary of the Military Department concerned (or designee). (IC 18-97)

1303 REGULATORY REQUIREMENTS

Retired pay may be suspended if certain situations exist where regulations prohibit making payments. For example, retired pay is suspended if the retiree requests that the retired paycheck be mailed to a country listed in Appendix A.

1304 SERVICE DEPARTMENT ADMINISTRATIVE REQUIREMENTS

130401. In accordance with the Military Department procedures, the head of the retired pay activity may suspend retired pay if the retiree fails to take necessary administrative actions on time, or if the retiree declines further payments.

130402. Retired pay is suspended if the retiree:

A. Fails to furnish a required proof of existence;

B. Fails to notify the Military Department of an address change and the retiree's current address is unknown;

C. Refuses to accept further payments; or

D. Is potentially being overpaid because there is some doubt concerning entitlement.

130403. Retired pay may be suspended if the retiree is repaying government debts or delinquent RSFPP or SBP costs.

1305 EFFECT OF SUSPENSION ON TAXABLE INCOME, FEDERAL INCOME TAX WITHHELD, AND OTHER ACTIONS

130501. Taxable Income and Federal Income Tax Withheld. The suspension of a retiree's pay account for any reason cited in sections 1302 through 1304, above, may result in the suspension of any other reporting of taxable income and income taxes withheld. The reporting of taxable income and taxes withheld, if applicable, resumes upon removal of the suspension of pay. See Chapter 24 of this volume regarding taxable income, tax withheld, and issuance of TD Form W-2P.

130502. Allotment Deductions. Handle the retiree's allotments according to the procedures of the Military Department concerned. (See Chapters 19 through 21 of this volume.)

130503. Survivor Annuity Deductions. Handle the retiree's cost for participation in the Retired Serviceman's Family Protection Plan and/or the Survivor Benefit Plan according to the procedures of the Military Department concerned. (See Chapters 33 through 58 of this volume.)

SUSPENSION OF PAY – STATUTORY REQUIREMENTS			
	A	B	C
RULE	If a member of the	has pay suspended for	then authority is
1	Army	recall to active duty	10 U.S.C. 688
2	Air Force		10 U.S.C. 688
3	Navy or Marine Corps		10 U.S.C. 688. 10 U.S.C. 6485
4	Armed Forces	waiver of retired pay in favor of VA compensation or pension	38 U.S.C. 5305
5		waiver of retired pay in favor of civil service annuity	5 U.S.C. 8332
6		completion of 5 years on TDRL	10 U.S.C. 1210(h)
7		failure to report for TDRL periodic physical	10 U.S.C. 1210(a)
8	Navy or Marine Corps	failure to report for quadrennial physical examination – Fleet Reserve/Fleet Marine Corps Reserve	10 U.S.C. 6485(b) (repealed)
9	Armed Forces	employment by a foreign government without Congressional or Secretarial approvals	Public Law 95-105, section 509, Aug 17, 1977; Article 1, section 9, clause 8, United States Constitution
10		being mentally incapable of managing own affairs	37 U.S.C., Chapter 11
11		repayment of readjustment pay	10 U.S.C. 687 (repealed)
★*12*		*being absent from the US to avoid prosecution*	*PL 104-201, section 633, Sep 23, 1996 (IC 18-97)*

★*Table 13-1. Suspension of Pay - Statutory Requirements (IC 18-97)*

Chapter 13-Suspension of Pay

1301-General

1301	MS Comp Gen B-243829, Dec 13, 1991

1302-Statutory Requirements

130202.E	MS Comp Gen B-251084, Oct 12, 1993

1303-Regulatory Requirements

1303	31 CFR 211

SUMMARY OF MAJOR CHANGES TO CHAPTER 14
DOD 7000.14-R, VOLUME 7B
MILITARY PAY POLICY AND PROCEDURES FOR RETIRED PAY

New and revised instructions are indicated by a star placed immediately before the new or revised section, paragraph, subparagraph, decision logic table, etc.

Page	Paragraph	Explanation of Change/Revision	Effective Date
		No ICs have been issued to this chapter.	

CHAPTER 14

PAYMENT RESTRICTIONS

1401 GENERAL

140101. Payment Dates. DoD policy requires all retired/retainer and annuity payments be paid no earlier than the first business day of the succeeding month.

1402 GEOGRAPHIC

140201. Checks

A. Mailing of Checks to Foreign Countries. The Secretary of the Treasury has determined that the mailing of checks is prohibited to the countries listed in Appendix A. Postal, transportation, and banking facilities in general, or local conditions, are such that there is not a reasonable assurance that a retiree or annuitant in listed countries actually will receive checks drawn against funds of the United States, or negotiate checks for full value. Power of attorney for receipt or collection of checks or for the proceeds of checks included within the determination of the Secretary of the Treasury are not recognized.

B. Claims. Claims for the release of checks withheld from delivery, or for proceeds thereof, are filed with the DFAS Center that originally authorized issuance.

C. Philippine Islands. Checks drawn on the Treasury of the United States for delivery to Philippine citizens located in The Republic of the Philippines are inscribed with the phrase: "Payable only in pesos through authorized agent banks of the Central Bank of Philippines and Postal Offices." Proof of U.S. citizenship, claimed by a retiree living in The Philippines, must be verified by the disbursing office responsible for delivering checks to The Philippines.

1403 EXPIRATION OF ELIGIBILITY TO RETIRED PAY

140301. Conditions

A. Five Years on the TDRL. See Chapter 11 of this volume.

B. Foreign Citizenship. See Chapter 6 of this volume.

C. Employment by Foreign Government. See Chapter 5 of this volume.

D. Conflict of Interest. See Chapter 5 of this volume.

E. National Security Violations within the scope of 5 U.S.C. 8311-8322 (reference (bd)).

NOTE: The "Hiss Act," codified as 5 U.S.C. 8311-8322 (reference (bd)), as amended, prohibited the payment of retired pay to military personnel who were convicted of any criminal offense enumerated in the statute. The Act did not prohibit the payment of retired pay if both the offense or conviction and the award of retired pay occurred before September 1, 1954. Retired pay awarded on or after September 1, 1954, however, could not be paid regardless of the date on which the offense or conviction occurred. If the individual involved received a presidential pardon or later was cleared by decision of a higher court, the right to retired pay was restored. Public Law 87-299 (reference (be)) amended the Hiss Act and limited provisions to cases involving the national security. Members convicted by courts-martial or federal civil courts of offenses, which were felonies or equivalent of felonies but not involving the national security, were no longer subject to the provisions of the Hiss Act.

F. Denial Upon Certain Punitive Discharges or Dismissals. The non-Regular service retired pay of a member is denied when the his or her court-martial sentence includes death or separation by dishonorable discharge, bad conduct discharge, or dismissal effective with court-martial sentences adjudged after February 10, 1996.

140302. Recall to Active Duty. A retiree who receives orders, issued by proper authority, for recall to active duty for an indefinite or definite period is not entitled to retired pay for the period of active duty. Members on active duty for training are covered in section 1204 of this volume.

Chapter 14-Payment Restrictions

1401-General

140101	Public Law 98-369, July 18, 1984 Public Law 99-348, section 102, July 1, 1986 37 U.S.C. 1006(h) 59 Comp Gen 219

1402-Geographic

140201.A	31 U.S.C. 3329, 31 CFR 211
140201.B	31 U.S.C. 3329, 31 CFR 211.2
140201.C	TD Circular 1081, Dec 28, 1976

1403-Expiration of Eligibility to Retired Pay

140301.A	10 U.S.C. 1210(h), 44 Comp Gen 249
140301.E	DoDD 1332.16, Mar 10, 1970 Public Law 103-337, section 639, Oct 5, 1994
140301.F	Public Law 104-106, section 632, Feb 10, 1996

CHAPTER 15

PROOF OF EXISTENCE

1501 GENERAL

For the protection of the government, certain safeguards are required for retired pay checks mailed through the international postal system or payable to legal representatives of mentally incompetent members.

1502 COMPETENT RETIREE

150201. When retired pay checks are delivered to the retired member through the international postal system to foreign countries, the retiree must furnish a report of existence (ROE) semiannually. The retiree does this by filling out a form provided by the Military Service or by letter over the retiree's signature.

150202. The ROE is not required when the retiree's check is mailed to a financial institution in the United States. The endorsement by the financial institution constitutes a certificate of the existence of the retiree.

150203. A competent retiree residing in the United States whose retired pay check is mailed to an address other than a financial institution is not required to submit an ROE.

150204. Retired pay checks mailed to an APO, FPO, or a finance officer or disbursing officer at an overseas address do not require submission of an ROE. Checks are not addressed to a United States Consulate, Embassy, or Military Attache unless the retiree is employed by that particular agency.

1503 MENTALLY INCOMPETENT RETIREE

Comptroller General decisions (66 C.G. 340, 65 C.G. 621, 62 C.G. 202, 51 C.G. 438) prohibit forwarding checks directly to retirees who are found mentally incompetent to manage their own affairs. Checks may be drawn payable to a legal guardian, trustee, or other legal representative after receipt of proper documentation of the authority of the guardian, trustee, or other legal representative to receive such payments. See Chapter 16 of this volume for appointment or designation of legal representatives.

150301. The legal representative must sign the monthly report of his or her ward's continued existence. The retired pay check may be mailed to the legal representative or to a financial institution established by the legal representative for the retiree (ward).

150302. In the absence of the appointment of a guardian, trustee, or other legal representative for an incompetent retiree, payment may be made to the Administrator of a VA hospital to provide the retiree with health and comfort items. See Chapter 16 of this volume.

1504 MAILING OF RETIRED PAY CHECKS

Retired pay checks are mailed at the end of each month, provided a signed ROE, when required, has been received that certifies the retiree's continued existence.

SUMMARY OF MAJOR CHANGES TO CHAPTER 16
DOD 7000.14-R, VOLUME 7B
MILITARY PAY POLICY AND PROCEDURES FOR RETIRED PAY

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CHAPTER 16

PHYSICAL OR MENTAL INCAPACITATION

1601 DEFINITIONS

160101. Physically or Mentally Incapacitated Retiree. An individual who is impaired by physical disability, mental illness, mental deficiency, advanced age, chronic use of drugs or alcohol, or other causes which prevent sufficient understanding or capacity to competently manage his or her own affairs.

160102. Committee. A person, assembly, or board of persons to whom (or which) the consideration or management of any matter is committed or referred by some court, as a person or persons having guardianship of the person and property of an insane person.

160103. Conservator. A guardian, protector, or preserver; a maintainer.

160104. Court of Competent Jurisdiction. A court having power and authority of law at the time of acting to do the particular act; one that has jurisdiction both of the person and of the subject matter; one provided for in the Constitution (reference (df)) or created by the legislature and which has jurisdiction of the subject matter and of the person.

160105. Guardian. A person who legally has the care of the person or property, or both, of another person who is incompetent to act for himself or herself.

160106. Trustee. As used in the legal sense, a person who takes and holds the legal title to the trust property for the benefit of another, one to whom another's property is legally committed in trust; or a person holding the legal title to property under an expressed or implied agreement to apply it, and the income arising from it, to the use and for the benefit of another person.

1602 PHYSICALLY INCAPACITATED RETIREE

160201. It frequently has been held that physical infirmity does not warrant the appointment of a guardian for the estate of a person. A statute which makes physical disability or infirmity a ground for the appointment of a guardian of the property of a person mentally competent, but physically incompetent, is unconstitutional and an unwarranted abridgment of the liberty of such person, and an unwarranted abridgment of the person's right to acquire, possess, and protect property. On the other hand, in some cases, incompetence to manage an estate or property has been found primarily from evidence of advanced age and physical infirmity, and a guardian or conservator has been appointed. Also, in some jurisdictions there are statutes, held to be constitutional, which authorize the appointment of guardians of the estates of those who, because of old age or physical incapacity, are incapable of managing their property.

160202. In several states, statutes authorize persons who, although of sound mind, believe themselves incapable of managing their own estates or of caring for their own property, to apply for, request or consent to the appointment of a conservator or guardian of the estate or of their persons, or both. The conservator or guardian, when appointed, possesses over the estate substantially the same power and is subject to substantially the same duties as a guardian of an incompetent.

160203. Because of the variety of county and state statutes regarding the appointment of legal representatives for physically incapacitated members, the DFAS Centers accept and process court orders appointing such representatives. It is not the responsibility of the DFAS Center to authenticate each order.

160204. Examples

A. A person who is bedfast and physically incapacitated as the result of two strokes is not necessarily incompetent so as to require the appointment of a guardian.

B. A 77-year-old woman suffering from complete paralysis of the left side, was unable to speak except an occasional word, could not swallow and could write only with difficulty and very briefly, but could hear, read, watch television, walk with assistance, and could be out of bed and sit up for short periods of time. She was, according to medical testimony, mentally competent, but the evidence was sufficient to support a finding that she was physically incompetent and unable to manage her property.

C. When an adult person has sufficient mental capacity to understand the nature and consequences of the application for a conservator, that person's wishes, if conducive to welfare and contentment of mind, may properly be given great weight in determining whether a conservator (rather than a guardian) should be appointed.

D. The physical condition of the person for whom a conservator is required can be considered only insofar as it may affect the person's mental condition.

1603 MEDICAL EXAMINATION

160301. Federal agencies authorized to make determinations of the competency of a retired service member hospitalized in a facility under its jurisdiction are:

A. Department of the Army

B. Department of the Navy

C. Department of the Air Force

D. Department of Health and Human Services

E. Department of Veterans Affairs.

160302. Upon receipt of information that a retiree may be mentally incapacitated, a board of no fewer than three medical officers or physicians (including one specially trained in treatment of mental disorders), is convened to determine whether the retiree is competent. The board also is convened when requested to do so by proper authority.

160303. The convening authority ensures that the board's findings are certified by three members of the board.

160304. The convening authority sends one copy of the board's findings, as applicable, to:

A. Army and Air Force. Director, DFAS-Cleveland Center, Attn: DFAS-CL/DG, A.J. Celebrezze Building, 1240 East 9th Street, Cleveland OH 44199-2055.

B. Navy and Marine Corps. Head, Fiduciary Affairs Branch, Civil Affairs Division, Office of the Judge Advocate General, 200 Stovall Street, Alexandria, VA 22332-2400.

1604 MILITARY DEPARTMENT APPOINTMENT OF TRUSTEE

160401. The authority of the Secretary of the Army to appoint trustees without the necessity of official action has been delegated to the Director, DFAS-Indianapolis Center.

160402. The authority of the Secretary of the Navy to appoint trustees without the necessity of judicial action has been delegated to the Head, Fiduciary Affairs Branch, Civil Affairs Division, Office of the Judge Advocate General, 200 Stovall Street, Alexandria, VA 22332-2400.

160403. The authority of the Secretary of the Air Force to appoint trustees without the necessity of judicial action has been delegated to the Director, DFAS-Denver Center.

160404. The Director, DFAS-Indianapolis Center, or the Director, DFAS-Denver Center may designate one of the following persons as trustee for Army and Air Force retirees if the trustee is 21 years of age or over:

A. Lawful spouse (not subject to age requirement)

B. Legitimate son or daughter or legally adopted son or daughter

C. Parents

D. Head of an institution, if member is a patient

E. Any other person or persons if in the best interest of the member.

160405. The Judge Advocate General of the Navy may designate a suitable person, not under legal disability, as trustee to receive and expend all amounts due to Navy or Marine Corps retirees.

A. While a next of kin or other relative of the retiree ordinarily is preferred for designation as trustee, any other person, willing and suitable to act as such may be designated as temporary or permanent trustee unless a committee, guardian, or other legal representative is appointed by a court of competent jurisdiction.

B. Upon the designation of a trustee to receive monies payable to an incompetent Navy or Marine Corps retiree, the Director, Fiduciary Affairs Division, notifies the Director, DFAS-Cleveland Center, Attn: Director, Retired Pay Operations, A.J. Celebrezze Building, 1240 East 9th Street, Cleveland, OH 44199-2055, of that designation. After such notification, all monies due to the incompetent are paid to the designated trustee.

160406. The trustee designated to receive monies in behalf of the incompetent retiree furnishes a suitable bond in all cases when the amounts to be received may be expected to exceed $1,000. The bond so required and furnished must have, as the surety, a company approved by the U.S. Government and must be in such amount as required by the Military Department concerned. The person who has been designated as trustee acts in this capacity without remuneration. If a bond is required, however, the premium fee charged by the bonding company may be paid from the funds received on behalf of the mentally incompetent retiree. No other expenses incurred in securing the bond may be paid from the amount payable to the incompetent retiree.

160407. The trustee appointed by the Military Department has the authority only to receive, expend, and account for monies received from the appointing Military Department; the appointment does not convey authority to act as a trustee in a civilian capacity without prior authority from a court of competent jurisdiction. The appointed trustee must use the monies received for the benefit of the incompetent retiree. The Military Department may not appoint a trustee in any case in which a legal committee, guardian or other representative has been appointed by a court of competent jurisdiction.

160408. The appointed trustee submits accounting reports annually or at such times as directed by the Military Department. The reports must show all funds received, all expenditures made in behalf of the incompetent retiree, and a statement of the condition of the trustee account at the time the report is submitted. The trustee also may be required to provide all receipts, cancelled checks, or voucher accounts, savings account pass books or statements, or any other records concerning the trustee account. If the trustee fails to report promptly at the end of the accounting period, the appointing authority either may temporarily suspend or terminate further payments to the trustee, and may designate a successor trustee.

160409. Payments due an incompetent retiree cease to be paid to the trustee upon receipt of notification by the DFAS-Cleveland Center of:

A. Death of the incompetent;

B. Death or disability of the trustee;

C. Receipt of notice that a committee, guardian, or other legal representative has been appointed for the incompetent by a court of competent jurisdiction;

D. Failure of a trustee to render required accounting reports;

E. Probable cause to believe that there is improper use of monies received on behalf of the incompetent; or

F. Receipt of notification that a board of medical officers or other appropriate medical authorities subsequently have found the retiree to be capable of managing his or her affairs. The appointing authority may, at his or her discretion, accept the findings of a Department of Veterans Affairs hospital or of a Public Health Service hospital, or the findings of other public or private institutions, that a person formerly found incompetent is now competent. If payments are terminated under subparagraphs 160409.B, D, or E, above, the appointing authority may appoint a successor trustee.

160410. The Director, DFAS-Cleveland Center notifies the Head, Fiduciary Affairs Branch, of any changes in the status of the incompetent retiree's pay account (that is, death of retiree or trustee; appointment of a legal guardian, committee, or other legal representative by a court of competent jurisdiction; waiver of retired pay to receive Department of Veterans Affairs compensation; or failure of trustee to submit required report of existence). The Director also furnishes the Head, Fiduciary Affairs Branch, a report as to the amount of payments made to trustees annually, or as requested, or at the time of a change in the status of the trusteeship.

160411. When payments under this chapter are terminated, the trustee files a final accounting report with the appointing authority. When the final accounting report has been approved, the trustee is discharged and the surety released of its bond. Upon death or disability of a trustee, the trustee's legal representative makes the final accounting report.

1605 COURT APPOINTMENT OF A GUARDIAN OR OTHER LEGAL REPRESENTATIVE FOR PHYSICALLY, OR MENTALLY INCAPACITATED RETIREE

160501. The incapacitated retiree or any person interested in the welfare of the retiree may petition a court of competent jurisdiction for a finding of incapacity and appointment of a guardian or other legal representative.

160502. A copy of the appropriate court order certifying to the appointment of the guardian, committee, or conservator is required before payments may be made to the appointee.

160503. Accounting reports, similar to those identified in paragraph 160408, above, are not required. Such reports, if required by the court, are matters of concern between the court-appointed guardian or legal representative and the court.

1606 COMFORT ITEMS WHILE IN THE HOSPITAL

The commanding officer of any military hospital or the director of a VA hospital may designate an officer under the command to receive and receipt for a sum of money from the accrued pay of a retiree who, as a patient at the hospital, has been found to be physically or mentally incapacitated in a report of medical officers. This money may be used only for the purchase of comfort items for the use and benefit of that retiree when all of the following conditions exist.

160601. A trustee has not been designated and a guardian or other legal representative has not been appointed by a court of competent jurisdiction; and

160602. There are no other funds available for use on behalf of the retiree; and

160603. Competent medical authority agrees that the items to be purchased will serve the comfort of the retiree.

1607 GENERAL MAINTENANCE OF ACCOUNTS

Once the appointment of trustee, guardian, committee, etc., has been made, the supporting DFAS Center shall change or update the account per the appropriate provisions of this regulation.

Chapter 16-Physical or Mental Incapacitation

1601-Definitions	160102	15A C.J.S. Committee
	160103	15A C.J.S. Conservator
	160104	21 C.J.S. Courts 22
	160105	39 C.J.S. Guard and W2
	160106	89 C.J.S. Trusts 3
1602-Physically Incapacitated Retiree		
	160203	39 Am Jur 2d, Guardian and Ward, 21 and 22
	160204.A	In re Cass/Guardianship 155 Neb 792, 54 NW 2d 68, 1952
	160204.B	Loss vs Loss, 251 12d 515 185 NE 2d 228, 1962
	160204.C	Hogan's Appeal, 135, Me 249, 194A 854, 113 ALR 350, 1937
	160204.D	Shapter vs Pillar, 28 Col 209, 63P 302, 1900
1603-Medical Examination		
	160302	37 U.S.C. Chapter 11 Public Law 86-145, Aug 7, 1959

SUMMARY OF MAJOR CHANGES TO CHAPTER 17
DOD 7000.14-R, VOLUME 7B
MILITARY PAY POLICY AND PROCEDURES FOR RETIRED PAY

New and revised instructions are indicated by a star placed immediately before the new or revised section, paragraph, subparagraph, decision logic table, etc.

Page	Paragraph	Explanation of Change/Revision	Effective Date
		No ICs have been issued to this chapter.	

CHAPTER 17

BANKRUPTCIES

1701 WAGE EARNER'S PLAN UNDER THE BANKRUPTCY ACT, CHAPTER 13 (reference (dg))

170101. A wage earner's plan under Chapter 13 (reference (dg)) is one relating to future earnings of the debtor and relief is predicated upon the primary concept that, while the debtor is unable to pay existing debts, a plan to effect a composition or extension out of future earnings has been presented to the bankruptcy court for approval. The plan shall provide for the submission of such earnings or wages to the supervision and control of the court for the purpose of enforcing the plan.

170102. When the plan is confirmed by the court, its provisions are binding upon the debtor and all creditors of the debtor, whether they are affected by the plan, have accepted it and have filed their claims, or whether their claims have been scheduled or allowed, or are allowable.

170103. The court has authority to issue orders needed to implement the provisions of the plan including orders directed to an employer of the debtor.

170104. The retired pay of a retiree is subject to payment to the trustee appointed by the court pursuant to Chapter 13 of the Bankruptcy Act (reference (dg)). The payment by accounting, finance or disbursing officers of part of the retiree's pay in response to a court order issued in a Chapter 13 (reference (dg)) Wage Earner's Plan case does not violate 31 U.S.C. 3727 (reference (dh)). Compliance with such a court order gives the government a valid acquittance against the member since the court order is binding on the retiree.

170105. If the United States is both the debtor and creditor when the member files a Chapter 13 (reference (dg)) Wage Earner's Plan, the government's priority under 31 U.S.C. 3713 (reference (dh)) may be asserted in the absence of a judicial determination to the contrary.

170106. The rules governing the payments of retired pay made to the trustee appointed by the court pursuant to a Chapter 13 (reference (dg)) Wage Earner's Plan are set forth in the following regulations:

A. Army: AR 37-103, chapter 16 (reference (di)).

B. Navy/Marine Corps: Navy Comptroller Manual 041355.3 (reference (dj)).

C. Air Force: Volume 5 of this Regulation (reference (dk)) and AFR 110-24 (reference (dl)).

170107. A retiree who is participating in a Chapter 13 (reference (dg)) Wage Earner's Plan must pay the delinquent taxes which he or she owes that had not been assessed before the date of confirmation of the plan. The retiree also is responsible for all taxes that may become due. The United States may accept the provisions of any plan dealing with the assumption, settlement, or payment of any such delinquent taxes.

A. When the DFAS-Cleveland Center sends the entire amount of the retiree's pay to the court-appointed trustee, the IRS Notice of Levy should be forwarded to the court-appointed trustee for disposition.

B. When the DFAS-Cleveland Center sends part of the pay due the retiree to the court-appointed trustee, the IRS Notice of Levy should be processed in the normal manner against the amount due the retiree. The court-appointed trustee is provided a copy of the IRS Notice of Levy and notified of the action taken in establishing the liquidation procedures on a continuing Notice of Levy.

1702 REGULAR BANKRUPTCY

A retiree is within the class of persons specified in 11 U.S.C. 301 (reference (dm)), as entitled to the benefits of voluntary bankruptcy.

170201. Continuing deductions from retired pay without the retiree's consent, after the filing of a petition in bankruptcy that lists the debt(s) to the government, is improper in view of the pending bankruptcy proceedings. A debt included on a bankrupt person's schedule of debts is not subject to involuntary collection. All involuntary deductions to liquidate the listed indebtedness must be discontinued promptly upon notice or actual knowledge of the filing of a bankruptcy petition. Amounts withheld after the date the bankruptcy petition is filed must be refunded to the retiree.

170202. Upon notice or actual knowledge of the filing of a bankruptcy petition, when the retiree has listed the U.S. Government as a creditor, the DFAS-Cleveland Center:

A. Requests the local U.S. attorney to file claim with the federal court concerned, or

B. Files a claim with the federal court concerned.

170203. If the bankruptcy petition is approved, the listed indebtedness to the United States is discharged. The bankruptcy proceedings have no bearing on the liquidation of any new item of indebtedness discovered after the filing of a petition in bankruptcy and not included in the petition.

Chapter 17-Bankruptcies

1701-Wage Earner's Plan Under the Bankruptcy Act, Chapter 13

1701	11 U.S.C. 1001-1086
170101	11 U.S.C. 1046
170102	11 U.S.C. 1057
170103	11 U.S.C. 1058
170104	47 Comp Gen 522, 24 Ct Cl 84 US vs Shannon, 342 US 288 (1951) Price vs Forrest, 173 US 410 (1898) Goodman vs Niblack 102 US 556 (1880)
170105	47 Comp Gen 522
170107.B	11 U.S.C. 1080

1702-Regular Bankruptcy

170201 & 170203	45 Comp Gen 342

SUMMARY OF MAJOR CHANGES TO CHAPTER 18
DOD 7000.14-R, VOLUME 7B
MILITARY PAY POLICY AND PROCEDURES FOR RETIRED PAY

New and revised instructions are indicated by a star placed immediately before the new or revised section, paragraph, subparagraph, decision logic table, etc.

Page	Paragraph	Explanation of Change/Revision	Effective Date
		No ICs have been issued to this chapter.	

CHAPTER 18

RELEASE OF INFORMATION

1801 FREEDOM OF INFORMATION ACT (reference (dn))

Public Law 89-554 (reference (dn)), enacted September 6, 1966, commonly known as the "Freedom of Information Act," 5 U.S.C. 552 (reference (dn)) as amended, was enacted with the intent of having openness in government and making information available to the public.

1802 PRIVACY ACT (reference (do))

Public Law 93-579, (reference (do)) enacted December 31, 1974, commonly known as the "Privacy Act of 1974," 5 U.S.C. 552a (reference (do)), as amended, was enacted to safeguard individual privacy by governing the collection, safe-guarding, maintenance, public notice, use, access, amendment, and dissemination of personal information.

1803 ADMINISTRATION

Administration of the Freedom of Information Act (reference (dn)) and the Privacy Act (reference (do)) must be in accordance with these Military Service directives:

Army:	AR 340-17 (reference (dp)) AR 340-21 (reference (dq))
Air Force:	AFR 12-30 (reference (dr)) AFR 12-35 (reference (ds))
Navy:	SECNAVINST 5720.42B (reference (dt)) SECNAVINST 5211.5A (reference (du))
Marine Corps:	SECNAVINST 5720.42B (reference (dt)) MCO P2511.1 (reference (dv))

Chapter 18-Release of Information

1801-Freedom of Information Act

1801	Public Law 90-23, June 5, 1967 Public Law 93-502, Nov 21, 1974 Public Law 94-409, Sep 13, 1976

1802-Privacy Act

1802	Public Law 94-183, Dec 31, 1975

SUMMARY OF MAJOR CHANGES TO CHAPTER 19
DOD 7000.14-R, VOLUME 7B
MILITARY PAY POLICY AND PROCEDURES FOR RETIRED PAY

New and revised instructions are indicated by a star placed immediately before the new or revised section, paragraph, subparagraph, decision logic table, etc.

Page	Paragraph	Explanation of Change/Revision	Effective Date
19-2 through 19-9	190101 through 190303 Table 19-1	IC 14-97 revises discretionary and non-discretionary allotments of retired pay or retainer pay	Oct 01, 1997
19-7	190604	IC 5-98 provides authority for the use of a special power of attorney to establish, change, or stop an allotment.	Mar 18, 1998
19-4	190306	IC 16-99 concerns use of automated computer programs for allotments of retired pay	Nov 29, 1999

Interim change 14-97, 5-98, and 16-99 are incorporated in this chapter. These changes also affect other chapters and will not be deleted from the interim changes cited in the OUSD(C) web site until all such chapters are updated.

★CHAPTER 19

GENERAL PROVISIONS GOVERNING ALLOTMENTS OF RETIRED PAY

★*1901 GENERAL (IC 14-97)*

Personnel receiving retired pay may authorize allotments from their retired pay for the purposes set forth in Chapters 19-21 of this volume. The voluntary allotment system enables retirees to make a limited number of payments by payroll deduction. Allotments are designed for the convenience and privilege of retirees and are not to be exploited or abused. Allotments are an assignment of retired pay by the retiree to a third party, financial institution, or agency. The retired pay activity acts solely as an agent of the retiree in the assignment of pay and assumes no liability concerning any contract between the retiree and the allottee. Allotments paid erroneously through administrative error must be recovered from the allottee, if possible, or may be collected from the retiree if such payment provided a benefit to that retiree.

1902 SPECIALIZED TERMS

190201. Allotment. As used herein, a definite portion of the retired pay of a person retired from a Military Service, which the allotter authorizes to be paid to an allottee.

190202. Allottee. A qualified person, institution, or agency to whom the allotment is made payable.

190203. Allotter. The person from whose retired pay the allotment is made.

190204. Financial Institution. A bank (to include a military banking facility), credit union, or thrift association.

★*1903 AUTHORIZED ALLOTMENTS (IC 14-97)*

★ *190301. General. Voluntary allotments of retired pay or retainer pay for military retirees are limited to discretionary and non-discretionary allotments. Discretionary allotments are identified as "class D" allotments.*

★ *190302. Discretionary Allotments. Retirees are authorized no more than six (6) discretionary allotments. The retiree shall certify that the allotment is within the limits of the law (e.g., allotments may not be used to repay gambling debts in a state where gambling is not permitted). Examples of discretionary allotments include, but are not restricted to, the following:*

★ *A. Payment of insurance premiums for various types of commercial insurance. This includes payment for life, dental and health insurance. Also, it may be payment for vehicle insurance.*

★ *B. Voluntary payment to a dependent or relative. This allotment may be made to a spouse, other dependents, or to a relative(s) not legally designated as a dependent(s). Support allotments shall be made to a financial institution for credit to the account of the allottee. An allottee could be a state agency, court trustee, welfare agency, former spouse or a child's guardian or custodian.*

★ *C. Deposit to a financial institution, mutual fund company, or investment firm.*

★ *D. Payment of car loan.*

★ *E. Payment of mortgage or rent.*

★ *F. Payment of a loan to repay consumer credit, such as to a finance company.*

★ *190303. Non-Discretionary Allotment. Non-discretionary allotments of retired and retainer pay are limited to the following:*

★ *A. Purchase of U.S. Savings Bonds.*

★ *B. Voluntary liquidation of indebtedness to the United States that includes*

★ *1. Indebtedness incurred due to defaulted notes insured by the Federal Housing Administration (FHA) or guaranteed by the Department of Veterans Affairs (DVA).*

★ *2. Any other indebtedness to any department or agency of the United States Government (except DoD debts).*

★ *3. Repayment of U.S. Government debts assigned to a collection agency.*

★ *C. Payment of delinquent federal, state, or local income or employment taxes.*

★ *D. Payment of pledges for one of these specified charities: Army Emergency Relief, Navy and Marine Corps Relief Society, or affiliates of the Air Force Assistance Fund. These payments are for a definite period.*

★ *E. Repayment of loans to Navy and Marine Corps Relief Society (NMCRS), Army Emergency Relief (AER), Air Force Aid Society and American Red Cross.*

★ *190304. Carry-over from Active Duty. To aid personnel in the transition from active duty to retired status, all existing authorized allotments of members on active military service may be continued as approved allotments. Authorized allotments include up to six (6) discretionary as outlined in Volume 7A of this Regulation, and paragraph 190302, above.*

★ *190305. Administrative Changes. Changes beyond the control of the retiree are considered administrative in nature. These are dictated by events incidental to the purpose of the allotment. Examples include changes to the name, address, account number, and financial institution of the allottee. Other examples include amount changes due to contractual obligations existing at the time the allotment was executed (such as a mortgage payment changed because of variable rate mortgage or change in escrow requirement). Other than amount changes, administrative changes may be made at the request of the allottee without the member's consent. Administrative changes that adjust the amount of the allotment shall be accepted only when communicated by the Service member as a new allotment request.*

★ *190306. Establishment, Discontinuance, and Changes to Existing Allotments. A properly executed form, a written request, or an automated data exchange (from specific organizations) may be used to establish, discontinue, or change an allotment. Automated computer programs that allow members to establish, discontinue, or change an allotment using a personal identification number (PIN) are also permitted. In addition, requests may be accepted telephonically from members without written documentation, but only after the member's identity has been validated. Requests for allotment actions should be provided to the Defense Finance and Accounting Service–Cleveland Center. Normally, allotments are not established retroactively. (IC 16-99)*

1904 RETIRED PAY WHICH MAY BE ALLOTTED

The amount of retired pay, which may be allotted, can be limited administratively to exclude amounts required to be withheld:

190401. For tax purposes.

190402. For liquidation of an indebtedness determined under applicable provisions of law to be chargeable against the member's retired pay account.

190403. For cost of participation in the Retired Serviceman's Family Protection Plan and/or Survivor Benefit Plan.

190404. Because of federal civilian employment of a retired Regular officer.

190405. For garnishments.

190406. For continuing tax levies.

190407. For VA compensation.

190408. For former spouse.

1905 PERIODS OF ALLOTMENTS

Allotments are registered for an indefinite period except allotments for:

190501. Repayment of an indebtedness to the United States, to include payment of delinquent federal income taxes.

★ *190502. Charity as specified in subparagraph 190303.D, above. (IC 14-97)*

1906 RESTRICTIONS

190601. Minors. Allotments (except U.S. Savings Bonds) may not be made payable to children under 16 years of age. Such allotments may be made payable to the children's guardian or custodian. Spouses of retirees may be named as allottees regardless of age.

190602. Mental Incompetents. Allotments are not payable to mentally incompetent persons. Such allotments are payable to a guardian or the institution where confined.

★ *190603. Multiple Allotments. See restrictions in section 1903, above, and in Chapters 20-21 of this volume. (IC 14-97)*

★ *190604. Power of Attorney. A special power of attorney may be used to establish, change, or stop an allotment. This special power of attorney specifically must state the authority to establish, change or stop allotments. A general power of attorney is not acceptable to establish, change, or stop an allotment. (IC 5-98)*

190605. Reduced Retired Pay of Allotter. When a stoppage or reduction of retired pay does not leave enough funds for deduction of allotments in force, those allotments are stopped administratively by the disbursing officer without the signature of the retiree.

190606. Administrative Stops. Allotments may be stopped because of the required deductions from retired pay listed in section 1904, above. When possible, the retiree is allowed to determine the allotments to be stopped. If, however, the retiree involved refuses, or is unable, to identify those that should be stopped, the allotments of that retiree are involuntarily stopped:

	Precedence	Type	Letter Designation
	1	Charitable contributions to Army Emergency Relief, Navy and Marine Corp Relief Society, or Air Force Assistance Fund	See Table 19-1
★	*2*	*Bonds*	*B*
	3	Savings	D
	4	Loans	L
	5	Payment of delinquent state or local income or employment taxes	T
	6	Dependents	D
★	*7*	*Home Loans*	*D*
★	*8*	*Commercial life insurance/Army Mutual Aid Insurance*	*D*
	9	Navy Mutual Aid Insurance	M
	10	Government life insurance	N
	11	Veterans Group Life Insurance	See Table 19-1
	12	Deductions for court-ordered support	D
	13	Repayment of indebtedness to the United States	T
	14	Payment of delinquent federal income taxes	T

★*Figure 19-1 (IC 14-97)*

1907 RIGHT TO ALLOTMENTS IN CASE OF DEATH

190701. Death of Retiree. Entitlements to allotments end with the death of the member. No further allotment payments may be made after receipt of notice of the allotter's death. Deductions made from the retiree's pay, but not paid to the allottee, become part of the arrears of retired pay. Allotments paid after the retiree's death may not be collected from the allottee, except:

A. Allotments erroneously established after notice of death of the retiree, and

B. Unearned insurance premiums (insurance premiums are paid 1 month before the day payment is actually due).

190702. Death of Allottee. An allotment check, even though endorsed, does not become part of an allottee's estate if it is not cashed or negotiated before the allottee's death. It is not subject to any expense incurred by or on behalf of the allottee before or after death. All unnegotiated allotment checks must be returned to the office that issued them. Such checks are credited to the retiree's account.

1908 ALLOTMENT OVERPAYMENT RESPONSIBILITIES

Any check or bond issued and mailed to recipient for which entitlement does not exist must be recovered immediately by the issuing office. When an allotment payment is made after deductions from retiree's retired pay have ceased, and the retiree does not return the amount of that payment, the office of issuance starts recovery action of an equal amount from the recipient, or the retiree, if that office determines that the retiree benefited from the payment. If the retiree is liable, overpayment is recovered by deductions from retired pay due to the retiree.

ALLOTMENTS OF RETIRED PAY - GENERAL

RULE	A When the purpose of allotment is for	B and Service's letter designation is			C and member is not on active duty and has allotment (notes 1 and 2)		D Then the allotment period required is	
		Army	Navy/ USMC	Air Force	authorized for carry-over from active duty	authorized for establishment from active duty	Indefinite	Definite
1	purchase of U.S. Savings Bonds	B	B	B	X	X	X	
2	Payment to Dependents (note 5)	D	D	D	X	X	X	
★3	Repayment of home loans (IC 14-97)	D	D	D	X		X	
★4	Commercial life insurance/Army Mutual Aid Insurance (note 3) (IC 14-97)	D	D	D	X	X	X	
5	Repayment of loans to Navy and Marine Corps Relief Society, Army Emergency Relief, American Red Cross, or Air Force Aid Society	L	L	L	X	X		X
6	Navy Mutual Aid Insurance (note 2)	None	M	none	X	X	X	
7	U.S. Government Life Insurance and/or National Service Life Insurance (note 4)	N	N	N	X	X	X	

★*Table 19-1. Allotments of Retired Pay – General (IC 14-97)*

ALLOTMENTS OF RETIRED PAY - GENERAL

RULE	A	B			C		D	
	When the purpose of the allotment is for	and Service's letter designation is			authorized for carryover from active duty		then the allotment period required is	
		Army	Navy/ USMC	Air Force	authorized for carry-over from active duty	authorized for establishment from active duty	Indefinite	Definite
8	Repayment of loans on Department of Veterans Affairs Insurance (note 4)	N	N	N			X	
★9	Payment of financial institution or credit to account of retiree (note 6) (IC 14-97)	D	D	D	X		X	
10	Payment of delinquent federal income taxes and/or payment of indebtedness to the United States (note 7)	T	T	T		X		X
11	Charitable contributions to the Army Emergency Relief, Navy and Marine Corps Relief Society, or affiliates of the Air Force Assistance Fund	L	C	F	X	X		X
12	Payment of delinquent state or local income or employment taxes (note 8)	T	T	T	X			X
★13	Veterans Group Life Insurance (IC 14-97)	D	D,V	D		X	X	

NOTES:

1. Includes members of the Fleet Reserve or Fleet Marine Corps Reserve when not on active duty.
2. In addition to allotments authorized, member may continue any other allotments in effect (except Combined Federal Campaign and aviation premiums payable to the Navy Mutual Aid Association) at the time of retirement.
3. On the life of the allotter, spouse and/or children.
4. Payment of allotments for insurance premiums and repayment of insurance loans are made by one NSLI or class N allotment.
5. Authorized to a spouse, former spouse, spouse and/or children of the retired member having a permanent residence other than that of the retired member.
6. Includes credit unions within the United States, its possessions, Puerto Rico, and Panama Canal Zone operating under a federal or state charter. Also includes credit unions authorized under Volume 5, Chapter 34, of this Regulation (reference (fr)) to operate an overseas United States military installation.
7. Delinquent federal income taxes are payable to the applicable District Director, Internal Revenue.
8. Delinquent state or local and employment taxes are payable to the applicable state or local tax authorities.

★Table 19-1. Allotments of Retired Pay - General (Continued) (IC 14-97)

Chapter 19-General Provisions Governing Allotments of Retired Pay

1906-Restrictions

190601 37 U.S.C. 203(d)

CHAPTER 20

ALLOTMENTS TO DEPENDENTS AND RELATIVES OR FOR INDEBTEDNESS

2001 DEPENDENTS AND RELATIVES

200101. Allotments to Dependents and Relatives

A. Eligibility and Purpose. A retiree may continue any allotments in effect while on active duty that were payable to a spouse, former spouse, other dependents, or to provide financial assistance to relatives who are not legally designated as dependents, so long as these allotments do not exceed the total amount of retired pay. A retiree also may allot a portion of retired pay to a spouse, former spouse, and/or children who have a permanent residence other than that of the retired member.

B. Type of Allotments. Class D allotments are established for this purpose.

C. Specific Instructions. Establish class D allotments only upon request of the retiree using procedures established by the Military Service concerned. The allotment may be made payable to an individual or to a financial institution for credit to the account of the allottee or a joint account of the allotter and allottee. A class D allotment administratively established when the member was on active duty may be terminated by request of the member.

D. Prior Arrangements Necessary. When an allotment is made payable to a financial institution, the retiree or allottee must make satisfactory arrangements with the financial institution to accept these deposits before starting the allotment. **Note**: Maximum use will be made of electronic funds transfer.

2002 INDEBTEDNESS

200201. Allotments Authorized for Repayment of Indebtedness

A. Purpose of Allotments. Retired members may make allotments to:

1. Repay defaulted notes insured by the Federal Housing Administration or guaranteed by the Department of Veterans Affairs.

2. Pay delinquent federal income taxes (see Chapter 22 of this volume).

3. Repay any other indebtedness to any federal agency. The allotment cannot be used to repay a loan from a government or commercial insurance policy. (See Chapters 33 through 41 of this volume for payments of amounts due under the Retired Serviceman's Family Protection Plan.)

B. Period of Allotment. An allotment for repayment of an indebtedness to the United States is registered for a definite period required to liquidate the indebtedness. The retiree may terminate the allotment at any time.

C. Type of Allotments. Class T allotments are established for this purpose.

SUMMARY OF MAJOR CHANGES TO CHAPTER 21
DOD 7000.14-R, VOLUME 7B
MILITARY PAY POLICY AND PROCEDURES FOR RETIRED PAY

New and revised instructions are indicated by a star placed immediately before the new or revised section, paragraph, subparagraph, decision logic table, etc.

Page	Paragraph	Explanation of Change/Revision	Effective Date
21-2 through 21-6	210101 through 210303	IC 14-97 addresses allotments of retired pay or retainer pay	Oct 01, 1997

Interim change 14-97 is incorporated in this chapter. Interim change 14-97 also affects other chapters and will not be deleted from the interim changes in the OUSD(C) web site until all such chapters are updated.

★CHAPTER 21 IC (14-97)

NON-DISCRETIONARY ALLOTMENTS

2101 NON-DISCRETIONARY ALLOTMENTS

210101. United States Savings Bonds. Retired members may purchase US. Savings Bonds. Denominations of issue and pay deduction schedules will be established in the operating instruction of the Military Services. The purchase price of the bonds is one-half of the face amount. Bond purchases in 1 calendar year may not exceed $15,000 (purchase price). Bonds may be mailed to any authorized address.

210102. Voluntary Liquidation of Indebtedness. An allotment for repayment of an indebtedness to the United States is registered for a definite period required to liquidate the indebtedness. Retired members may make allotments to:

A. Repay defaulted notes insured by the Federal Housing Administration or guaranteed by the Department of Veterans Affairs.

B. Pay delinquent Federal income taxes. A member may execute an agreement with the Internal Revenue Service (IRS) to pay delinquent taxes by monthly deductions from retired pay. Agreements are made by executing an IRS Form 2159.

C. Repay any other indebtedness to any department or agency of the United States Government.

D. Pay delinquent state, or local income or employment taxes.

210103. Charitable Contributions. Retirees are authorized to establish an allotment for making charity contributions to any of the Service Relief organizations. EFT is required for this type of allotment. Individual organizations are responsible for identifying an account for payment issue. Charity allotments include:

A. Army Emergency Relief Society;

B. Navy and Marine Corps Relief Society; and

C. Air Force Assistance Fund

EFFECTIVE DATES FOR STARTING INSURANCE ALLOTMENTS (D, M, V, OR N)				
	A	**B**	**C**	**D**
RULE	**If a retired member of**	**is authorized a class**	**and the**	**then start allotment effective the first day of the month**
1	any Military Service	N allotment		before the month in which insurance premium is due (note).
2			insurance policy is dated back to save age	in which application is made. Retiree must pay the reserve to cover previous months by direct payments to VA.
★3	*the Army or Air Force*	*D allotment*		*specified by retiree, if authorization reaches the servicing finance center before the date specified in Military Service procedural regulations. (IC 14-97)*
★4	*the Navy or Marine Corp (IC 14-97)*	*D or M allotment*		
★5	*any Military Service*	*D or V allotment*		*the date submitted by the Veterans Group Life Insurance through the automated data exchange process. (IC 14-97)*

NOTE:

A U.S. Government or National Service Life Insurance allotment deducted for 1 month pays the premium for the succeeding month. For example, if premium for July is paid by allotment, allotment must be effective June 1.

★Table 21-1. Effective Dates for Starting Insurance Allotments (D, M, V, or N) (IC 14-97)

EFFECTIVE DATES FOR CHANGING INSURANCE ALLOTMENTS (D, M, V, OR N)					
	A	**B**	**C**	**D**	**E**
RULE	**If a retired member of**	**has a class**	**and**	**then stop present allotment effective the last day of the month**	**then start new allotment effective the first day of the month**
★*1*	*The Army or Air Force*	*D or N allotment*	*the retiree or fiduciary or guardian requests a change in allotment*	*specified in request if allotment change can be processed by the date specified in Military Service procedural regulations*	*after the month old allotment is stopped. (IC 14-97)*
★*2*	*The Navy or Marine Corps*	*D, M, or N allotment*			
3	any Military Service	N allotment	allotment was authorized in incorrect amount or effective date	before its effective date	specified in original request or authorization of the date requested by the DVA.
★*4*		*D or V allotment*	*the OSGLI automated data exchange provides a change in the allotment*	*as specified by the automated data exchange process*	*specified by the automated data exchange process. (IC 14-97)*

★Table 21-2. Effective Dates for Changing Insurance Allotments (D, M, V, or N) (IC 14-97)

EFFECTIVE DATES FOR STOPPING INSURANCE ALLOTMENTS (D, M, V, OR N)

	A	B	C	D
RULE	**If a retired member of**	**has a class**	**and**	**then stop allotment effective the last day of the**
★*1*	*the Army or Air Force*	*D or N allotment*	*the retiree requests the allotment be stopped*	*month specified by the retiree, if authorization reaches the servicing DFAS Center before the date specified in Military Service procedural regulations. (IC 14-97)*
★*2*	*the Navy or Marine Corps*	*D, M, or N allotment*		
3	any Military Service	N allotment	the application for insurance is disapproved by the VA	month before the effective starting date of the allotment.
★*4*	*the Army or Air Force*	*D allotment*	*has insufficient "net" pay to satisfy IRS Notice of Levy for delinquent income tax determined by IRS to be a "problem case"*	*month before the month in which IRS levy is received (stop insurance allotments only if discontinuance of other voluntary allotments will not satisfy levy). (IC 14-97)*
★*5*	*the Navy or Marine Corps*	*D or M allotment*		
★*6*	*the Army or Air Force*	*D or N allotment*	*has pay suspended (note 1) or insufficient pay*	*last month in which enough pay accrues to satisfy deduction. Avoid stopping allotment unnecessarily or earlier than required. (IC 14-97)*
★*7*	*the Navy or Marine Corps*	*D, M, or N allotment*		
★*8*	*the Army or Air Force*	*D or N allotment*	*dies*	*(note 1.) (IC 14-97)*
★*9*	*the Navy or Marine Corps*	*D, M, or N allotment*		
★*10*	*any Military Service*	*D or V allotment*	*the retiree or OSGLI requests the allotment*	*month specified by the retiree, if authorization reaches the servicing DFAS Center before the date specified in Military Service procedural regulations; for OSGLI as specified by the automated data exchange process (note 2). (IC 14-97)*

NOTES:
1. See procedural regulations of Military Service concerned.
2. Advise OSGLI immediately of reason for stoppage of allotment if it was discontinued by the automated data exchange process.

★Table 21-3. Effective Dates for Stopping Insurance Allotments (D, M, V, or N) (IC 14-97)

Chapter 21-Non-Discretionary Allotments

2101-Non-Discretionary Allotmemts

210101 thru 210103 DoDD 7330.1, Jan 14, 1986

CHAPTER 22

PAYMENT OF DELINQUENT FEDERAL TAXES

2201 VOLUNTARY LIQUIDATION

A retiree may execute an agreement with the Internal Revenue Service (IRS) to pay delinquent taxes by monthly deductions from retired pay. Agreements are made by executing an IRS Form 2159. A retiree may cancel an agreement before the tax indebtedness is completely liquidated. This indebtedness is not increased periodically to include additional accrued interest and/or penalty expenses. Agreements are processed as follows:

220101. Army and Air Force. Process as a class T allotment.

220102. Navy and Marine Corps. Process as a class T allotment if the period of liquidation is 3 months or longer. If the period is less than 3 months, the disbursing officer remits the monthly deduction from retired pay to the appropriate IRS office.

2202 INVOLUNTARY LIQUIDATION

Delinquent federal taxes involuntarily liquidated are not treated as allotments. See Chapter 28 of this volume.

CHAPTER 23

UNITED STATES SAVINGS BONDS

2301 AUTHORIZED PURCHASES BY ALLOTMENT

Retired members may purchase U.S. Savings Bonds by class B allotment. Denominations of issue and pay deduction schedules are contained in Volume 5 of this Regulation. The purchase price of the bond is one-half of the face amount. Bond purchases in one calendar year may not exceed $15,000 (purchase price).

2302 MAILING BONDS

Bonds may be mailed to any address except those in blocked countries.

CHAPTER 24

COMPUTATION OF WAGES SUBJECT TO FEDERAL INCOME TAX WITHHOLDING

2401 BACKGROUND

Federal income tax withholding (FITW) is based on payments actually or constructively paid, regardless of date on which they are earned. Retired pay is paid constructively when it is credited to the account or set apart for a retiree so that he or she may draw on it at any time, although it is not actually reduced to possession. It must have been credited to or set apart for the retiree without any substantial limitation or restriction as to the time or manner of payment or condition under which it is to be made and brought within the retiree's control and disposition.

2402 RETIRED PAY SUBJECT TO FITW

Except as otherwise indicated in this chapter, retired pay is income and constitutes wages subject to FITW.

2403 RETIRED PAY NOT SUBJECT TO FITW

240301. The gross retired pay of a member is not subject to FITW if the member's retired pay is computed only on the basis of percentage of disability and the member is on the temporary or permanent disability retired lists, if:

A. On or before September 24, 1975, the member was entitled to receive retired pay computed on the basis of percentage of disability (26 U.S.C. 104(a)(4) and 104(b)(2)(A)) (reference (dw)); or

B. On September 24, 1975, he or she was a member of the Armed Forces (or Reserve Component thereof) or under a binding written commitment to become such a member (26 U.S.C. 104(a)(4) and 104(b)(2)(B) (reference (dw)); or

C. The member receives disability retired pay because of a combat-related injury. The term combat-related injury means personal injury or sickness incurred as a direct result of armed conflict, or while engaged in extra hazardous service, or under conditions simulating war, or caused by an instrument of war.

2404 EFFECT OF VA AWARD ON FEDERAL INCOME TAX WITHHOLDING

240401. A member is entitled to exclude from the taxable portion of retired pay:

A. The maximum amount that he or she would be entitled to receive as disability compensation upon application to the Department of Veterans Affairs (VA);

B. An additional amount based on the difference between a prospective VA disability compensation award and the amount excluded under section 2403, above.

C. The retroactive amount of a VA disability compensation award not previously excluded from retired pay.

2405 GROSS PAY PARTIALLY TAXABLE

Part of the retired pay for members who are entitled to have their retired pay computed on the basis of both percentage of disability and years of service may be designated as FITW wages. Any reduction of FITW wages for disability retired pay must meet one of the conditions set forth in section 2403, above.

240501. Compute the FITW wages of members retired for disability on or after October 1, 1949, as follows:

A. If the member is placed on the Permanent Disability Retired List (PDRL), subtract retired pay based on the percentage of disability from retired pay based on the years of service. The result of such subtraction is FITW wages.

B. If the member is placed on the Temporary Disability Retired List (TDRL), use one of these two methods:

1. If the member's disability rating is 50 percent or more, compute as in subparagraph 240501A., above.

2. If the member's disability rating is less than 50 percent, and retired pay is computed based on years of service, exclude from FITW wages the amount of retired pay the member would have received if such pay were computed solely on the actual percentage of disability. If the member's disability rating is less than 50 percent, and the member elects to receive disability retired pay based on the percentage of disability, the retired pay received is not FITW wages.

240502. FITW wages for members who retired before October 1, 1949, fell into two categories. Such retired pay either was based on years of service and was fully taxable, or it was based on disability and was nontaxable. Members retired for physical disability before October 1, 1949 were assigned a disability rating for purposes of computing retired pay entitlement under the provisions of the Career Compensation Act (reference (w)). These members could either continue to receive the nontaxable retired pay they were receiving on September 30, 1949, or elect to receive retired pay computed under the provisions of the Career Compensation Act (reference (w)) based on the percentage of disability assigned or years of active service. If members chose to have their pay computed based on the Career Compensation Act (reference (w)), their FITW wages were computed as described in section 2403 or subparagraph 240501.A., above.

2406 FITW WAGE REDUCTIONS FROM DEDUCTIONS AND COLLECTIONS

240601. Deductions and collections that reduce FITW wages include:

A. The total reduction of a member's retired pay in order to participate in the Retired Serviceman's Family Protection Plan (RSFPP). This deduction did not reduce taxable income until the tax laws were changed to permit a dollar-for-dollar reduction effective January 1, 1966. The tax implication for a member who pays for this protection by direct remittance is discussed in section 2411, below.

B. The total reduction of a member's retired pay to participate in the Survivor Benefit Plan (SBP). The tax implication for a member who pays for this protection by direct remittance is discussed in section 2410, below.

C. Waiver of pay because a member is receiving compensation or a pension from the VA.

1. If the member's gross retired pay is fully subject to FITW, subtract the amount of the VA waiver from FITW wages.

2. In the case of a member retired because of physical disability, reduce FITW wages, if any, by the amount of the VA waiver or the portion of the member's retired pay based on the actual percentage of disability, whichever is greater.

D. Reduction of retired pay due to the Dual Compensation Act of 1964 (reference (at)):

1. Reduce the FITW wages of a non-disability retiree by the amount of retired pay forfeited because of the retired member's federal civil service employment.

2. Determine the FITW wages of a member retired with a disability using the following process:

a. Step A. Gross retired pay less amount of RSFPP and/or SBP deduction and less amount of disability retired pay or VA disability compensation (whichever is greater) equals amount of FITW wages if there is no Dual Compensation Act (reference (at)) deduction. If there is a deduction due to the Dual Compensation Act (reference (at)), use the formula in Step B to compute the amount of FITW wages.

b. Step B. Gross retired pay, less amounts of RSFPP and/or SBP deduction and less any amount of retired pay waived to receive VA compensation, equals the amount of adjusted gross pay.

c. Step C. Taxable pay from Step A, divided by adjusted gross retired pay from Step B equals percentage ratio. Carry to five decimal places and round to four decimal places.

d. Step D. Subtract the amount of retired pay forfeiture for federal civilian employment from the adjusted gross pay obtained in Step B. Multiply the resulting figure by the percentage ratio from Step C to obtain FITW wages.

2407 UNITED STATES CITIZENS ABROAD

The retired pay of members who temporarily or permanently reside in a foreign country is subject to FITW as if they resided in the United States or its possessions. Thus, apply the withholding rules discussed above.

2408 ARREARS OF PAY

See section 3003 of this volume, for taxation policies that apply to deceased members and their beneficiaries.

2409 COLLECTION OF DELINQUENT TAXES

240901. Voluntary Withholding. A retiree may, with the consent of the IRS, have deductions made from his or her retired pay to satisfy a debt due to tax delinquency. The class T allotment has been designated to allow a member to make payments to IRS in this manner. See Chapter 22 of this volume.

240902. Involuntary Withholding. If a retiree neglects or refuses to pay his or her federal income tax liability within 10 days after receiving notice of liability, the cognizant IRS District Director can collect the amount by placing a levy on the member's retired pay. The IRS is required to give the member 10 days notice that a levy will be executed. This notice normally is included with the notification of liability. See Chapter 28 of this volume.

2410 TAXABILITY OF DIRECT REMITTANCE PAYMENTS FOR COVERAGE UNDER THE SURVIVOR BENEFIT PLAN (SBP)

★241001. When the retired pay account of an SBP participant is placed in a suspended status, the retiree is required to pay monthly SBP costs by remittance. (See section 5203 of this volume for resulting tax consequences.)

241002. A certificate of costs is not issued to cover deposits made in later years. During those years, the member will have received no taxable retired pay against which the certificate could be applied. If, in the future, the member again becomes entitled to receive retired pay, a certificate of costs is issued at the time the pay account is reinstated, covering all deposits made during years of suspension and not previously included on a certificate of costs. If the member does not again receive retired pay before death and, as a result, the retired pay income

exclusion for SBP costs is not fully used during the member's lifetime, the remaining income exclusion (the unused "consideration for the contract") is available to the annuitant for purposes of reducing taxable income derived from annuity payments. In such cases, therefore, at the time the annuity is established, the annuitant is furnished a certificate of costs covering pertinent deposits made. See Chapter 52 of this volume.

2411 TAXABILITY OF DIRECT REMITTANCE PAYMENTS FOR COVERAGE UNDER THE RETIRED SERVICEMAN'S FAMILY PROTECTION PLAN (RSFPP)

The SBP rules in section 2410, above, apply to members who paid RSFPP coverage by direct remittance after January 1, 1966. Note that certificates of costs were issued to all members whose accounts were active as of December 31, 1965. These certificates covered costs that were paid by direct remittance and automatically deducted from the member's retired pay.

2412 PROCESSING CORRECTION OF RECORDS CASES

241201. If payment is made as the result of a correction of miliary records, that payment is processed as follows.

A. When amounts previously paid and reported as FITW wages are not subject to FITW as a result of the correction, the member is provided either a corrected TD Form W-2P for the 3 calendar years before the year that the correction action is made or a letter citing the "before" and "after" amounts for each calendar year involved. The member then may obtain a tax refund, if any is due, from the IRS based on his or her total tax liability for 3 years. If the retiree asks for a refund for periods before this 3-year period, a claim must be filed with the retired pay activity. That activity may use 52 Comp Gen 420 (reference (dx)) as authority for refunding excess FITW before this 3-year period.

B. When the member's retired pay is subject to FITW, the payment is reported as FITW wages from applicable current year appropriations reserved for such payment.

2413 TAXABILITY AND WITHHOLDING

241301. General. Disability severance pay normally is taxable income. However, disability severance pay is not subject to tax withholding or reporting if at least one of the following three conditions exists:

A. On September 24, 1975, the individual either was a member of an Armed Force or was under a binding written commitment to become a member;

B. The entitlement resulted from combat-related injury or illness, as determined by the Secretary of the Military Department concerned (or designee), which happens as a result of any of the following activities:

1. Directly from armed conflict,

2. While actually performing extra-hazardous service, even if the service does not directly involve combat,

3. Under conditions simulating war, including maneuvers or training, or

4. By an instrumentality of war, such as weapons.

C. The member would be entitled to receive VA disability compensation for the same illness or injury that resulted in his or her entitlement had he or she made application.

241302. VA Compensation Awarded Prior to Separation. Finance offices will not withhold taxes if, before separation, the member provides documentation that he or she is entitled to disability compensation from the VA per subparagraph 241301.C., above.

241303. VA Compensation Awarded After Separation. When a VA disability compensation award has not been made by the separation date, the commander should advise the member that a VA compensation award after separation could make the disability severance pay non-taxable. The member also should be advised to file appropriate tax returns, with VA provided documentation and related separation documents, claiming reduction in taxable income based on the St. Clair v. U.S. (reference (dy)) district court decision. A corrected IRS Form W-2 (W-2c) or other document, which could support the decrease in taxable income, will not be issued.

2414 TAXABILITY OF RETIRED PAY FOR FLEET RESERVIST/FLEET MARINE CORPS RESERVIST NOT PHYSICALLY QUALIFIED FOR RETENTION IN THE FLEET RESERVE/ FLEET MARINE CORPS RESERVE (FR/FMCR)

The retired pay of a member of the FR/FMCR who is transferred to the retired list, when found not physically qualified for retention in the FR/FMCR (as stated in paragraph 020102 of this volume) is subject to FITW.

CHAPTER 25

COMPUTATION OF FEDERAL INCOME TAX WITHHOLDING

2501 WAGES SUBJECT TO WITHHOLDING OF FEDERAL INCOME TAX

250101. Taxable pay, as computed under provision of Chapter 24, is subject to withholding of federal income tax.

250102. The gross monthly amount of the annuity (RSFPP/SBP), or the monthly amount of the SBP annuity remaining after it has been reduced by a Dependency and Indemnity Compensation (DIC) award and/or Social Security offset, is taxable income and is subject to FITW unless the annuitant elects no withholding. See paragraphs 410201 and 410202 and paragraphs 520201 and 520202 of this volume.

2502 RATES FOR REGULAR AND ADDITIONAL WITHHOLDING OF FEDERAL INCOME TAX

250201. Federal income tax will be withheld in accordance with Treasury Department Circular E (reference (dz)).

250202. A member may authorize an additional monthly amount of federal income tax to be withheld. Refer to the procedural instructions of the retired pay activity concerned regarding the additional withholding of federal income tax.

250203. FITW for an annuitant will be computed on the basis of "married, three exemptions" unless the annuitant elects no withholding or submits a certificate requesting a different rate of withholding.

250204. Nonresident Alien

A. Service Outside the United States. Members who are nonresident aliens are not liable for United States income tax on income received for service outside the United States, and such income is not subject to FITW. Service by a nonresident alien member assigned to a base outside the United States, or to a U.S. vessel (other than vessels normally used in coastal waters only) on which the enlisted members are entitled to sea duty pay, is considered service outside the United States.

B. Service Within the United States. For purposes of this paragraph, the United States includes the 50 states and the District of Columbia. Service on board a coast-wide vessel is regarded as service within the United States. Duty on the Great Lakes, the Mississippi River, and other inland waters of the United States, or while serving on a vessel normally operating within the territorial limit of the United States, is considered service within the United States. Gross pay for this service is subject to FITW.

C. FITW Computation

1. Step 1. Compute the member's FITW wages from gross retired pay as if he or she is a United States citizen.

2. Step 2. Determine the ratio of the number of days of active duty inside United States to the total number of days of active duty.

3. Step 3. Multiply FITW wages determined under Step 1 by the ratio determined under Step 2. The resulting amount is subject to FITW at the rate of 30 percent, without being reduced by withholding allowances of personal exemptions, unless the member is a citizen of a country that has a tax treaty with the United States. Use the withholding rate specified in the treaty if the member files TD Form 1001 with the supporting DFAS Center and the Director of International Operations, Internal Revenue Service, Washington, DC 20225. Note that when the member files an income tax return, the IRS will refund any excess tax withheld. A member in this status is responsible for reporting the income to the country of the member's citizenship and paying any tax owed on this income.

2503 RATES OF FEDERAL INCOME TAX WITHHOLDING FOR ONE-TIME PAYMENTS

Special computation rules have been developed by the IRS for the computation of FITW for one-time payments. These rules differentiate whether the taxable portion of a one-time payment must be lumped together with normal taxable pay or should the taxable portion of a one-time payment be treated separately. The rules are differentiated by whether the taxable portion of the one-time payment is made concurrently with a regular payment, or made separately from the regular monthly payment.

250301. One-time payments made concurrently with a regular monthly payment. When a one-time payment is combined with the regular monthly payment, FITW may be computed at 28 percent on the one-time payment portion if it separately is identified and if tax is withheld on the monthly payment at the appropriate rate. (See Revenue Ruling 82-200 (reference (ea)).)

250302. One-time payment made separately from a regular monthly payment. There are two computation rules available. The difference between the rules is not the type of payment, but whether federal income tax previously was withheld from the member's regular monthly payment.

A. When federal income tax was not withheld because the member's exemptions exceeded the taxable portion of retired or retainer pay, the one-time payment must be included with the wages paid for the last pay period (in the same calendar year) or with the wages paid for the current pay period. The amount of withholding is then computed as if this was a single payment.

B. When federal income tax has been withheld there are two alternatives:

1. Combine the taxable portion of the payments, as in subparagraph 750302.A., above, and compute the aggregate withholding amount. Then subtract the amount of federal income tax previously withheld or the amount scheduled to be withheld for the current period. The excess amount then would be deducted from the one-time payment.

2. Withhold a flat 28 percent of the taxable portion of the one-time payment. This amount is computed without regard to the withholding exemptions claimed and cannot be used when there was no federal income tax withheld from the regular monthly payment. (See Revenue Ruling 66-190, 1966-2 CB 457 (reference (eb)).)

CHAPTER 26

STATE AND LOCAL TAXES

2601 INTRODUCTION

The taxing authorities of a member's legal residence may tax the member's retired pay.

2602 WITHHOLDING

260201. A retiree may request voluntary state income tax withholding if the designated state has signed the standard written agreement with the Department of Defense.

260202. The retiree's request must be in writing and is revocable at any time. The withholding amount requested must be an even dollar amount, at least $10, or the state's minimum, if that amount is higher.

2603 PAYMENTS AND REPORTS

260301. The Uniformed Services will disburse amounts withheld to the states in the month following each calendar quarter. Payment procedures and state income tax withholding shall follow the usual fiscal practices of the Uniformed Services.

260302. The Uniformed Services will provide each retiree an IRS Form W-2P that indicates the total tax withheld for each state at the year's end.

CHAPTER 27

GARNISHMENTS

2701 BACKGROUND

Public Law 93-647, section 459 (reference (ec)), waived the United States' sovereign immunity from suit to allow garnishment (or similar process in the nature of garnishment) against the United States for the enforcement of child support and alimony obligations of certain U.S. Government employees, including active duty and retired members of the Armed Forces. Public Law 95-30, section 509 (reference (ed)), which made substantial changes in the garnishment law, clarified congressional intent, and authorized issuance of regulations to establish procedures to carry out the provisions of the garnishment law.

2702 PURPOSE

This chapter prescribes guidelines for administering the garnishment law for payment of retired members.

2703 SCOPE

The Armed Forces must comply with valid legal process issued for the enforcement of child support or alimony obligations by federal and state courts or administrative agencies when such agencies are authorized by state law to issue such legal process. The member's retired pay, based upon remuneration for employment, is subject to legal process the same as if the United States were a private person. However, the DFAS Centers are not required to vary their normal pay and disbursement cycle to comply with any such legal process.

2704 DEFINITIONS

270401. Alimony. This is defined as periodic payments of funds for the support and maintenance of a spouse or former spouse. Alimony includes (subject to and in accordance with state law) separate maintenance, alimony pending legal process, maintenance, and spousal support. It also includes attorney fees, interest, and court costs when, and to the extent that they are, expressly made recoverable as such by a decree, order, or judgment issued in accordance with applicable state law by a court of competent jurisdiction. Alimony, as used in Chapters 27 through 29 of this volume, excludes payments or transfers of property made in compliance with any community property settlement, equitable distribution of property, or other division of property between the spouses or former spouses.

270402. Child Support. This is defined as periodic payments of funds for the support and maintenance of a child or children. Subject to and in accordance with state law, child support includes (but is not limited to) payments to provide for health care, education, recreation, clothing, or other specific needs. It also includes attorney fees, interest, and court costs, when and to the

extent that they are made recoverable as such by a decree, order, or judgment issued in accordance with applicable state law by a court of competent jurisdiction.

270403. Disposable Earnings. This is defined as that part of an individual's earnings remaining after lawful deductions. To determine disposable earnings of retired members, deduct the following from gross retired pay:

A. Amounts withheld in payment of debts owed to the United States;

B. Deductions required by law (i.e., SBP and RSFPP cost deductions, deductions for VA waiver, and dual compensation);

C. Federal income tax withholding (FITW), if required or authorized by law. Additional amounts for tax withholding are made from retired pay only when the member submits evidence of a tax obligation, which supports the additional withholding.

D. State income tax withholding if authorized (i.e., when the retiree's state of legal residence has a withholding agreement with the Department of Defense). The amount withheld will not exceed the retiree's estimated retired pay state income tax liability.

270404. Legal Process. This is defined as any writ, order, summons, or other similar process in the nature of garnishment. Legal process may be issued by:

A. A court of competent jurisdiction within any state, territory, or possession of the United States;

B. A court of competent jurisdiction in any foreign country with which the United States has entered into an agreement that obligates the United States to honor such process or,

C. An authorized official according to an order of such a court of competent jurisdiction or pursuant to state or local law.

270405. Remuneration for Employment. This term includes severance pay, retirement or retired pay including disability retired pay, and RSFPP, SBP, and limited income widow's annuities. Does not include death gratuity.

270406. Wage Assignment. This is defined as an order of the court assigning a portion of the member's retired pay on a continuing basis without a recurring court order. Wage assignments are valid only if specifically authorized by state law.

2705 RECEIPT OF PROCESS

270501. Method of Service. The document invoking the legal process to enforce an individual's obligations to provide child support or alimony is served by certified or registered mail

(return receipt requested) or by personal service upon the head of the government entity having payment responsibility for the money involved, or on its designee. The process should be served by a party who, under state law, is authorized to do so. The process must be accompanied by data to permit prompt identification of the individual and the monies involved and must clearly show that it is issued for child support or alimony.

270502. Designated Activity

Director
Defense Finance and Accounting Service -
Cleveland Center
Attn: Director, Retired Pay Operations
Anthony J. Celebrezze Federal Building
Cleveland, OH 44199-2055

2706 EFFECTS ON ALLOTMENTS

270601. Allotments are stopped to comply with a writ of garnishment or attachment in the following order unless the member advises his or her Military Service otherwise.

A. Charitable contributions

B. Bonds

C. Savings

D. Loans

E. Delinquent state or local income taxes

F. Dependents

G. Home loans

H. Commercial insurance

I. Army, Navy Mutual Aid Insurance

J. U.S. Government Life Insurance

270602. Allotments for repayment of indebtedness to the United States or delinquent federal taxes may not be garnished.

270603. Allotments for individuals who are garnishing the pay of members are subject to garnishment or attachment. Allotments to dependents or relatives are not involuntarily

cancelled if there are funds remaining for payment of the allotment after the garnishment has been honored.

270604. Allotments discontinued to satisfy a garnishment action may be reinstated by the paying office upon request of the retiree when such amounts are no longer needed to satisfy the garnishment action.

270605. Allotments of pay for delinquent state or local income or employment taxes will not be excluded from pay subject to garnishment.

2707 RESPONSIVE PLEADINGS

Response to interrogatories or to legal process seeking the payment of child support or alimony obligations must be made within 30 days (or a longer period if provided by applicable state law or if there is an agreement for extension of time) from the effective date of service.

2708 NOTICE TO MEMBER

The person who is served must, as soon as possible but no more than 15 days after the date of service, send written notice to the retired member whose pay is affected that the process has been served. The notice must explain the potential effect of the legal process on the member's pay and should be accompanied by a copy of the process and all pertinent documents.

2709 LIMITATIONS

The amount of pay subject to garnishment or similar process for child support or alimony is limited to 50 percent of disposable pay if the member is supporting a second family or 60 percent if the member is not supporting a second family. If, however, the member is more than 12 weeks in arrears, the amount subject to legal process is increased to 55 percent where the member is supporting a second family, and 65 percent where the member is not supporting a second family.

2710 LIABILITIES

271001. Neither the United States nor any disbursing officer or other government entity is liable for any payment made from monies due or payable from the United States to any individual according to legal process if the payment is made in accordance with the regulations pertaining to garnishments.

271002. Federal employees, whose duties include responding to relevant interrogatories made before issuance of legal process and authorized by law, are not subject to any disciplinary action or civil or criminal liability or penalty for, or on account of, any disclosures of information made in connection with the answering of such interrogatories.

2711 PRIORITIES

271101. Legal Process Issued From Two or More Parties

A. When a governmental entity is served with more than one legal process with respect to money payable to any individual, available pay is available on a first-come, first-served basis.

B. The next process is satisfied out of pay subject to garnishment that remains after the prior process has been satisfied.

271102. Effect of Tax Levies on Garnishment

A. The amount of pay being withheld in garnishment or similar legal process according to a judgment by a court of competent jurisdiction for child support or alimony may not be used to satisfy a notice of levy for unpaid federal taxes.

B. To take priority, legal process for collection of alimony must be served before receipt of the tax levy.

C. If an attaching process containing indebtedness for both child support and alimony is served before a tax levy, both take precedence; however, if the judgment predates the tax levy but the attaching process is served after the tax levy, only child support is entitled to exemption and the levy is entitled to priority.

2712 COLLECTIONS BY GARNISHMENTS

A garnishment procedure may not attach more than 65 percent of a retired member's disposable earnings. If the member is indebted to the United States, only so much of the indebtedness that is being withheld each month is deducted from gross earnings to calculate disposable earnings.

EXAMPLE: An order is served June 1, 1977 on the designated activity against pay of retiree. The retiree's monthly gross is $1,500; SBP cost, $127.50; FITW, $205.88; and he or she is indebted to the United States for $2,000. Liquidation of the indebtedness has been established at the rate of $500 per month. Gross earnings thus are reduced by the debt deduction (that is, $500), SBP cost, and FITW, resulting in disposable earnings of $666.62. The 65-percent rule limits the garnishment to $433.30 ($666.62 X 65 percent) and member receives $233.32 ($666.62 minus $433.30).

2713 GARNISHMENT OF RENOUNCED PAY

A writ of garnishment must be honored even though the member has renounced receipt of pay. Entitlement to pay continues as "due from or payable by" the United States and is subject to garnishment. The right to accrue pay may not be waived, except as authorized by law. See Chapter 12 of this volume concerning the waiver of retired pay.

CHAPTER 28

COLLECTION OF DEBTS

2801 GENERAL

A debt may be due to an overpayment or erroneous payment not legally due a member, or an amount due to the U. S. Government but unpaid by a member. A debt may be for an overpayment of retired pay, an overpayment of active duty pay and allowances, or other indebtedness arising from service on active duty, an overpayment from another federal agency, unpaid government hospital bills, unpaid rent due military installations, IRS tax levies, court judgments, and bad checks tendered to appropriated or non-appropriated fund activities. Also, a failure to deduct or an under-deduction from retired pay for VA compensation, federal civil employment, Retired Serviceman's Family Protection Plan or Survivor Benefit Plan costs, or allotments constitute an overpayment of retired pay. Pay or salary that has been earned for personal services rendered to the United States is authorized to be withheld only when expressly provided for by statute. See Table 28-1 for additional information. See paragraph 190606 of this volume for precedence of discontinuing allotments, if required, to increase available pay for collection.

2802 SPECIALIZED TERMS

280201. Administrative Offset. The withholding of money payable by the U. S. Government to, or held by the government for, a person to satisfy a debt that person owes to the government.

280202. Allowances. Includes, but is not limited to, allowances for subsistence, quarters, uniforms, personal money, family separation, travel and transportation, and overseas station allowances.

280203. Compromise. The acceptance of a lesser amount in settlement of a debt in accordance with 31 U.S.C. 3711 (reference (dh)) and 4 C.F.R., Chapter II, Part 103, (reference (ee)).

280204. Creditor Agency. The United States agency to which the debt is owed.

280205. Delinquent Debt. A debt that is past due and unpaid.

280206. Disposable Pay. That part of pay remaining after deduction of any amount required or authorized by law to be withheld for state or federal income taxes.

280207. Erroneous Payment. A payment that was not legal and proper when made.

280208. Involuntary Collections. Collection action taken without a member's consent following provision of procedural due process rights to member. Involuntary collection action requires a statute specifically authorizing such collection.

280209. Pay. That part of current pay remaining after any reductions in entitlements required by law because of:

A. Civilian employment (dual compensation, foreign employment, and conflict of interest restrictions)

B. Reserve duty (IDT/ADT)

C. Retired Serviceman's Family Protection Plan premium

D. Survivor Benefit Plan premium

E. VA compensation

280210. Paying Agency. The federal agency from which the debtor is receiving current pay.

280211. Routine Adjustments. The correction of an overpayment resulting from clerical or administrative errors or delays in processing pay documents that is discovered and corrected within no more than 2 monthly pay periods after the date of overpayment. This includes retroactive VA increases resulting from legislation.

280212. Salary Offset. The collection of a debt to the United States by installment deduction(s) at officially established pay intervals from the current pay account of a member.

280213. Waiver and Waive. The authority to forego the collection of a government claim arising out of an erroneous payment or an overpayment of pay or allowance.

2803 COLLECTION WITH MEMBER'S CONSENT

Members indebted to the United States will be encouraged to discharge their indebtedness through lump-sum cash payment when possible. When the amount of the debt relative to the member's ability to repay indicates that lump-sum settlement would create financial hardship for the member, installment payments will be accepted. Members will be encouraged to accept liability voluntarily for their indebtedness and agree to repayment schedules that adequately protect the interests both of the United States and those members.

2804 AUTHORITY FOR INVOLUNTARY COLLECTION

Current pay is available for repayment of an indebtedness without the member's consent only if such recovery is expressly authorized by statute. Statutory authority to collect indebtedness to the United States is contained in 37 U.S.C. 1007(c) (reference (z)), 5 U.S.C. 5514 (reference (az)), and 31 U.S.C. 3716 (reference (dh)). Debts to the Department of Defense or any of its instrumentalities or other Uniformed Services will be collected under 37 U.S.C. 1007(c) (reference

(z)). Debts administratively determined to be owed to another federal agency shall be collected by salary offset under authority of 5 U.S.C. 5514 (reference (az)). Debts determined to be owed to another federal agency shall be collected administratively under authority of 31 U.S.C. 3716 (reference (dh)). However, requests by courts to be paid money due non-federal debtors are not debts to the United States that can be involuntarily offset, unless the offset specifically is authorized by statute.

2805 COLLECTION UNDER 37 U.S.C. 1007(C) (reference (z))

The law authorizes the deduction from a member's pay of amounts that the Secretary of the Military Department concerned (or designee) administratively determines to be owed the United States or any of its instrumentalties.

280501. Routine Adjustments. See paragraph 280211, above, for definition. The member shall be given notice of the adjustment when it is made, or as soon thereafter as practicable. The member shall be told whom to contact for additional information.

280502. Other Collections. Before initiating any collection action, other than a routine adjustment, the member shall be given at least 30 days written notice that includes the following provisions. (Note: the Secretary concerned may prescribe additional rights prior to collection by offset under 37 U.S.C. 1007(c)) (reference (z)).)

A. The nature and amount of the debt due the United States, and the intent to commence collection through deductions from pay;

B. The member's opportunity to inspect and copy or request and receive a copy of government records related to the debt;

C. The member's opportunity for review of the decision related to the debt;

D. The member's opportunity to request a written agreement with the Secretary of the Military Department concerned (or designee) under terms acceptable to both parties to establish a schedule for repayment of the debt;

E. The member's right to seek waiver or remission of the debt, if appropriate.

280503. Active duty debts will be transferred on retirement and collection will be resumed from retirement or retainer pay. It will not be necessary to repeat the due process procedures in paragraphs 280501 and 280502, above.

280504. Where a member of one Military Service owes a debt to another Military Service and the Secretary of the creditor Service makes an administrative determination of indebtedness, the Secretary may forward that determination, along with certification of compliance with appropriate procedures set forth above, to the Secretary of the member's Military Service. That Secretary (or designee) then may initiate collection.

2806 COLLECTION UNDER 5 U.S.C. 5514 (reference (az))

★280601. The Secretary of the Military Department concerned (or designee) determines that a member is indebted to the United States under the authority of 5 U.S.C. 5514 (reference (az)). The designated agent listed below is responsible for receiving these collection requests:

DFAS-CL/ABA
1240 E 9th Street
Cleveland, OH 44199-8002

★280602. Collection may be made in monthly installments or at established pay intervals not to exceed 15 percent of disposable pay for any pay period, unless a greater percentage is authorized by written consent of the member. Unsatisfied debts at discharge or retirement shall be deducted from subsequent payments of any nature due the member.

★280603. Due Process. Debts collected under 5 U.S.C. 5514 (reference (az)) are those owed to departments and agencies outside the Department of Defense or other Uniformed Services. The creditor agency is responsible for providing due process rights to member debtors and for certifying to the Secretary of Defense that required due process rights have been provided when requesting collection action. Once the Secretary of the Military Department concerned (or designee) has accepted the debt for collection, a member should be given written notice giving the nature and amount of the debt due the United States and the intent to commence collection through deductions from pay. The notice should identify a point of contact at the creditor agency for any questions or disputes that the member may have concerning the intended collection action.

2807 LIMITATION ON AMOUNT OF DEDUCTIONS

280701. The amount to be collected each month in order to recoup an indebtedness from a member's retired pay should be no less than $50, or an amount each month reasonable to the size of the debt and the member's ability to pay. Minimum amounts do not apply where collection amounts are specified by statute.

280702. The maximum monthly amount that may be collected under section 2805, above, is two-thirds of the member's pay less:

A. Amounts deducted in arriving at disposable pay plus

B. Amounts collected under section 2806, above, and this section.

2808 INTEREST, PENALTIES, AND ADMINISTRATIVE COSTS

280801. With respect to collections, other than routine adjustments, the Secretary concerned shall charge a minimum annual rate of interest on an outstanding debt to the United

States that is equal to the average investment rate for the Treasury tax and loan accounts for the 12-month period ending on September 30 of each year, rounded to the nearest whole-percentage point.

280802. Interest shall accrue from the date on which notice of debt and the interest requirements are first mailed, or hand delivered, to the debtor or such date as specified in the notice.

280803. Interest under paragraph 280801, above, may not be charged if the amount due on the claim is paid within 30 days after the date from which interest accrues in paragraph 280802, above.

280804. The Secretary concerned shall assess charges to cover the administrative cost of processing and handling a delinquent debt.

280805. A penalty charge, not to exceed 6 percent a year, shall be assessed for failure to pay a part of a debt more than 90 days past due. The charge will be calculated from the 91st day of delinquency, but shall accrue from the date the debt became delinquent.

280806. The interest specified in paragraph 280801, above, does not accrue on charges assessed under paragraphs 280804 and 280805, above.

280807. The Secretary of the Military Department concerned may prescribe regulations identifying circumstances appropriate to waiving collection of interest and charges under paragraphs 280801, 280804, and 280805, above.

2809 WAIVER OF INDEBTEDNESS

280901. Recovery of erroneous payments of pay and allowances to or on behalf of a member or former member of the Uniformed Services, may be waived if recovery is determined to be against equity and good conscience. (Erroneous payments of travel and transportation allowances, made prior to December 28, 1985, may not be waived.) Application for waiver must be received by the Department of Defense within 3 years from the date the erroneous payment was discovered. The member must apply for a refund of any amount collected within 2 years from the date of waiver approval. A claim of the United States against a member or former member of the Uniformed Services, arising out of such erroneous payment, may be considered for waiver within 3 years from the date of discovery, when collection of the erroneous payment would be against equity and good conscience, and not in the best interest of the United States. Generally, these criteria are met by a finding that: (a) the erroneous payment occurred through administrative error; and (b) there is no indication of fraud, misrepresentation, fault, or lack of good faith on the part of the member or any other person having an interest in obtaining a waiver of the claim. Any significant unexplained increase in pay that would require a reasonable person to inquire about the correctness of pay would preclude a waiver when the member fails to bring the matter to the attention of the appropriate officials. Collection action may be suspended in certain cases pending action on an application for waiver. In determining, on a case-by-case basis, whether suspension of collection would be appropriate, consider whether:

A. There is a reasonable possibility that a waiver will be granted;

B. The government's interest will be protected if suspension is granted by reasonable assurance that the erroneous payment could be recovered if waiver is not granted;

C. The collection of the debt will cause undue hardship. See procedural instructions of the Military Service concerned.

2810 APPLICATION OF THE FEDERAL CLAIMS COLLECTION ACT

The Secretary of the Military Department concerned shall make all reasonable efforts to collect all claims of the United States for money or property arising out of the activities of, or referred to, that agency. Any claims that have not been referred to another agency for further collection action and do not exceed $20,000 exclusive of interest, may be compromised or collection action may be terminated when the Secretary concerned determines that no person liable in the claim has the present or prospective financial ability to repay the claim, or that cost of collecting the claim is likely to exceed the amount of recovery. See the appropriate regulation of the Military Department concerned.

281001. Army: AR 27-40 (reference (eg))

281002. Navy: NAVCOMPTINST 4365.1 (reference (eh))

281003. Air Force: AFR 112-1 (reference (ef))

2811 IRS TAX LEVIES

281101. Background. IRS tax levies are requests for one-time deduction from a member's retired pay to collect back taxes owed. If the amount collected in any particular month is not enough to pay off the member's tax debt, the IRS may issue additional tax levies to cover later months of retired pay income. Medal of Honor recipients are exempt from tax levy.

281102. Procedures. The IRS will transmit IRS Forms 668-W or 668-W(c) in five parts (the letter "c" designates a computer-generated form which is the same as the version of the form without the "c") which will identify the member; specify the amount of the tax liability; give instructions for providing due process; show how to compute the levy based on input from the taxpayer; and give the address to which to send the payment.

Read and follow the instructions on the IRS Form 668-W; in general, this requires notifying the taxpayer, computing the amounts available for payment to the IRS, and making the payment. Currently, the IRS Form 688-W requires the employer to send to the IRS all of the taxpayer's net pay less what is exempt from levy. Net pay is gross retired pay less all deductions and allotments in effect as of the date of receipt of IRS Form 688-W. Follow the instructions on that form when computing exemptions.

Specific instructions:

A. Within 3 working days from the date of receipt of the levy, notify the taxpayer by using a formal letter similar to that at Appendix W and enclosing the member's copies of the IRS Form 668-W.

B. If the date of receipt of the levy is between the 1st and the 15th day of the month, advise the member that the deduction from retired pay will be on the first business day of the second month after current month. If the date of receipt of the levy is between the 16th and the last day of the month, the deduction will be on the first business day of the third month after current month. Thus, if the receipt of the levy is November 11, 1993, deduction will be in the retired pay check of January 1, 1994. If the receipt of the levy is November 28, 1993, the deduction will be on February 1, 1994.

C. Notify affected former spouses with divorce dates prior to February 3, 1991 (division of property settlement cases only), that a future payment will be different from anticipated. Do not tell the former spouse the reason for the fluctuation.

D. Even if the member's declaration of exemption is not timely, it should be honored if received prior to the last date for making changes to the member's retired pay account.

281103. Problem Cases. When the IRS has determined the taxpayer to be a "problem case," the taxpayer will be furnished with the Form 668-W, a statement of the amount of delinquent taxes and a statement that "net pay" is not enough to pay the levy and that all available accrued pay should be sent to the IRS. Available accrued pay is gross retired pay less:

A. Withholding for current federal taxes (statutory amounts only)

B. Amounts required to satisfy prior overpayments of pay and allowances

C. Amounts waived in favor of compensation from the Department of Veterans Affairs

D. Amounts forfeited for dual compensation and pay cap (see paragraphs 050203, 050204, and 050209 of this volume)

E. SGLI premiums

F. Deductions for military survivor benefit plans of whatever type

G. Voluntary child support allotments to satisfy court orders, provided the court order is dated prior to the date of the levy from the IRS

H. Pay attached or garnished for child support or alimony

I. The levy exemptions calculated under normal levy procedures

The main difference between a regular levy and a problem case levy is that, under the latter, the member's voluntary allotments of retired pay must be stopped to satisfy the levy. If it is not necessary to stop all allotments, the member should be given the opportunity to select those allotments to be stopped. If the member does not so elect, stop such allotments as are necessary, stopping any commercial insurance allotments last.

2812 BANKRUPTCY

A member may file a petition of bankruptcy under Chapters 7, 11, or 13 of the Bankruptcy Code (reference (dg)).

281201. When the amount of an indebtedness due the United States is incurred prior to the filing date of the petition, the debt is termed prepetition indebtedness. Such debt may be collected by set-off from the member's pay account only through the day prior to the date the bankruptcy petition is filed, except as provided below:

A. After the date of bankruptcy petition is filed, prepetition indebtedness due the United States may be collected by the filing of proofs of claim with United States Bankruptcy Court. No collection action may begin until the Bankruptcy Court has provided a repayment plan or liquidation schedule. Collection is then limited to the amount provided in such a plan or schedule.

B. After the date the bankruptcy petition is filed, prepetition indebtedness due the United States may be set-off from the member's pay account if the member reaffirms indebtedness due the United States. Reaffirmation agreements must be approved by the court.

C. If the court subsequently dismisses a bankruptcy case, collection is permitted by set-off if otherwise authorized in Chapters 27 through 29 of this volume.

281202. An indebtedness due the United States, but incurred after the filing date of the petition of bankruptcy, may be collected by set-off if otherwise authorized by Chapters 27 through 29 of this volume.

281203. A member may enter voluntarily into a Chapter 13 Plan (formerly Wage Earner's Plan) under the Bankruptcy Code (reference (dg)). When required by a Chapter 13 Plan (reference (dg)), send the member's pay to the court-appointed trustee as ordered by the court. (See Chapter 17 of this volume.)

2813 PAY NOT AFFECTED BY CIVIL PROCESS

A retired member may not be deprived of his or her pay by civil process of garnishment or levy except as follows:

281301. Garnishment for child support or alimony. (See Chapter 27 of this volume.)

281302. Levy for delinquent federal income taxes. (See section 2811, above.)

281303. Levy for child support

INDEBTEDNESS TO GOVERNMENT AGENCIES					
	A	B	C	D	E
RULE	If a (an)	of	is indebted for	then collect from retired pay	at maximum monthly rate of
1	retired member	any Military Service	overpayment of retired pay	involuntarily	see note 1.
2			overpayment of active duty pay and allowances carried forward from active duty		rate established while on active duty (note 1).
3			unpaid hospital bills for medical services furnished a dependent	involuntarily or pursuant to Military Service regulations	see note 1.
4			excess cost of shipment of household goods		
5		the Army or Air Force	uncollectible check to a commissary issued or endorsed by member or member's agent	involuntarily	all pay (excluding FITW).
6		the Navy or Marine Corps		involuntarily or pursuant to Military Service regulations	see note 1.
7		any Military Service	any indebtedness to a non-appropriated fund activity		
8			hospital rations furnished to a member		
9			CHAMPUS payment on behalf of member's dependents	with member's consent	amount applicable.
10			delinquent federal income tax	involuntarily	see section 2811.
11		the Army or Air Force	loss, damage, or destruction of arms or equipment in member's care or use	involuntarily or pursuant to Military Service regulations	see note 1.
12		the Navy or Marine Corps		with member's consent	

Table 28-1. Indebtedness to Government Agencies

RULE	A If a (an)	B of	C is indebted for	D then collect from retired pay	E at maximum monthly rate of
13	accountable officer	any Military Service	loss or damage to military supplies, upon final settlement of accounts of officer charged with issue of the supplies	involuntarily or pursuant to Military Service regulations	see note 1.
14	retired member		damage to assigned family housing, or damage to or loss of equipment or furnishings caused by the abuse or negligence of the member or the member's dependent(s) or guests of member or the member's dependent(s) while on active duty and established by a Report of Survey	involuntarily	
15			a debt determined valid from another federal agency		not to exceed 15 percent of disposable pay.
16			RSFPP and SBP payments to a surviving annuitant when retiree presumed dead is later found to be alive		all pay or amount applicable.
17			advanced and unused travel expense		see note 1.
18			dual compensation restrictions		
19			negotiating both original and substitute checks		

Table 28-1. Indebtedness to Government Agencies (Continued)

RULE	A If a (an)	B of	C is indebted for	D then collect from retired pay	E at maximum monthly rate of
20	retired member	any Military Service	retired pay paid concurrently with active duty pay while serving as a Reservist. (a) prior fiscal year(s) or prior month(s) (b) current	involuntarily	see note 1. 1/12 of total for fiscal year
21		any of the Armed Forces	readjustment pay (a) paid prior to Sep 15, 81 (see Table 4-1) (b) paid after Sep 14, 81		all.
22			non-disability severance pay (a) paid prior to Sep 15, 81 (see Table 4-2) (b) paid after Sep 14, 81		see note 2.
23			separation pay		
24		any Military Service	an uncollectible check endorsed or issued by the member or a defaulted loan made to the member at a military banking facility overseas		see note 1.
25			an uncollectible check endorsed by the member to a disbursing officer		

NOTES:
1. Deductions will not exceed limitation set forth in paragraph 280702 of this volume.
2. Monthly rate based on service for which readjustment, severance, or separation pay was received as a proportion of the total deducted equals the lump-sum payment received.

Table 28-1. Indebtedness to Government Agencies (Continued)

DEFENSE FINANCE AND ACCOUNTING SERVICE
1931 JEFFERSON DAVIS HIGHWAY
ARLINGTON, VA 22240-5291
WWW.DFAS.MIL

JAN 12 2000

DFAS-HQ/FMM

MEMORANDUM FOR DIRECTOR, DEFENSE FINANCE AND ACCOUNTING SERVICE
CLEVELAND CENTER
DIRECTOR, DEFENSE FINANCE AND ACCOUNTING SERVICE
DENVER CENTER
DIRECTOR, DEFENSE FINANCE AND ACCOUNTING SERVICE
INDIANAPOLIS CENTER
DIRECTOR, DEFENSE FINANCE AND ACCOUNTING SERVICE
KANSAS CENTER

SUBJECT: Changes to the DoDFMR, Volumes 7A and 7B, Regarding-Collection of Dishonored Commissary Checks (DFAS Item I-3)

Attached is interim change 04-00 to Chapter 50 of the DoDFMR, Volume 7A and 002-00 to chapter 28 of the DoDFMR, Volume 7B. The purpose of these changes is to allow for involuntary collection of dependent's dishonored checks from the pay of the sponsoring military member or retiree. This change has a retroactive effective date of February 1, 1999.

We have evaluated your comments on the draft change to the DoDFMR, Volumes 7A and 7B. The attached final version of the change included your comments where appropriate.

Assignment of an interim change is your authority to start a procedural modification to facilitate this change. For the Denver Center, use the attached to initiate the formal printed change to the DoDFMR and the interim change message.

Gregory P. Bitz
Director for Finance

Attachment:
As stated

cc: DASD (MPP) (Comp)
OUSD(C)ODCFO(FC)
ODGC (F)
DFAS-DE/DG
Service Liaisons
USCG/NOAA/PHS Liaisons
DJMS AC/RC Merge Project Manager

1. Change the annotations in **Table 50-5. Indebtedness to Individuals and Government Instrumentalities and Agents, Rule 3, Column D** to read:

   "(notes 1 and 3)"

2. In **Table 50-5**, delete the current line between Rule 3 & 4 and annotations under **Rule 4, Column D.**

3. In **Table 50-5**, add a line between Rule 4 & 5 and add the following to **Rule 5, Column D:**

   "uncollectable check endorsed or issued by member or member's agent (note 1)"

4. Add a new note to **Table 50-5** to read:

   "Note 3. Effective February 1, 1999, Collection of dishonored checks written by the member or the person who presented the check based upon their status and relationship to the member as well as costs associated with that check may be collected involuntarily."

5. Add the following to the **Bibliography:**

"Paragraph	Citation
Table 50-5, Rules 3 and 4	PL 105-261, Sec 364, 17 Oct 98 DFAS-HQ/FCD memo, 11 MAR 1999

DFAS ITEM I-3	INTERIM CHANGE R02-00 to Volume 7B

1. Add to the current annotation to **Table 28-1. Indebtedness to Government Agencies, Rule 5, Column E** the following:

   "See note 3."

2. Change the current annotation to **Table 28-1, Indebtedness to Government Agencies, Rule 6, Column E** to read the following:

   "See notes 1 and 3."

3. Add line to **Table 28-1, Indebtedness To Government Agencies, Column E, after Rule 6.**

4. Annotation for **Table 28-1, Indebtedness to Government Agencies, Rule 7 & 8**, should read:

   "See note 1."

5. Add a new note to **Table 28-1. Indebtedness to Government Agencies** to read:

   "Note 3. Effective February 1, 1999, Collection of dishonored checks written by the member or the person who presented the check based upon their status and relationship to the member as well as costs associated with that check may be collected involuntarily."

6. Add the following to the **Bibliography:**

"Paragraph	Citation
Table 28-1, Rules 5 and 6	PL 105-261, Sec 364, 17 Oct 98 DFAS-HQ/FCD memo, 11 MAR 1999

CHAPTER 29

FORMER SPOUSE PAYMENTS FROM RETIRED PAY

2901 BACKGROUND

Public Law 97-252 (reference (ei)), as amended by Public Laws 98-525 (reference (ej)), 99-661 (reference (ek)), and 101-510 (reference (el)), authorizes direct payments to a former spouse from the retired pay of a member in response to court-ordered alimony, child support, or division of property.

2902 PURPOSE

This chapter implements procedures to effect the deduction of former spouse payments from retired pay.

2903 DEFINITIONS

290301. Alimony. Periodic payments for support and maintenance of a spouse or former spouse in accordance with state law under 42 U.S.C. 662(c) (reference (au)). Alimony includes, but is not limited to, spousal support, separate maintenance, and maintenance. Alimony does not include any payment for the division of property.

290302. Annuitant. A person receiving a monthly payment under a survivor benefit plan related to retired pay.

290303. Child Support. Periodic payments for the support and maintenance of child(ren) subject to and in accordance with state law under 42 U.S.C. 662(b) (reference (au)). Child support includes, but is not limited to, payments to provide for health care, education, recreation, and clothing, or to meet other specific needs of such child(ren).

290304. Court. Any court of competent jurisdiction of any state, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands and any court of the United States (as defined in 28 U.S.C. 451 (reference (av))) having competent jurisdiction; or any court of competent jurisdiction of a foreign country with which the United States has an agreement requiring the United States to honor any court order of such country.

290305. Court Order. As defined under 10 U.S.C. 1408(a)(2) (reference (c)), a final decree of divorce, dissolution, annulment, or legal separation issued by a court, or a court-ordered, ratified, or approved property settlement incident to such a decree. A court order includes a final decree modifying the terms of a previously issued decree of divorce, dissolution, annulment, or legal separation, or a court-ordered, ratified, or approved property settlement incident to such previously issued decree. A court order must stipulate the payment to a member's former spouse of

child support, alimony or division of property. In the case of a division of property, the court order must specify that the payment is to be made from the member's disposable retired pay.

290306. Creditable Service. Service counted towards the establishment of any entitlement for retired pay. See Chapter 1, paragraphs 010102 through 010108, above, 42 U.S.C. 212 for the Public Health Service (reference (au)), and 33 U.S.C. 864 (reference (em)) and 10 U.S.C. 6323 (reference (c)) for the National Oceanic and Atmospheric Administration.

290307. Designated Agent. The representative of a Uniformed Service who will receive and process court orders under this chapter.

290308. Division of Property. Any transfer of property or its value by an individual to his or her former spouse in compliance with any community property settlement, equitable distribution of property, or other distribution of property between spouses or former spouses.

290309. Entitlement. The legal right of the member to receive retired pay.

290310. Final Decree. As defined under 10 U.S.C. 1408(a)(3) (reference (c)), a decree from which no appeal may be taken or from which no appeal has been taken within the time allowed for taking such appeals under the laws applicable to such appeals, or a decree from which timely appeal has been taken and such appeal has been finally decided under the laws applicable to such appeals.

290311. Former Spouse. The former husband or former wife, of a member.

290312. Garnishment. The legal procedure through which payment is made from an individual's pay, that is due or payable, to another party in order to satisfy a legal obligation to provide child support, to make alimony payments, or both, or to enforce a division of property (other than a division of retired pay as property under 10 U.S.C. 1408(d)(5)) (reference (c)).

290313. Renounced Pay. Retired pay to which a member has an entitlement, but for which receipt of payment has been waived by the member.

290314. Retired Member (Retiree). A person originally appointed or enlisted in, or conscripted into, a Uniformed Service who has retired and is now carried on one of the lists of retired personnel from the Regular or Reserve Components of the Uniformed Services.

290313. Retired Pay. The gross entitlement due a member based on conditions of the retirement law, pay grade, years of service for basic pay, years of service for percentage multiplier, if applicable, and date of retirement (transfer to the Fleet Reserve or Fleet Marine Corps Reserve); also known as retainer pay.

290314. Uniformed Services. The Army, Navy, Air Force, Marine Corps, Coast Guard, the commissioned corps of the Public Health Service, and the commissioned corps of the National Oceanic and Atmospheric Administration.

2904 ELIGIBILITY OF FORMER SPOUSE

290401. A former spouse is eligible to receive direct payments from a retiree's retired pay if the court order satisfies the requirements and conditions specified for such payment as set forth in this chapter. In the case of a division of property, the court order specifically must provide that payment is to be made from disposable retired pay.

290402. To establish eligibility for a court-ordered division of retired pay as property, the former spouse must have been married to the member for 10 years or more during which time the member performed 10 years creditable service. Court-ordered payments for child support and/or alimony do not require a specified length of marriage.

2905 APPLICATION BY FORMER SPOUSE

★290501. The former spouse must initiate the effective service through notification of the designated agent. The notification is by facsimile or electronic submission, by mail, or by personal service. Effective service is accomplished when a complete application is received by the appropriate designated agent. The designated agent shall note the date and time of receipt on the notification document.

290502. The notification is a signed statement or a signed DD Form 2293 (Request for Former Spouse Payments From Retired Pay) by the former spouse that includes:

A. Notice to make direct payment to the former spouse from the member's retired pay;

B. A certified copy of the court order and other certified accompanying documents, if applicable, that provide for payment of child support, alimony, or division of property;

C. A statement that the court order has not been amended, superseded, or set aside;

D. Sufficient information to identify the retired member so the application can be processed. The identification should give the retiree's full name, social security number, and Uniformed Service;

E. The full name, social security number, and address of the former spouse;

F. Personal agreement, prior to payment, that any future overpayments are recoverable and subject to involuntary collection from the former spouse or his or her estate;

G. Personal agreement, prior to payment, to notify the designated agent promptly if the court order upon which the payment is based is vacated, modified, or set aside. The former spouse also must notify the designated agent upon remarriage if all or part of the payment is

for alimony or of any change in eligibility for child support payments as a result of the child's death, emancipation, adoption, or attainment of majority if payment is for child support.

290503. If the court-ordered division of retired pay as property does not state that the former spouse satisfied the eligibility criteria in section 2904, above, the former spouse must furnish sufficient evidence for the designated agent to verify eligibility.

290504. The designated agent for each Uniformed Service is:

★A. Army, Navy, Air Force, Marine Corps

Director
DFAS-Cleveland Center
ATTN: Code L
PO Box 998002
Cleveland, OH 44199-8002

Telephone (216) 522-5301

B. United States Coast Guard
Commanding Officer (L)
Pay and Personnel Center
444 Quincy Street
Topeka, KS 66683-3591

C. Public Health Service
Office of General Counsel
Department of Health and
Human Service, Room 5362,
330 Independence Avenue, SW
Washington, D.C. 20201

D. National Oceanic and Atmospheric Administration
See Coast Guard address.

290505. U.S. Attorneys are not designated agents authorized to receive court orders or garnishments under this chapter.

290506. The designated agent will respond to the former spouse, who makes an application, not later than 90 days after effective service:

A. If the court order will be honored, the former spouse shall be informed of the date that payments tentatively will begin; the amount of each payment; the amount of gross retired pay, total deductions, and disposable retired pay (except in cases where full payment of a court-ordered fixed amount will be made); and other relevant information, if applicable; or

B. If the court order will not be honored, the designated agent shall explain in writing to the former spouse why the court order was not honored.

2906 REVIEW OF COURT ORDERS

290601. The acceptable form of a court order that directs payments to a former spouse shall be:

A. A final decree.

B. Regular on its face. This means the court order is issued by a court of competent jurisdiction in accordance with the laws of that jurisdiction.

C. Legal in form and include nothing on its face that provides reasonable notice that it is issued without authority of law. The court order must be authenticated or certified within the 90 days immediately preceding its service on the designated agent.

290602. If the court order was issued while the member was on active duty and the member was not represented in court, the court order or other court document shall certify that the rights of the member were observed under the 50 App. U.S.C.A., Section 501-591 (reference (en)).

290603. The court order must contain sufficient information to identify the retiree.

290604. Additionally, a court order that stipulates a division of retired pay as property must meet the following conditions:

A. The court must have jurisdiction over the retiree by reason of his or her:

1. Residence, other than because of military assignment, in the territorial jurisdiction of the court;

2. Domicile in the territorial jurisdiction of the court; or

3. Consent by the retiree to the court's jurisdiction.

B. The treatment of retired pay as property solely of the retiree or as property of the retiree and the former spouse of that retiree shall be in accordance with the law of the jurisdiction of such court.

C. The court order or other accompanying documents served with the court order must show that the former spouse was married to the member during 10 years or more of creditable service.

290605. Any court order that awards a division of retired pay as property, which was issued before June 26, 1981, will be honored if it otherwise satisfies the requirements and conditions shown in this chapter. A modification on or after June 26, 1981, of a court order which originally awarded a division of retired pay as property prior to June 26, 1981, may be honored if subsequent court-ordered changes were made for clarification purposes. For example, a subsequent court order may provide a clarifying interpretation of a computation formula that was included in the original court order. For a court order issued before June 26, 1981, a subsequent amendment after that date to provide for division of retired pay as property is unenforceable under this chapter. A court order awarding a division of retired pay as property that is issued on or after June 26, 1981, will be enforced if otherwise satisfying the requirements and conditions in this chapter.

290606. The court order shall require payment of child support or alimony or, in the case of a division of property, specifically provide for the payment of an amount of disposable retired or retainer pay, expressed as a dollar amount or as a percentage. Court orders specifying a percentage or fraction of retired pay shall be construed as a percentage or fraction of disposable retired pay. A court order that stipulates a division of retired pay by means of a formula wherein the elements of the formula are not specifically set forth or readily apparent on the face of the court order will not be honored unless clarified by the court.

★290607. The Secretary of the Military Department concerned (or designee) may refuse service of a court order that is an out-of-state modification and not comply with the court order provisions, unless the court issuing that order has jurisdiction, as shown in paragraph 290604, above, over both the retiree and the spouse or former spouse involved. A court order is considered an out-of-state modification if the court order:

A. Modifies a previous court order upon which payments under this chapter are based; and

B. Is issued by a court of a state other than the state of the court that issued the previous court order.

2907 GARNISHMENT ORDERS

290701. If a court order stipulates a division of property other than retired pay in addition to specifying an amount of disposable retired pay to the former spouse, the former spouse may garnish the retiree's retired pay to enforce the division of property. The designated agents authorized to receive service of process shall be those listed in section 2905, above. The amount payable to the former spouse is limited under 15 U.S.C. 1673 (reference (eo)) and section 2908, below.

290702. Garnishment orders for divisions of property, other than retired pay, shall be processed in the manner prescribed in 5 CFR, part 581 (reference (ep)), to the extent that it is consistent with this chapter. (See Chapter 27 of this volume.)

2908 LIMITATIONS

290801. Divorces, Dissolutions of Marriage, Annulments, and Legal Separations that Become Effective Before Feb 3, 1991. Upon proper service, a retiree's retired pay may be paid directly to a former spouse in the amount necessary to comply with the court order, provided the total amount does not exceed:

A. Fifty percent of disposable retired pay for all court orders and garnishment actions paid under this chapter.

B. Sixty-five percent of disposable retired pay for all court orders and garnishments paid under this chapter and garnishments paid under 42 U.S.C. 659 (reference (au)). (See Chapter 27 of this volume.)

290802. Divorces, Dissolutions of Marriage, Annulments, and Legal Separations that Become Effective On or After February 3, 1991. Upon proper service, a retiree's retired pay may be paid directly to a former spouse in the amount necessary to comply with the court order, provided the total amount paid does not exceed:

A. Fifty percent of disposable retired pay for all court orders and garnishment actions paid under this chapter.

B. Sixty-five percent of the remuneration for employment as defined under 42 U.S.C. 659 and 662 (reference (au)) for all court orders and garnishments under this chapter and garnishments paid under 42 U.S.C. 659 (reference (au)). (See Chapter 27 of this volume.)

290803. Disposable Retired Pay. Disposable retired pay is the gross pay entitlement, including renounced pay, less authorized deductions. Disposable retired pay does not include annuitant payments under 10 U.S.C., Chapter 73 (reference (c)). For court orders issued on or before November 14, 1986 (or amendments to such court orders), disposable retired pay does not include retired pay of a member retired for disability under 10 U.S.C., Chapter 61 (reference (c)). The authorized deductions are:

A. For divorce, dissolution of marriage, annulment, or legal separation that became effective before February 3, 1991:

1. Amounts owed to the United States.

2. Amounts required by law to be deducted from a member's pay.

3. Fines and forfeitures ordered by a court martial.

4. Amounts waived in order to receive compensation under Title 5 or Title 38, United States Code (references (az) and (ar)).

5. Federal employment taxes and income taxes withheld to the extent that the amount is consistent with retiree's tax liability, including amounts for supplemental withholding under 26 U.S.C. 3402(i) (reference (dw)) when he or she presents evidence to the satisfaction of the designated agent that supports such withholding. State employment taxes and income taxes are withheld when the retiree makes a voluntary request for such withholding from retired pay and the Uniformed Services have an agreement with the state concerned for withholding from retired pay.

6. Premiums paid as a result of an election under 10 U.S.C., Chapter 73 (reference (c)), to provide an annuity to a spouse or former spouse to whom payment of a portion of such retiree's retired pay is being made pursuant to a court order under this chapter.

7. The amount of the retiree's retired pay under 10 U.S.C., Chapter 61 (reference (c)) computed using the percentage of his or her disability on the date when he or she was retired (or the date on which his or her name was placed on the temporary disability retired list), for court orders issued after November 14, 1986.

B. For divorces, dissolutions of marriage, annulments, or legal separations that become effective on or after February 3, 1991:

1. Amounts owed to the United States for previous overpayments of retired pay and for recoupments required by law resulting from entitlement to retired pay.

2. Forfeitures of retired pay ordered by a court martial.

3. Amounts waived in order to receive compensation under Title 5 or Title 38, United States Code (references (az) and (ar)).

4. Premiums paid as a result of an election under 10 U.S.C., Chapter 73 (reference (c)) to provide an annuity to a spouse or former spouse to whom payment of a portion of such member's retired pay is being made pursuant to a court order under this chapter.

5. The amount of the retiree's retired pay under 10 U.S.C., Chapter 61 (reference (c)) computed using the percentage of his or her disability on the date when the he or she was retired (or the date on which his or her name was placed on the temporary disability retired list).

2909 NOTIFICATION OF MEMBER

290901. The designated agent will send a written notice to the affected retiree at his or her last known address no later than 30 days after effective service of a court order or garnishment action described in this chapter.

290902. The notice shall include:

A. A copy of the court order and accompanying documentation;

B. An explanation of the limitations placed on the direct payment to the former spouse;

C. A request that the retiree submit notice to the designated agent if the court order has been amended, superseded, or set aside; (the member must provide an authenticated or certified copy of the court documents when there are conflicting court orders);

D. The dollar amount or percentage of disposable retired pay that will be deducted if the retiree fails to respond to the notification as prescribed by this chapter;

E. The effective date that payments to the former spouse will tentatively begin;

F. A notice that the retiree's failure to respond within 30 days of the date that notification is mailed may result in the payment of retired pay as set out in the notice to the member;

G. The statement that if the retiree submits information in response to this notification, he or she thereby consents to the disclosure of such information to the former spouse or the former spouse's agent.

290903. The designated agent will consider any response by the retiree and will not honor the court order if it is defective or is modified, superseded, or set aside.

2910 LIABILITY OF THE DESIGNATED AGENT

291001. The United States and any officer or employee of the United States shall not be liable with respect to any payment made from retired or retainer pay to any retiree, spouse, or former spouse pursuant to a court order that is regular on its face if such payment is made according to this chapter.

291002. Any officer or employee of the United States who, under this chapter, has the duty to respond to interrogatories shall not be subject under any law to any disciplinary action or civil or criminal liability or penalty for, or because of, any disclosure of information made by him or her in carrying out any of the duties which directly or indirectly pertain to answering such interrogatories.

291003. If a court order on its face appears to conform to the laws of the jurisdiction from which it was issued, the designated agent will not be required to ascertain whether the court had obtained personal jurisdiction over the retiree.

291004. Whenever a designated agent is effectively served with interrogatories concerning implementation of this chapter, the designated agent shall respond to such

interrogatories within 30 calendar days of receipt or within such longer period as may be prescribed by applicable state law.

2911 PAYMENTS

291101. Contingent on the retiree's eligibility for retired pay and the effective service of a court order, the Uniformed Service concerned shall start payments to the former spouse not later than 90 days after the date of effective service.

291102. Payments will conform with the normal pay and disbursement cycle for military retired pay.

291103. Payments may be in a fixed-dollar amount or based on a percentage or fraction of disposable retired pay. Payments based on a percentage or fraction will increase in direct proportion with, and at the effective date of future cost-of-living adjustments, unless the court directs otherwise.

291104. Payments terminate on the date of death of the retiree, death of the former spouse or as stated in the court order, whichever occurs first. Payments shall also be terminated or reduced upon the occurrence of a condition under the applicable state or local law that requires termination or reduction.

291105. When several court orders are served on a retiree's retired pay, payments will be satisfied on a first-come, first-served basis within the limitations shown in section 2908, above.

291106. In the event of effective service of conflicting court orders which direct that different amounts be paid during the month to the same former spouse from a given retiree's retired pay, the designated agent will authorize payment on the court order directing payment of the least amount. The difference in amounts will be held by the designated agent pending resolution by the court with jurisdiction or by agreement of the parties. The amount held will be paid as provided in a subsequent court order or agreement. The total of payments released and moneys held will be within the limitations of section 2908, above.

291107. The designated agent shall comply with a stay of execution issued by a court of competent jurisdiction and shall suspend payment of disputed amounts pending resolution of the issue.

291108. When service is made and the identified retiree is found not to be currently entitled to payments, the designated agent shall advise the former spouse that no payments are due from or payable by the Uniformed Service to the named individual. If the member is on active duty when service is accomplished, the designated agent shall retain the application until the member's retirement. In such case, payments to the former spouse, if otherwise proper, shall begin not later than 90 days from the date the retiree first becomes entitled to receive retired pay. If the retiree becomes entitled to receive retired pay more than 90 days after first being notified under

section 2909, above, the notification procedures prescribed above shall be repeated by the designated agent.

291109. If net pay is only temporarily exhausted or otherwise unavailable, the former spouse shall be fully advised of the reason or reasons why and for how long such funds will be unavailable. Service shall be retained by the designated agent and payments to the former spouse, if otherwise proper, shall begin not later than 90 days from the date the retiree becomes entitled to receive retired pay. If the retiree becomes entitled to receive retired pay more than 90 days after first being notified under section 2909, above, the notification procedures prescribed above shall be repeated by the designated agent.

291110. If the gross amount of retired pay is not sufficient to cover all authorized deductions and collections, refer to the order of precedence for disbursement in the Treasury Financial Manual for Guidance of Departments and Agencies (reference (eq)). The court-ordered payments to a former spouse will be enforced over other voluntary deductions and allotments from retired pay.

291111. Payments to the former spouse are prospective in terms of the amount stated in the court order and arrearages will not be considered in determining the amount payable from retired pay.

291112. No right, title, or interest that can be sold, assigned, transferred, or otherwise disposed of including by inheritance, is created under this chapter.

291113. The former spouse may be required to submit a signed certification of continued eligibility upon request of the designated agent. The certification of eligibility for the former spouse will include a notice of a change in status or circumstances that affects eligibility. If the former spouse fails or refuses to comply with the certification requirement, payments may be suspended or terminated after notice to the former spouse.

291114. For divorce, dissolution of marriage, annulment, or legal separation that became effective on or after February 3, 1991, payments to a former spouse for a division of property are excluded in determining a retiree's gross wages concerning retired pay.

2912 RECONSIDERATION

A retiree or a former spouse may request that the designated agent reconsider the designated agent's determination in response to service of an application for payments under this chapter or the member's answer to the designated agent with respect to notice of such service. For reconsideration, the request must express the issues that the retiree or the former spouse believes were incorrectly resolved by the designated agent. The designated agent shall respond to the request for reconsideration, giving an explanation of the determination reached.

CHAPTER 30

DEATH OF RETIREE

3001 ARREARS OF PAY

300101. General. Entitlement to retired pay terminates on the date of the retiree's death. Arrears of pay include all unencumbered amounts due to deceased member. Arrears are not due if the retiree waived pay in favor of a civil service annuity. VA benefits terminate on the last day of the month before death. For members who waive retired pay for VA benefits, only retired pay is due on behalf of the member for the month of death. A retiree's account is placed in a suspended status upon receipt of a notification of death from any source until the date of death can be verified. The retiree's account is terminated upon receipt of a death certificate or DD Form 1300 (Report of Casualty).

300102. Related Inquiries. The Military Department concerned advises the surviving spouse to contact the Department of Veterans Affairs or the Social Security Administration on matters relating to entitlements benefits payable by those agencies.

300103. Responsibilities. The DFAS-Cleveland Center, when notification of a retiree's death is received, terminates payment of retired pay; recoups outstanding retired pay checks or direct deposit payments; discontinues and collects overpayments of allotments; pays death gratuity if applicable; collects debts; furnishes claim forms to prospective beneficiaries; and prepares vouchers and tax statements upon final account settlement.

300104. Eligible Beneficiaries. Each Military Service periodically advises retirees of their right to designate a beneficiary or beneficiaries to receive the amounts due, and disposition to be made of unpaid amounts where no beneficiary or beneficiaries have been designated. Any person or persons including a legal entity or the estate of the member may be designated.

A. Arrears of retired pay are paid to the person living on the date of the retiree's death in this order of precedence:

1. Beneficiary designated by the member in writing, if the designation is received by the Military Department concerned before the member's death

2. Surviving spouse

3. Children and their descendants, by representation

a. Adopted Child. An adopted child is a legal heir in every state and, therefore, is entitled to payment of unpaid pay and allowances, if otherwise proper. If the deceased retiree's child is adopted by others, the child is a beneficiary only in those states where an adopted child inherits from its natural father.

b. Stepchild. A stepchild is not an eligible beneficiary, unless adopted by the deceased retiree.

c. Illegitimate Child. An illegitimate child may not be paid unpaid pay and allowances of a deceased retiree, unless that child is recognized for inheritance purposes under the laws of the jurisdiction involved.

4. Father and mother in equal parts or, if either is dead, the survivor

5. Legal representative

6. Person entitled under the law of the domicile of the deceased retiree

B. The retiree may change a beneficiary previously designated if the change is in writing and is received by the Military Department concerned before the retiree's death.

C. If there is no person listed in the order of precedence in this section, obtain a claim from the person paying the funeral expenses.

D. If the retiree was killed by the beneficiary, the arrears are not paid to that person unless evidence is received which clearly absolves the beneficiary of any felonious intent. This does not preclude the person from receiving the arrears in the capacity of custodian or guardian of minor children.

E. If the beneficiary dies after the retiree but before receiving final settlement, the arrears are paid to the beneficiary's estate. If doubt as to entitlement exists, forward claim to the DFAS Cleveland Center for review and payment.

300105. Substantiating Documents and Collection of Overpayments

A. To effect settlement, these documents must be a matter of record:

1. Completed SF 1174 (Claim for Unpaid Compensation of Deceased Member of the Uniformed Services) from the beneficiary

2. Proof of death (DD Form 1300 or a copy of the death certificate)

3. Retirement orders

4. Adoption papers, court orders of appointment, or custodianship papers, if required

B. Every attempt should be made to recover all outstanding checks or direct deposits (not negotiated before the retiree's death or forwarded past the date of entitlement) or the proceeds thereof. Unrecovered funds are treated as erroneous payments with the indebtedness

subject to the debt collection authority. In situations where the recipient of the erroneous payments is also the beneficiary for arrears of pay, the amount of arrears due the individual should be offset administratively by the erroneous payments received by the individual. In situations where there has been an erroneous payment to an individual who is not entitled to it, and another individual is entitled to the retiree's arrears of pay, payment of the amount due as arrears should be made to the appropriate payee, regardless of whether collection has been made from the recipient of the erroneous pay.

300106. Questionable Date of Death

A. When the date of death is shown as a "found date," the Military Department concerned verifies whether an autopsy was performed. If so, use the date of death determined by the coroner. If two dates are shown, such as member dies between 2300, June 10, 1976, and 0400, June 11, 1976, use the earlier date since that was the last date member was known to be alive. If neither is available, obtain a statement from one or more disinterested persons attesting to the last known date that the member was alive. When this statement is received, settle the arrears through submission to the Defense Office of Hearings and Appeals.

B. In claims involving missing persons, provided there is no evidence to the contrary, assume the date of death to be the presumed date established by state court decree.

C. If evidence exists that a retiree died on a particular date several years before the date of presumptive death declared by a state court, arrears of pay are payable only through the earlier date of suspected death.

D. A judicial decree is not necessary to establish RSFPP or SBP annuity payments if a person has been missing for more than 30 days and a determination by the Secretary of the Military Department concerned (or designee) is made that presumes the member to be deceased (see paragraph 330206 and paragraph 420212 of this volume).

300107. Doubtful Claims. Cases involving questions of fact or law cannot be paid without approval of the Defense Office of Hearings and Appeals (DOHA).

A. These include cases when:

1. Doubt exists as to the amount or validity of the claim.

2. Doubt exists as to the person or persons properly entitled to the payment.

B. Notify claimant that claim has been forwarded to DOHA for approval of settlement.

300108. Six-Year Statute of Limitations

A. Title 31, United States Code, section 3702(b) (reference (er)), limits the time for filing of claims against the United States to 6 years, effective July 2, 1975. A claim that accrued before July 2, 1969, was barred if it had not been received by the GAO before July 2, 1975. Claims which accrued on or after July 1, 1965, were not barred if they were received by the GAO before July 2, 1975.

B. Effective June 15, 1989, the GAO ruled that claims may be filed with either the individual federal agency or with GAO within 6 years after the time the claim accrued or the claim is forever barred. Since the transfer of certain functions from GAO to OMB effective June 30, 1996, claims are filed with the Department of Defense.

300109. Three-Year Rule. When the person entitled to arrears of pay has not submitted a claim and cannot be located within 3 years after the retiree's death, payment is made to the person or persons in the same class of entitlement, or in the absence of anyone in the same class, next in order of precedence.

300110. Death of Mentally Incompetent Retiree. If retired pay was waived in favor of VA compensation, but compensation was withheld because the retiree's estate exceeded $1,500, contact the Department of Veterans Affairs to ascertain periods and reasons for non-payment of VA compensation and verify whether withdrawal of the waiver was made by guardian or trustee before the retiree's death. See section 1201 of this volume regarding withdrawal of waiver. **Note**: Non-payment of compensation could occur at any time from the effective date of VA waiver through the month of death and is not limited to the month of death.

3002 DEATH GRATUITY

300201. General

A. Death gratuity may be payable when the retiree's death occurs on or after January 1, 1957, and during the 120-day period which begins the day after release from active duty or active duty for training. The Department of Veterans Affairs must certify entitlement to death gratuity.

B. Death gratuity is not payable for a member who retires for non-Regular service (age and service) unless the member was on active duty the day before retirement.

300202. Definitions

A. Basic pay. The monthly rate of active duty pay to which the deceased retiree was entitled on the last day of active duty or active and inactive duty training.

B. Additional pays. Special and incentive pays (including proficiency and hostile fire pay).

300203. Amount Payable

A. Deaths before August 2, 1990:

1. The amount payable is active duty basic pay for 6 months plus additional pays. Do not include allowances in the computation.

2. The amount payable cannot be less than $800 nor more than $3,000.

3. If applicable, include a 25-percent increase in basic pay in computing the amount of death gratuity. The increase in basic pay is authorized to personnel serving on a naval vessel in foreign waters who are retained beyond their active duty obligation because their services are essential to public interest.

B. Deaths on or after August 2, 1990. The amount payable is $6,000.

C. Do not collect debts from death gratuity payments.

300204. Eligible Beneficiaries. Payment of a death gratuity is made to or in behalf of the deceased retiree's living survivors in this order:

A. Spouse. A man or woman is considered to be the spouse if legally married to the retiree on the date of the retiree's death. A waiver by a lawful spouse of the statutory right to death gratuity is without force or effect.

B. Children in Equal Shares. The term children includes (regardless of age or marital status):

1. Legitimate child

2. Legally adopted child

3. Stepchild, if such child is a member of the deceased member's household

4. Illegitimate child (See subparagraph 300207.A.4.,below.)

C. Designated Relatives. The retiree must have designated the relatives in writing before death. Authorized designations may be only one or both of the retiree's parents, brothers or sisters, or any combination thereof, including those of half-blood and those through adoption. In the absence of a written designation on file, or any evidence to the contrary, it is deemed that a designation has not been made.

D. Parents or Persons in Loco Parentis. In equal shares.

E. Brothers and Sisters. This includes those of half-blood and those through adoption in equal shares. Should a survivor die before receiving the amount to which entitled, the amount is paid to the then living survivor or survivors next in order of precedence. If there are no survivors, death gratuity is not payable to any other person.

300205. Determinations Affecting Entitlement

A. Death as Lawful Punishment. No death gratuity is payable in the case of a retiree whose death is the result of a lawful punishment for a crime or military offense, except when such death was inflicted by any hostile force with which the Armed Forces of the United States was engaged in armed conflict.

B. Member Killed by Beneficiary. No death gratuity is payable to a beneficiary or survivor who kills a retiree, unless there is evidence that clearly absolves the beneficiary of any felonious intent.

300206. Erroneous Payment. An erroneous payment of death gratuity is one made to a person clearly not entitled to that payment because of administrative error, rather than because of statements of record made by the retiree.

A. Make a second payment to the rightful beneficiary when the error resulted from improper maintenance of records or administrative negligence. Do not delay this payment pending recovery of the erroneous payment from the ineligible recipient.

B. Do not make a second payment of death gratuity to a different person if the original payment was based on statements of record made by the retiree, and the government has no reason to doubt the beneficiary's status was as stated.

300207. Documentary Evidence

A. In some cases, the beneficiary must furnish proof of relationship:

1. Lawful Spouse. Documentation may be required to substantiate the marriage or proof of termination of prior marriages entered into by the beneficiary or deceased retiree.

2. Legally Adopted Child. A copy of adoption papers.

3. Stepchild. Information to prove that the child was a member of the deceased member's household.

4. Illegitimate Child. Documentation is required as proof that the retiree was the parent of the child, or a copy of the court order which ordered the parent to contribute to the child's support.

5. Designated Relative:

a. Documentary evidence that any marriage entered into by the deceased retiree has been terminated and a notarized statement that there are no living children.

b. Persons in loco parentis must furnish satisfactory evidence of the relationship as deemed necessary by the Military Department concerned.

B. Payments for minor children must be supported by custodianship documents or court orders of guardianship appointment.

3003 TAXABLE INCOME

300301. Taxability of Arrears of Retired Pay. Arrears of retired pay due the deceased retiree at time of death are taxable to the beneficiary who receives payment if they were taxable to the retiree. See Chapter 24 of this volume. The tax liability is computed in accordance with the Internal Revenue Code of 1954, as amended (reference (es)). The arrears of retired pay are not subject to federal income tax withholding.

300302. Taxability of Death Gratuity. Death gratuity payments are exempt from taxation.

300303. Issuance of TD Form W-2P. If no arrears of retired pay are paid, the retired pay activity issues one TD Form W-2P (Statement for Recipients of Annuities, Pensions, or Retired Pay) in the decedent's name. If arrears of retired pay are paid, an additional TD Form W-2P is issued to each beneficiary to whom the arrears were paid.

CHAPTER 31

DEATH OF SURVIVOR ANNUITANT

3101 ARREARS OF ANNUITY

This chapter refers to the settlement of the arrears of annuity where the annuitant is a spouse with no eligible child annuitant, the last remaining child annuitant, or a natural person with an insurable interest. Arrears of annuity may result from checks not having been negotiated before the annuitant's death or failure of Secretary of the Military Department concerned (or designee) to establish and make payment of an annuity to which entitlement exists. Payment of the arrears of the annuity under RSFPP, SBP, and MIW provision of the SBP law is made in accordance with the law applicable to the estate of the deceased annuitant or settled as described in paragraphs 310302 and 310303, below.

3102 DOCUMENTATION

To settle the arrears of annuity, the listed documentation must be on file:

310201. Copy of death certificate. A notification of death from any source (next of kin, post office, or neighbor) is sufficient to suspend future payment of the annuity.

310202. A written claim over the signature and address of the claimant or of the claimant's authorized agent or attorney.

310203. Evidence (affidavit, court order, or letters testamentary) of authority to act as the executor, administrator, personal representative, or other fiduciary of the deceased annuitant; evidence of an agent or attorney's right to act for the claimant.

310204. Proof of recoupment of outstanding payments. All outstanding checks or direct deposits (not negotiated before the annuitant's death or forwarded past the date of entitlement) or the proceeds thereof must be returned to the DFAS-Denver Center before a settlement of arrears of annuity may be made.

3103 PAYMENT OF THE ARREARS

The annuity is not prorated for the month of annuitant's death. Entitlement stops as of the last day of the month before the date of the annuitant's death. When all documentation is received, payment of the arrears is made to the executor, administrator, fiduciary of the estate, or claimants pursuant to the small estate statutes of the state of domicile of the annuitant, provided the claimant submits the statutorily required proof under the law of that state, together with copies of the state small estate statute.

310301. Any indebtedness resulting from the overpayment of the annuity (for example, overlap of SBP and DIC, payment made beyond date of entitlement or miscomputations)

must be liquidated before arrears of the annuity can be settled. Debts of the member, other than for delinquent costs for RSFPP or SBP, may not be offset against the arrears of the annuity.

310302. If no executor, administrator, or fiduciary has been or will be appointed by the court, or if for any reason the claim is questionable, send such claim to the DFAS Denver Center.

310303. A claim for arrears of annuity must be filed the within the 6-year statute of limitation restriction. However, when the person otherwise entitled to payment has not submitted a claim and cannot be located within 3 years after the death of the annuitant, a claim made by other than the executor, administrator, or fiduciary may be settled by the DFAS Denver Center.

3104 TAXABILITY

The retired pay activity issues one or more TD Forms W-2P (Statement for Recipients of Annuities, Pensions, or Retired Pay) in case of deceased annuitants. If arrears of annuity are not paid, the retired pay activity issues one TD Form W-2P in the decedent's name. If arrears of annuity are paid, an additional TD Form W-2P is issued to each claimant to whom the arrears were paid.

CHAPTER 32

RECOVERY OF PAYMENTS MADE TO A FINANCIAL ORGANIZATION

3201 ACCOUNTABILITY OF FINANCIAL INSTITUTION FOR DIRECT DEPOSIT PAYMENTS

320101. When, because of death of the retiree or annuitant, a financial institution received one or more direct deposit payments that should have been returned to the appropriate finance center, that institution is accountable for the total amount of any such payment.

320102. If, however, the financial institution:

A. Is unable to recover the total amount due from the decedent's account or from the individual who has withdrawn the funds from the decedent's account, and

B. Had no knowledge of the death of the retiree or annuitant at the time of deposit and withdrawal, its liability will not exceed the amount available in the recipient's account and the amount recovered by it, plus the lesser of:

1. The amount not recovered, or

2. An amount equal to the credit payments received by it within 45 days after the death of the retiree or annuitant.

3202 EXAMPLES OF FINANCIAL INSTITUTION ACCOUNTABILITY

The following shows the accountability of a financial institution to the appropriate DFAS Center under different circumstances, assuming paragraph 320102, above, applies:

	A	B	C	D
Total Amount of Payments Received (Note)	$800	$800	$800	$800
Recovered & Returned	-0-	300	600	750
Remaining Due	$800	$500	$200	$ 50
Amount for Which Financial Organization Remains Accountable	$200	$200	$200	$ 50

NOTE: Assume four payments of $200 each were received by the financial institution after the death of the retiree or annuitant, one of which was received within 45 days after the death.

3203 LIABILITY OF DISBURSING OFFICER

The accountability of the financial institution does not affect the liability of the disbursing officer for any amounts not recovered. The disbursing officer may be relieved of liability for amounts not recovered when the officer has shown that he or she did not know and could not have known of a retiree's or annuitant's death prior to making payments after the date of death.

CHAPTER 33

RETIRED SERVICEMAN'S FAMILY PROTECTION PLAN (RSFPP) – APPLICATION OF PLAN

3301 BACKGROUND

Public Law 83-239 (reference (et)) authorizes a voluntary survivorship annuity plan under which members of the Uniformed Services may provide an annuity for their spouses and/or eligible dependent children after the member's death in retirement. This legislation was first known as the Uniformed Services Contingency Option Act of 1953 (USCOA) (reference (et)). It was amended and renamed the Retired Serviceman's Family Protection Plan (RSFPP) by Public Law 87-381 (reference (eu)). Public Law 90-485 (reference (ev)), introduced several new statutory amendments that became effective November 1, 1968. Public Law 92-425 (reference (ew)), terminated RSFPP for members retired on or after that date and created the Survivor Benefit Plan (SBP) as covered in Chapters 42 through 57 of this volume. On September 30, 1978, Public Law 95-397 (reference (ex)) was enacted with provisions affecting certain annuities. A provision in Public Law 98-94 (reference (aj)) provided for rounding annuities. Public Law 98-525 (reference (ej)), authorized annuity payments under certain circumstances where the participating member is missing.

3302 SPECIALIZED TERMS

330201. Annuitant. A widow, widower, or child entitled to benefits based on a deceased retiree's participation in the RSFPP.

330202. Change in Family Status. Change in a retiree's immediate family resulting from death, divorce, annulment, remarriage; or the birth or adoption of a child.

330203. Child. A member's child who is living on the date of retirement and who meets any of these requirements:

A. Natural Child. Under 18 years of age and unmarried.

1. More than 18 years of age, unmarried, and incapable of self-support because of being mentally defective or physically incapacitated, if that condition existed before reaching age 18.

2. At least 18, but under 23 years of age and unmarried, pursuing a full-time course of study or training in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution. This applies only if the member retired on or after November 1, 1968.

B. Step-Child. Under 18 years of age and unmarried, and dependent on the member for more than one-half of his or her support, or meeting the requirements of subparagraphs 330203.A.1 or A.2, above.

C. Legally Adopted. Under 18 years of age and unmarried, or meeting the requirements of subparagraphs 330203.A.1 or A.2, above.

330204. Cost and Conversion Tables. Tables prescribed by the Board of Actuaries (tables of percentage reduction of retired pay and conversion tables under the RSFPP/USCOA showing the factors for computation of costs).

330205. Declination. Election not wanted.

330206. Determination of Presumed Death. A determination by the Secretary of the Military Department concerned that a participating member is presumed dead, where the member's retired or retainer pay has been suspended and the member has been missing at least 30 days under circumstances that lead to a reasonable conclusion that the member is dead.

330207. Election in Effect. Valid election existing on the date of retirement.

330208. Eligible Spouse. The lawful wife or husband of a member at the time of retirement.

330209. Extrapolation. Method of determining the reduction factor for option 1, 1 with 4, and 3 with 4 when the member's wife is more than 25 years younger than the member. (Special computation is necessary only for members who became eligible for retired pay before November 1, 1968.)

330210. Fractional Amount. That portion of reduced retired pay to be paid in monthly annuities for members retired before November 1, 1968.

330211. In-Fact Dependent. Stepchild who is dependent on the member for more than half of his or her support.

330212. Modification. A change in percentage of the amount of retired pay under any option, or a change in option(s) elected.

330213. Multiple Option. Combination of options 1 and 2, with or without option 4.

330214. Option. A choice by the member to provide an annuity for his or her dependents. (See paragraph 340103 of this volume for a definition of each option.)

330215. Plan. Retired Serviceman's Family Protection Plan (formerly called the Uniformed Services Contingency Option Act) (reference (et)).

330216. Reduced Retired Pay. Retired pay remaining after the cost of participation has been deducted.

330217. Reduction Factor. Four-digit decimal fraction used to compute monthly RSFPP cost.

330218. Revocation. Cancellation of a previous election.

330219. Single Option. Election of options 1, 2, or 3 with or without option 4.

330220. Withdrawal. Voluntary termination of a member's participation in the plan.

3303 MEMBERS ELIGIBLE TO ELECT UNDER THE PLAN

330301. All members of the Uniformed Services, including all Components and members thereof, who retired with pay before September 21, 1972.

330302. Personnel on the Emergency Officer's Retired List (EORL).

330303. Reserve members not on active duty who were in an active status (participating in Reserve training) as distinguished from those in an inactive status (on the retired Reserve list).

330304. Members of the Reserve Components of the Uniformed Services who were in an inactive status and who had completed 20 years of satisfactory service on November 1, 1953.

3304 MEMBERS INELIGIBLE TO ELECT UNDER THE PLAN

330401. Members on the retired Reserve list without pay who did not complete the requirements to receive retired pay.

330402. Cadets serving at the United States Military Academy, the United States Air Force Academy, or the Coast Guard Academy; and

330403. Midshipmen.

3305 GENERAL PROVISIONS

330501. All elections were effective on date of retirement or November 1, 1953, whichever was later.

330502. An election by any member who had not yet retired on September 21, 1972, was automatically voided on that date.

330503. Members already retired on September 21, 1972, who had coverage under the RSFPP, had three choices:

A. Convert from RSFPP to the Survivor Benefit Plan (SBP); or

B. Retain RSFPP and also elect coverage under SBP to the extent that combination of the two annuities did not exceed monthly gross retired pay; or

C. Retain RSFPP and decline coverage under SBP.

CHAPTER 34

RETIRED SERVICEMAN'S FAMILY PROTECTION PLAN ELECTION AND WITHDRAWALS

3401 ELECTION

340101. General Provisions

A. Effective November 1, 1953, elections under the USCOA had to be signed, witnessed, and submitted to the appropriate official before completion of 18 years of service for pay purposes. A change to a previous election did not become effective until 5 years after the date of its execution. If a member retired before the expiration of 5 years, the terms of the most recent valid election more than 5 years old became effective. A previous election could be revoked but did not become effective for 5 years, and if a member retired in the meantime, the revocation had no effect. Under options 1, 2, and 3, the premiums paid from retired pay continued for the retiree's life even if beneficiaries became ineligible through age, divorce, or death. However, option 4 combined with one of those options provided that no further deductions be made from retired pay after the loss of all eligible beneficiaries. Dependents acquired after retirement were not eligible to become beneficiaries. Revocations which became effective were irrevocable. Annuities payable were based on one-half, one-quarter, or one-eighth of the reduced retired pay. Reduced retired pay was the remainder after deduction for the cost of the USCOA. A member could elect separate options to provide for a spouse and children; however, the combined annuities could not exceed one-half of the member's retired pay.

B. Effective October 4, 1961, the name of the program was changed from USCOA to the Retired Serviceman's Family Protection Plan (RSFPP). Cost Tables changed for all retirements on or after that date. The reduction for options 3 and 4 became the same as the reduction for option 1 with 4. The age of the youngest child had no effect on the reduction for option 3 if it was combined with option 4. Retired members were permitted to withdraw from the RSFPP where continued participation would cause extreme hardship and violate equity and good conscience. A change to, or revocation of, a previous election became effective 3 years after execution of the revocation or change. If a member was granted retired pay before the 3-year period ended, the change or revocation had no effect and the prior election remained valid. A revocation is superseded by an election change.

C. Effective November 1, 1968, a withdrawal could be requested any time and became effective on the first day of the seventh month after the application is made. The amount of the annuity could be reduced as low as one-eighth of retired pay or $25, whichever is greater. The reduction became effective on the first day of the seventh month after application is made. Elections were made before completing 19 years of service. If the election was made after completing 19 years, it became effective 2 years before date of retirement. Changes or revocations to prior elections became effective 2 years after execution of change or revocation. Members who did not include option 4 in their initial elections had until September 1, 1969, to purchase this option.

D. Effective November 1, 1968, the eligibility age of a surviving child was extended to age 23 when the child was pursuing a full-time course of study or training in a recognized educational institution. A child remains a potentially eligible beneficiary between ages 18 and 23, whether or not attending college or training, unless the retiree specifically requested that the child be dropped as an eligible beneficiary. Under option 2 (coverage for children only), a retiree could request that a child over 18 (except any child incapable of self-support because of mental or physical disability existing before age 18) be declared an ineligible beneficiary. A retiree who elected option 3 but who, on the date of retirement (1) had no eligible child, had the protection changed to option 1 (coverage for spouse only) or (2) had no eligible spouse, had the protection changed to option 2 (coverage for children only). Birth certificates were required for spouse and youngest child for option 3. When a retiree has option 3 (both spouse and children), and the spouse became ineligible through death or divorce (after retirement), protection would continue for eligible children at no cost to the retiree. Full retired pay is restored the month after the death or divorce of the spouse. The member could elect an annuity based on either a specific dollar amount or a percentage of gross retired pay. The total annuity, however, could not be greater than 50 percent nor less than 12-1/2 percent of the gross retired pay entitlement at the time of retirement. In no case could the annuity be less than $25.

340102. Time of Election. Election to participate in RSFPP had to be made within specific time limitations based on provisions of law in effect at the time of election. (See Tables 34-1 through 34-4 of this volume.)

A. Elections had to be made before completion of 19 years of service for members who became entitled to retired pay on or after August 13, 1968, after making an election between October 4, 1961 and August 12, 1968.

B. Members who filed an election before August 13, 1968, could submit a written application to the Military Service concerned requesting that the election remain under the time-of-election provision by November 1, 1969. That is, the election was made before completing 18 years of service or 3 years before retirement.

340103. Valid Options. Members could elect one of three basic options, or a combination of two, to determine the RSFPP coverage desired for their beneficiaries. Supplement option 4, combined with any of the basic options, permits discontinuance of collection of costs when there are no longer any eligible beneficiaries.

A. Option 1 provides an annuity payable to or on behalf of a member's widow or widower. The annuity is payable until the death or remarriage of the beneficiary.

B. Option 2 provides an annuity payable to or on behalf of children as described in paragraph 330203 of this volume. The annuity is payable until no eligible beneficiaries or children survive.

C. Option 3 provides annuity payable to or on behalf of the widow or widower and children. The annuity is paid to the widow or widower until death or remarriage and,

thereafter, is divided in equal shares to or on behalf of the surviving eligible children. The member also may allocate a part of this option to surviving children of a previous marriage. The allotted amount may not exceed the equitable share for which such children would be eligible after the remarriage or death of the widow or widower.

D. Multiple Option. A combination of options 1 and 2 provides separate annuity checks for the member's widow or widower and child or children. Each annuity is payable until its respective annuitants are no longer eligible. The cost is determined separately for each annuity. The only combination permitted is option 1 and 2. Combinations of options 1 and 3, 2 and 3, or 1, 2, and 3 are improper. When options 1 and 2 are elected, and there ceases to be an eligible beneficiary under one of the options, the costs under that option terminate (if option 4 is in effect). If multiple options were elected, the total amount of the combined annuities could not exceed one-half or 50 percent of member's reduced retired pay.

E. Option 4. This supplemental option permits discontinuance of the collection of annuity costs from retired pay beginning with the first day of the month after that in which there are no eligible beneficiaries. Election of option 4 permits the retiree to withdraw from the plan. (See section 3402, below.)

1. Optional Election of Option 4. A member retiring before August 13, 1968, did not have to choose option 4. However, cost of coverage continues during the member's lifetime even though the beneficiary no longer exists. Public Law 90-485 (reference (ev)) permitted a member who failed to elect option 4 and who had no eligible beneficiaries on August 13, 1968, to elect option 4. To be valid, the election had to be postmarked before September 1, 1969. The election was effective the first day of the month after postmark date. For cost adjustment, see Chapter 36 of this volume.

2. Mandatory Inclusion of Option 4. Members retiring on or after November 1, 1968, who elected to participate in the plan, had to purchase option 4.

340104. Amount of Annuity

A. Before November 1, 1968, a member could elect an annuity based on one-half, one-fourth, or one-eighth of the reduced retired pay.

B. On or after November 1, 1968, a member could elect either a specified dollar amount or a percentage of his or her total monthly retired pay award, but not both. The total annuity elected (whether a percent or a dollar amount) could not be more than 50 percent, nor less than 12-1/2 percent of the gross retired pay at retirement and, in no case, less than $25. If, at the member's retirement, the annuity amount elected was greater than 50 percent or less than 12-1/2 percent, it was adjusted down to 50 percent or up to 12-1/2 percent as appropriate. Members who became entitled to retired pay on or after November 1, 1968, but who had elected before November 1, 1968, were considered as having elected an annuity at 50 percent, 25 percent, or 12-1/2 percent of total retired pay rather than reduced retired pay.

340105. Ineligible or Non-Existent Beneficiary at Time of Retirement. When, on the effective date of retirement, there was no eligible beneficiary under the option elected, the election was ineffective and there were no deductions for cost of the annuity. Verification was made that there were no eligible beneficiaries. When option 3 or multiple option were elected, and a beneficiary changed by the time of retirement, the member's cost for coverage was adjusted. (See Chapter 36 of this volume.)

340106. Documentary Evidence of Election

A. The election of options under the RSFPP form was used to make an initial election, decline election coverage, modify or revoke a prior election, or change the designation of a beneficiary. All forms had to be signed and notarized or attested to by an officer. A copy of the form furnished by the retiree is valid for RSFPP purposes (if otherwise proper and timely) if the original cannot be located.

B. In the absence of a signed copy of RSFPP election, secondary evidence (including punchcard data that indicates the amount of the option and the time of execution) may be considered as evidence of an election. However, any determination of the validity of an election on the basis of secondary evidence depends upon the particular facts for the individual case, the nature of the secondary evidence, and the degree of certainty of the evidence to establish the facts.

C. An election made by a power of attorney for any member, competent or incompetent, is not valid.

D. If an election is found to be void for any reason except fraud or willful intent of the member, the member may make a corrected election at any time within 90 days after notification in writing. The corrected election is effective as of the date of the void election.

340107. Validity of Documentary Evidence. A valid election must be signed, witnessed, and delivered to the member's appropriate official not later than midnight on the day in which member completed 18 or 19 years of service. On some election forms, it is difficult to determine the date received by finance center officials. If the date of receipt by an official is not shown, consider the date of attestation as the receipt date. If no date is shown, use the postmark date as date of receipt. If there is no postmark date, use the date of receipt by the finance center activity, as stamped on the election.

340108. Mentally Incompetent Members

A. Whenever a member, because of mental incompetence, was incapable of making an election within the time limitations prescribed by the plan, the Secretary of the Military Department concerned (or designee) made an election on behalf of the member upon a request from the spouse or, if there was no spouse, by or on behalf of the child or children of the member.

B. A member later determined to be mentally competent may, within 180 days after such determination, change or revoke the election made on his or her behalf. This change or

revocation is effective on the date of the member's request for such change or revocation. Do not refund deductions previously made for premiums for coverage.

340109. Correction of Records. A member whose records have been corrected by the Secretary of the Military Service concerned may participate in the RSFPP as stipulated on the correction of records directive. The Secretary concerned also has the authority to correct an election, or change an option or a revocation, if the Secretary considers it necessary to correct an administrative error.

340110. Temporary Disability Retired List (TDRL)

A. Any member who was on the TDRL who elected one or more of the annuities specified in the plan, and who later was removed from the list for any reason other than permanent retirement, was entitled to a refund of cost over the cost of term insurance.

B. An election made by a member who was transferred from TDRL to PDRL continued in effect.

340111. Members Retiring Under 10 U.S.C. 12731 (reference (c)). Coverage for members of the Reserve Components, who would have accumulated enough service to be eligible for retired pay at age 60, had certain stipulations.

A. Before October 4, 1961, members must have elected under the plan before completion of 18 years of service. Modification or revocation after attaining age 55 would be valid only if it was submitted at least 5 years before retirement.

B. From October 4, 1961, through October 31, 1968, members must have elected under the plan before completion of 18 years of service. Modifications or revocations would be valid only if submitted at least 3 years before retirement.

C. From November 1, 1968, through September 20, 1972, members must have elected under the plan before their 58th birthday. Elections, modifications, or revocations submitted after age 58 would be valid only if made and submitted at least 2 years before retirement.

3402 WITHDRAWALS

340201. General Provisions. The Secretary of the Military Department concerned (or designee) may, upon application by the retired member, allow him or her to withdraw completely from participation. An approved withdrawal is not effective earlier than the first day of the seventh month beginning after the date application is received by the DFAS-Cleveland Center.

A. A member, who retired before November 1, 1968, must have elected option 4 to be eligible to withdraw from participation in the plan (see subparagraph 340103.E, above).

B. Members who retired on or after November 1, 1968, with automatic option 4, were automatically eligible to request withdrawal from the plan.

C. A request to withdraw from the plan is irrevocable, and a retired member who withdraws may never again participate in the plan.

Example: A retiree withdraws from the RSFPP (options 3 and 4) effective 7 months after retirement. Records were later corrected to show that the member elected options 1 and 2 more than 2 years before retirement. On this basis, the premium for coverage between the retirement date and the withdrawal date may be adjusted. The correction of records, however, does not void the withdrawal from the program.

D. Premiums for coverage continue unless a member submits a request to withdraw and an indebtedness accrues after retired pay is waived. RSFPP participants, who want to terminate their coverage when they waive retired pay to increase their civil service annuity, specifically must request withdrawal from the plan.

ELECTING OPTIONS ON OR BEFORE OCTOBER 31, 1953		
	A	B
RULE	If a member's status was	then the member
1	an active member with less than 18 years of service	could have elected before completion of 18 years of service or November 1, 1954, whichever was later.
2	an active member with less than 18 years of service who is retired for physical disability before 18 years of service	could have made an election at time of retirement, and not later than 30 days after retirement date.
3	an active member who had completed more than 18 years of service for basic pay	could have elected within 1 year after the effective date of Public Law 83-239 (effective November 1, 1953).
4	already retired	could have elected before April 30, 1954.
5	an active member in status of missing, missing in action, interned in a neutral country, captured, beleaguered or besieged because of military operations and unable to make an election before completing 18 years of service for basic pay purposes	could have made election within 6 months after return to the jurisdiction of the Uniformed Service.

Table 34-1. Electing Options On or Before October 31, 1953

ELECTING OPTIONS BETWEEN NOVEMBER 1, 1953 AND OCTOBER 3, 1961		
	A	B
RULE	If a member's status was	then the member
1	an active member with less than 18 years of service for basic pay	must have made an election before completing 18 years of service or November 1, 1954, whichever was later.
2	an active member with less than 18 years of service for basic pay purposes who is retired for physical disability before 18 years	could have made an election at time of retirement, and not later than 30 days after retirement.
3	an active member who completed more than 18 years of service from November 1, 1953 through April 30, 1954	could have made the election before midnight of April 30, 1954.
4	an active member who completed more than 18 years of service from May 1, 1954 through October 3, 1961	could have made the election before midnight of November 1, 1954.

Table 34-2. Electing Options Between November 1, 1953 and October 3, 1961

ELECTING OPTIONS BETWEEN OCTOBER 4, 1961 AND OCTOBER 31, 1968		
	A	B
RULE	If a member's status was	then the member
1	an active member with less than 18 years of service for basic pay purposes	must have made an election before completing 18 years of service or 3 years before retirement. If such election was not changed or revoked, it became effective immediately upon later retirement.
2	active member retired for physical disability and awarded retired pay on or after October 4, 1961 and before completion of 18 years of service (and had not already made an election before October 4, 1961)	could have made an election at time of retirement. If not made earlier, not later than 30 days after retirement.
3	an active member who completed more than 18 years of service for basic pay purposes during this period	could have made an election after completing 18 years of service if he or she had failed or declined to make an election before that time, but must have made the election at least 3 years before the date the member became entitled to receive retired pay.
4	changed whereby retired pay was granted retroactively, and member was otherwise eligible to make an election	could have made the election within 90 days after receiving notice that such pay had been granted.
5	missing, interned in a neutral country, assigned to isolated station, captured by hostile force, or beleaguered or besieged upon completing 18 years of service for basic pay purposes	Could have made the election within 1 year after member ceased to be assigned to that station or returned to the jurisdiction of the Military Service, and such election immediately became effective.

Table 34-3. Electing Options Between October 4, 1961 and October 31, 1968

ELECTING OPTIONS BETWEEN NOVEMBER 1, 1968 AND SEPTEMBER 20, 1972		
	A	B
RULE	If a members status was	then the member
1	active member with less than 19 years of service for basic pay purposes	must have made an election not later than midnight on the day in which he or she completed 19 years of service or 2 years before retirement. Election was effective immediately upon later retirement.
2	active member who completed more than 19 years of service for pay purposes	must have made an election before 19 years of service was completed, or 2 years before retirement.
3	Missing, interned in a neutral country, assigned to isolated station, captured by hostile force, or beleaguered or besieged upon completing 19 years of service for basic pay purposes	could have made an election to become effective immediately, within 1 year after member ceased to be assigned to that station or returned to the jurisdiction of the Armed Forces.
4	changed whereby retired pay was granted retroactively, and member was otherwise eligible to make an election	could have made the election within 90 days after receiving notice that such pay had been granted.

NOTE: No retired member may elect coverage under Retired Serviceman's Family Protection Plan (RSFPP) after September 20, 1972.

Table 34-4. Electing Options Between November 1, 1968 and September 20, 1972

CHAPTER 35

RETIRED SERVICEMAN'S FAMILY PROTECTION PLAN – BENEFICIARIES

3501 ELIGIBLE BENEFICIARIES

Eligible beneficiaries for RSFPP annuities are:

350101. Spouse of the member on the date the member is retired or becomes entitled to retired pay, or, if the member was already retired or entitled to retired pay on November 1, 1953, the spouse on that date.

350102. Children of the member who:

A. Are unmarried and under 18 years of age.

B. Are more than 18 years of age, unmarried, and incapable of self-support because of being mentally defective or physically incapacitated, if that condition existed before they reached age 18.

C. Are at least 18 but under 23 years of age, and pursuing a full-time course of study or training (applies only to children of members who retired on or after November 1, 1968). This study may be in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution (a child is considered to be pursuing a full-time course of study or training during an interval between school years that does not exceed 150 days if the child demonstrated to the satisfaction of the Secretary of the Military Department concerned (or designee) that the child has a bona fide intention of resuming or continuing to pursue a full-time course of study or training in a recognized educational institution immediately after the interval). For the purpose of this subsection, a child who is at least 18 but less than 23 years of age, and is not pursuing a course of study or training, is considered an eligible beneficiary unless the member applies to the Secretary concerned to have such child considered not to be an eligible beneficiary.

D. Are legitimate or adopted children of the member, or step-children dependent upon the member for their support.

E. Are living on the date when the member is retired or becomes entitled to retired pay or, if the member was already retired or entitled to retired pay on November 1, 1953, living on that date.

F. Have been adopted by a third person before the parent-member's death. A child loses his or her eligibility for an annuity under the plan under this condition. However, the eligibility is not affected if the child is adopted by a third person after the parent-member's death.

3502 DESIGNATING BENEFICIARIES

350201. When submitting an election, the member must furnish the birth dates of the named beneficiaries as applicable to the option(s) elected to provide information for computing annuity costs.

350202. A member without dependents may designate beneficiaries when making an election; however, the designation is not effective unless he or she has eligible dependents at retirement.

350203. A member may have a different lawful spouse at the time of retirement from the lawful spouse at the time of election. The lawful spouse at the time of retirement is the spouse eligible for an annuity. Divorce of the member after retirement removes the former spouse as a prospective annuitant.

Example: The member's records were corrected in December 1955 to show retirement in 1952. The member divorced on November 4, 1955 and remarried November 12, 1955. Thus, the former spouse ceases to be an eligible annuitance. In addition, since the second spouse was not the spouse on November 1, 1953, she or he also is not an eligible beneficiary.

3503 SUBSTANTIATING EVIDENCE REGARDING DEPENDENCY AND AGE OF DEPENDENT

The age of the beneficiaries and/or dependents must be substantiated by birth certificates or other competent evidence. When conflicting statements on birth dates exist, the ones made in earlier life have less margin for error than those made in later years. Give earlier records more probative value in determining RSFPP costs.

350301. Proof of Spouse's and Children's Dates of Birth. Acceptable evidence may include one copy of any of the listed items in the sequence shown:

A. Copy of birth certificate (primary evidence)

B. Baptismal or other church records

C. Hospital record of birth

D. Sworn statement of attending doctor or midwife

E. Certified abstract or photostat of baby book or family bible

F. Affidavits from two persons knowing date of birth (Affiants' ages, relationship, and basis for stated facts must be given)

G. Affidavit from either parent or member

H. Passport

I. School records

J. Census Report (**Note**: The Bureau of Census will furnish this information upon request of the widow or widower. This costs a minimum of $4.00 and takes about 4 to 6 weeks to obtain. Address request to:

US Department of Commerce
Bureau of the Census
Personal Census Service Branch
Pittsburg, KS 66762

K. Information obtained from the Immigration and Naturalization Service may be acceptable as primary evidence for establishing a date of birth.

350302. Proof of Parentage

A. Adopted Children. Member must furnish certified copy of the decree of adoption.

B. Stepchild. A statement, signed by the member, stating that the stepchild is "in fact" dependent upon the member for more than half of his or her support will suffice. This statement need not be attested to or notarized.

350303. Child Incapable of Self-Support. The member must submit a certificate by the attending physician or an appropriate official of a hospital or institution for a child 18 years of age or over and unmarried who is incapable of self-support because of mental defect or physical incapacity. This certificate must state the basis for the physician's or the hospital's or institution official's conclusion. Further, a physician or appropriate official of a hospital or institution must certify that such condition existed before the child's 18th birthday. This certificate will be required at least once every 2 years after the annuity becomes payable, except in a case where medical prognosis indicates that recovery is impossible.

3504 EVIDENCE OF MARRIAGE

Evidence of the legality of a marriage is required only when there are apparent discrepancies regarding previous marriages. In such cases, marriage certificates and/or evidence of dissolution of previous marriages are required.

3505 COMMON-LAW MARRIAGES

A common-law marriage has the same recognition as a ceremonial statutory marriage when the parties live in a state where the marriage is recognized. The status of common-law marriages can be changed by the state legislature or by court decisions. Refer all cases involving common-law marriage to the responsible DFAS Center legal office.

CHAPTER 36

RETIRED SERVICEMAN'S FAMILY PROTECTION PLAN – COST OF COVERAGE

3601 GENERAL PROVISION

The cost of RSFPP coverage for the option or options elected is computed based on age of the member and beneficiaries and rate of retired pay in effect on date of retirement or effective date of election, whichever is later. Exclude cost-of-living increases effective on date of retirement. The cost remains the same regardless of future pay increases or decreases.

3602 CONTINUANCE OR DISCONTINUANCE OF COST BASED ON OPTIONS ELECTED

360201. For members who withdraw, the reduction ends effective the first day of the seventh month after the date the application for withdrawal is received. (See section 3402 of this volume.)

360202. When option 4 was not elected with options 1, 2, or 3 (retirements before November 1, 1968), premiums for coverage continue even though all beneficiaries die before the retiree or are ineligible to receive annuity benefits.

360203. When option 4 (automatic after October 31, 1968), is combined with options 1, 2, or 3, premiums for coverage end on the first day of the month after the month in which there are no eligible beneficiaries.

360204. When option 3 is elected (retirements on or after November 1, 1968), premiums for coverage end on last day of month that the spouse becomes an ineligible beneficiary. Eligible children remain covered at no cost to the member.

3603 REDUCTION OF RETIRED PAY FOR COST OF COVERAGE

360301. The RSFPP reduction in retired pay was computed on cost tables in effect on the date of retirement or date of election, whichever is later. The cost tables were published as Tables of Percentage Reduction of Retired Pay under the RSFPP and are available at the DFAS-Cleveland Center.

360302. If the member had no eligible dependents under the option or options elected on date of retirement, no reduction was made in retired pay.

360303. An adjustment could have been made in the reduction of retired pay upon finding an administrative error or a mistake of fact.

360304. If a member elected option 3, with or without option 4, but on the date of retirement:

A. Had no children eligible for the annuity, premiums were computed as though the member elected option 1 with or without option 4.

B. Had no spouse eligible for the annuity, premiums were computed as though member elected option 2 with or without option 4.

360305. If member elected multiple options (option 1 and option 2) but on date of retirement:

A. Had no spouse eligible for the annuity, premiums were computed as though member elected option 2 or option 2 with 4 only.

B. Had no children eligible for the annuity, premiums were computed as though member elected option 1 or option 1 with 4 only.

360306. A member who retired before November 1, 1968, had until September 1, 1969, to add option 4 to a previous election. (See subparagraph 340103.E.1 of this volume.) The additional premium was effective the first day of the month in which the original RSFPP election became effective. The retiree had to pay the additional premium which would have been deducted from retired pay if he or she had first elected option 4, plus interest. The interest was not deductible from taxable income. If undue hardship or financial burden resulted, payment could have been made:

A. In 2 to 12 monthly installments when the monthly amounts involved were $25 or less, or

B. In 2 to 36 monthly installments when the monthly amounts exceeded $25.

360307. No amounts by which retired pay was reduced before the election of option 4 were refunded to, or credited on behalf of, the retiree by virtue of an application to include option 4.

3604 EFFECTIVE DATE OF REDUCTION

360401. The effective date of reduction is the date of retirement or date of election, whichever is later.

360402. For members who retired and died during the same month, the premium deduction was made only from date of retirement through date of death.

3605 PAYMENT OF COST DURING NON-RECEIPT OF RETIRED PAY

360501. The RSFPP premium that otherwise would be withheld from retired pay must be deposited by direct remittance to the DFAS-Cleveland Center. Deposits are due on the effective date of coverage. For example, if the member retired June 1, the first payment is due on June 1 for period June 1-30.

360502. The retired pay activity informs the retiree of the amount and date when deposits are to be made.

360503. If a total VA waiver is in effect, the retiree may authorize Department of Veterans Affairs to withhold the premium from the VA benefits. See the DoD/VA Memorandum of Understanding, June 13, 1985, at Appendix G of this volume.

360504. Payments for RSFPP premiums for retirees recalled to active duty for more than 30 days may be paid by a class U allotment. This allotment is stopped upon release from active duty. See Volume 7A, Chapters 41 and 42 of this Regulation (reference (ey)).

360505. If deposits are not made within 30 days of the due date, the DFAS-Cleveland Center informs the retiree of the delinquency and advises him or her that beneficiaries cannot be paid an annuity under the plan until all delinquent premiums, plus interest at the rate applicable for the delinquent period, is paid. The notification of delinquency advises the retiree that 15 additional days have been granted in which to remit the deposit and, if the arrears are not deposited within that period, the retiree will be charged interest to include the first day of delinquency. In no case will the expiration date of the 15 days exceed a date later than 45 days from the date the deposit was due. Compute interest monthly on the interest rate applicable for the delinquent period. Withhold any arrears, with compound interest, if the retiree later receives retired pay.

3606 TEMPORARY DISABILITY RETIRED LIST (TDRL)

360601. The RSFPP coverage terminates when the retiree is removed from the TDRL for reasons other than transfer to the Permanent Disability Retired List.

360602. For members who remain on the TDRL for 5 full years, premiums and coverage cease at the end of the 5-year period. If the retiree dies after the 5-year period, no benefits are payable.

3607 CALCULATION FOR DELINQUENT PREMIUMS

360701. RSFPP interest rates are:

Effective Date	Annual Rate	Monthly Rate
Nov 1, 1953	3.00%	.00247
Jan 1, 1961	3.25%	.00267
Jan 1, 1966	3.75%	.00307
Jan 1, 1970	4.25%	.00348
Mar 1, 1975	6.00%	.00487

360702. For delinquent accounts, calculate the total cost plus interest by multiplying the monthly cost by the compound interest factor shown opposite the total number of payments due on the appropriate RSFPP compound interest Tables 1 through 5. (See Appendices B through F.)

360703. These following examples show how to compute interest when intermittent payments have been received. The computations are as of the 30th of each month on the basis that past due amounts were received after 45 days elapsed.

Examples

Date	Delinquent Amount	Monthly Premium	Amount Received	Amount Applied to Pay Premium Current/Month	Amount Applied To Delinquent Amount	Interest	Balance Due
Nov 30	$476.16	$20.00	-0-	-0- / -0-	476.16 x .00487 =	2.32	$498.48
Dec 31	498.48	20.00	$60.00	$20.00 / $40.00	458.48 x .00487 =	2.23	460.71
Jan 31	460.71	20.00	$20.00	$20.00 / -0-	460.71 x .00487 =	2.24	462.95
Feb 28	462.95	20.00	-0-	-0- / -0-	462.95 x .00487 =	2.25	485.20
Mar 31	485.20	20.00	$40.00	$20.00 / $20.00	465.20 x .00487 =	2.27	476.47

3608 AGE FACTOR

360801. Calculate the age of the member and beneficiaries as of their nearest birthday on the day of the member's retirement, or the effective date of election, whichever was later. Round 6 months or more to the next full year.

A. Option 1- Member and spouse

B. Option 2- Member and youngest child

C. Option 3- Member, spouse, and youngest child

360802. Age Adjustments

A. For a female member, adjust her age and the age of her husband. Subtract 5 years from her actual age; add 5 years to his actual age. If the actual age or adjusted age of the member is over 90, consider the actual or adjusted age to be 90.

B. If the member's age and the wife's age are the same, use the table for "wife older by 0 years." This applies to Table of Percentage Reduction of Retired Pay Under RSFPP before November 1, 1968.

C. If the member's wife is more than 15 years older than the member, consider the difference to be exactly 15 years.

D. If a member's wife is more than 25 years younger than member, find the reduction factor using extrapolation. If a member's husband is more than 25 years younger than the member, see the Table of Percentage Reduction of Retired Pay Under RSFPP before November 1, 1968.

E. If a child is over 17-1/2 years of age, but less than 18, consider the age to be 17 for cost computation before November 1, 1968. Consider the age to be 18 for cost computation on or after November 1, 1968.

F. If child is less than 6 months old, consider the age to be 0.

G. If child is exactly 6 months old, consider the age to be 1 year.

H. If youngest child is 18 or older and physically or mentally incapacitated (because of disability which existed before age 18), base the cost on factor for child aged 17.

3609 CALCULATING COST FOR SINGLE OPTION

360901. Retirements before November 1, 1968

Annuities of one-half of reduced retired pay:

Basic Data for Examples

Date of Retirement	August 1, 1966
Member born January 15, 1916	Age 51 (nearest age)
Wife born February 27, 1918	Age 48
Difference between ages	3 years
Youngest child born August 15, 1954	Age 12
Member's gross retired pay entitlement	$884.03

MEMBER	WIFE	YOUNGEST CHILD
66-08-01	66-08-01	66-08-01
16-01-15	18-02-27	54-08-15
50-06-16	48-05-04	11-11-16
or	or	or
51 years	48 years	12 years

A. Example 1: A member retired with 20 years of service and elected option 1 with option 4 to provide his widow with an annuity of one-half of his reduced retired pay.

1. Using the appropriate table (Table of Percentage Reduction of Retired Pay Under RSFPP, April 1966, with 20 years of service), find the member's age (51) in the extreme left column headed "Age" and the difference between the member's age and his wife's age (member older than wife by 3 years) at the top of the table. The percentage reduction factor is located in the column headed by the difference in age on the line with the member's age. (0.1232)

Option 1-4 and Option 3-4-One-Half

Age	Retired Member Older than Dependent Wife by:			
-	25	4	3	2
-				
-				
-				
49				
50				
51				.1232

2. Multiply the member's gross retired pay by the reduction factor. This gives the monthly deduction to be made from the member's retired pay.

Gross retired pay	$884.03
Reduction factor	x 0.1232
Monthly deduction from retired pay	$108.91

B. Example 2: A member retired with 20 years of service and elected option 2 with option 4 for one-half of member's reduced retired pay.

1. Under the table (April 1966) with more than 20 years of service, for option 2 with option 4 for one-half, find the member's age (51) in the extreme left column headed "Age" and the child's age (12) along the top of the table. The reduction factor is in the column headed by the child's age on the line with the member's age (0.0133).

Option 2-4-One-Half

Age	Age of Child at Retirement
-	1 11 12 13 _____
-	
50	
51	_____.0133

2. Multiply the member's gross retired pay by the reduction factor. This gives the monthly deduction to be made from member's retired pay.

Gross retired pay	$884.03
Reduction factor	x 0.0133
Monthly deduction from retired pay	$11.76

C. Example 3: A member retired with 20 years of service and elected option 3 for one-half of member's reduced retired pay.

1. Using the table for option 1 find the member's age (51) in the extreme left column headed "Age" and the difference between the member's age and his wife's age (member older than wife by 3 years) along the top of the table. The reduction factor is in the column headed by the difference in age on the line with the member's age. Use Table for January 1, 1966, for retirement on or after January 1, 1966, with more than 20 completed years of service.

Option 1-One-Half

Age	Retired Member Older than Dependent Wife by:
-	Years 25 _____ 4 3 2 1
-	
-	
50	
51	_____.1137

2. From the lower part of the same table, select the multiplier appearing below the age of the youngest child.

Age of Child	0	11	12
Multiplier			1.001

3. Multiply the reduction factor for an annuity of one-half for option 1 by the multiplier based on age of youngest child.

$$0.1137 \times 1.001 = 0.1138$$

4. Multiply the member's gross retired pay by the reduction factor. This gives the monthly deduction to be made from member's retired pay.

Gross retired pay	$884.03
Reduction factor	x 0.1138
Monthly deduction from retired pay	$100.60

NOTE: When the youngest child is at least 13 years old, use only the factor for option 1. (The multiplier based on the age of the youngest child is 1.000.)

5. Annuities of one-quarter or one-half of reduced retired pay. Use conversion tables to convert the percentage reduction factor for an annuity of one-half of the reduced retired pay. Locate the first three digits of the one-half reduction factor in the extreme left column of the appropriate conversion table. The column is titled RF one-half (i.e., Reduction Factor for one-half of reduced retired pay). The fourth digit of the reduction factor for an annuity of one-half appears at the top of one of the succeeding columns. Find converted reduction factor in the column headed by the fourth digit in the reduction factor for one-half on the line opposite the first three digits. For example: Reduction factor for one-half is .1232 and member wants to provide an annuity of one-quarter. The reduction factor is .0656.

Conversion Table-One-Quarter
Range .100 to 149

100	0	1	2	3	4	5	6	7	8	9
-										
-										
-										
123										.0656

360902. Retirements November 1, 1968 Through September 20, 1972. Cost is now based on 12-1/2, 25, or 50 percent of full, rather than reduced, retired pay. Figure the amount of the annuity before computing the cost of coverage per month.

Example: A member aged 41 retired with more than 19 years of service after November 1, 1968. The member elected option 2 with 4 to provide the child, age 2, with 50 percent of total retired pay:

Gross Retired Pay	$547.86
Percentage	x .50
Annuity Payable per month	$273.93
*Reduction Factor	x.0434
Cost 11.888562 or	$11.89

*Obtained from actuarial cost table according to the member's age, child's age, option elected, percentage factor and type of retirement.

3610 CALCULATING COST FOR MULTIPLE OPTIONS

361001. November 1, 1953 - October 3, 1961. Public Law 83-239 (reference (et)), required the cost for multiple options to be computed by an actuarial equivalent method using, as a basis, appropriate actuarial tables selected by the DoD Board of Actuaries. Use these steps to compute cost:

A. For each one-quarter option chosen, find the reduction factor for the corresponding one-half option. For each one-eighth option chosen, find the reduction factor for the corresponding one-quarter option. There will be two factors, one for the option 1 portion and another for the option 2 portion.

B. For each factor in Step A, find the complement by subtracting the factor from 1.0000.

C. Obtain the product of the complements by multiplying them together. Obtain their sum by adding them together.

D. Divide the product by the sum and carry the answer to six decimal places.

E. Multiply the factor from Step D by the gross monthly retired pay and round off to dollars and cents. This is the member's monthly reduced retired pay for each option chosen.

F. Find the cost of each option by multiplying the answer found in Step E by the quotient of the reduction factor for the option divided by its complements.

Example: A member, age 50, retired for physical disability on August 1, 1961:

a. Wife's age is 48

b. Youngest child's age is 8

c. Gross monthly retired pay is $452.62

The member combines option 1 for one-quarter reduced retired pay with option 2-4 for one-eighth reduced retired pay.

STEP 1. Determine reduction factors:

Option 1 - 1/4 same factor as for option 1, 1/2 = .1688

Option 2-4 - 1/8 same factor as for option 2-4, 1/4 = .0196

STEP 2. Determine complements of reduction factors:

Option 1 - 1.0000 - .1688 = .8312
Option 2-4 -1.0000 - .0196 = .9804

STEP 3. Multiply and then add complements:

.8312 x .9804 = .81490848 (product)

.8312 + .9804 = 1.8116 (sum)

STEP 4. Divide product by sum:

.81490848 ÷1.8116 = .449828

STEP 5. Multiply gross monthly retired pay by the answer in Step 4:

$452.62 x .449828 = $203.60

STEP 6:

a. Divide reduction factors (Step 1) by complements (Step 2):

Option 1 - .1688 ÷ .8312 = .203079

Option 2-4 - .0196 ÷ .9804 = .019991

b. Figure cost of each option by multiplying product in Step 5 by each quotient in Step 6:

Option 1- $203.60 x .203079 = $41.35

Option 2-4- $203.60 x .019991 = $ 4. 07

STEP 7. Determine total reduced retired pay by multiplying answer in Step 5 times 2:

2 x $203.60 = $407.20

Note: Annuity for each option is: (See subparagraph 370502.A of this volume.)

Option 1 - 1/4 x $407.20 = $101.80

Option 2-4-1/8 x $407.20 = $ 50.90

361002. October 4, 1961-October 31, 1968. The cost is computed by multiplying the reduction factor elected by gross retired pay. Use conversion tables to determine reduction factor when the member elects annuity of one-quarter or one-eighth of reduced retired pay instead of one-half as shown in paragraph 360902, above.

Example: A member, age 46, retired for physical disability on December 16, 1965, with less than 18 years of service for pay purposes. Table of Percentage Reduction of Retired Pay-April 1962.

a. Wife's age is 43

b. Youngest child's age is 13

c. Gross monthly retired pay is $814.95. Elected option 1 with 4 for one-quarter combined with option 2 with 4 for one-quarter. Reduction Factor:

Option 1-4 for ½ = .1504; factor for 1/4 is .0813
Option 2-4 for ½ = .0109; factor for 1/4 is .0055

	Retired Pay	Cost	Reduced Retired Pay	Annuity Payable
Option 1	$814.95 x .0813 =	$66.25	$748.70 x 1/4 =	$187.18 *
Option 2	$814.95 x .0055 =	$4.48	$810.47 x 1/4 =	$202.62

* (See subparagraph 370502.B of this volume.)

361003. November 1,1968 - September 20, 1972. Public Law 90-485 (reference (ev)), again changed the method for computing coverage premiums. The premium is based on the amount of annuity payable. The annuity payable is specified as either a dollar amount or a percentage of retired pay, but not both. Multiply the reduction factor for the annuity elected by the monthly annuity payable for each option.

Example: A member, age 52, retired for years of service on July 31, 1970, with more than 19 years of service for basic pay purposes.

a. Wife's age is 51

b. Youngest child is 17

c. Monthly gross retired pay award is $1,082.34

The member elected option 1 with option 4 for one-quarter combined with option 2 with option 4 for 1/4.

	Retired Pay	Annuity Payable
Option 1-4	$1,082.34 x 25% or 1/4 =	$270.59 *
Option 2-4	$1,082.34 x 25% or 1/4 =	$270.59 annuity payable monthly
Option 1-4	$270.59 x .2561 factor (Cost Table D, opt#1)	$69.30 cost of coverage
Option 2-4	$270.59 x .0253 factor (Cost Table D, opt#2)	$6.85 cost of coverage

* (See subparagraph 370502.B of this volume.)

3611 TAXABILITY OF COST

For federal income tax purposes, the cost of RSFPP coverage is excluded from taxable income on TD Form W-2P. A refund of premiums resulting from administrative error, correction of records, late receipt of withdrawal request, or youngest child attaining maximum age is taxable income to the retiree.

3612 INCOME EXCLUSION

The retiree will receive an income exclusion for the amount of the direct remittance for cost of coverage upon returning to a pay status. The DFAS-Cleveland Center will exclude the amount of the direct remittance from the taxable income on TD Form W-2P. See section 3605 of this volume for payment of cost during non-receipt of retired pay.

CHAPTER 37

RETIRED SERVICEMAN'S FAMILY PROTECTION PLAN – ANNUITY AMOUNTS

3701 GENERAL

370101. An annuity payable under the RSFPP is not assignable or subject to execution, levy, attachment, or garnishment-except for child support or alimony or to collect a debt caused by an overpayment described in Chapter 38, paragraph 3801. A debt to the United States or its instrumentalities incurred by the annuitant may be offset from the annuity. The annuity may be paid to a trustee in bankruptcy pursuant to the order of a bankruptcy court in a proceeding under Chapter 13 of the Bankruptcy Code, 11 U.S.C. (reference (dg)), since such proceeding is voluntary.

370102. Annuities payable are in addition to any pension or other payment to which the beneficiaries may now or later be entitled by law, and may not be considered as income under any law administered by the Department of Veterans Affairs except when the annuitant is entitled to DIC as a parent of a veteran.

370103. See Table 37-1 for general provisions affecting annuity payments.

370104. For settlement of arrears of annuities, see Chapter 31.

3702 EFFECTIVE DATE OF ANNUITY

370201. Each annuity payable normally accrues as of the first day of the month in which the member dies. If the Secretary concerned makes a determination that a participating member is presumed dead, the annuity accrues from the first day of the month in which retired or retainer pay was suspended on the basis of the member's missing status. When a member elects coverage for spouse and children (Option 3), an annuity is payable to eligible children on the first day of the month in which the widow or widower becomes an ineligible annuitant. For the child who is at least age 18 and attending a recognized educational institution (see Chapter 35, subparagraph 350102.C), the annuity accrues:

A. As of the first day of the month in which the retired member dies, if the eligible child's 18th birthday occurs in the same or a preceding month.

B. As of the first day of the month in which the child's 18th birthday occurs if the retired member died in the preceding month.

C. As of the first day of the month in which the child becomes or again becomes eligible if that child's 18th birthday and the retired member's death occurred in a preceding month or months.

370202. The first payment of the annuity cannot be made until a completed application is received. If a properly completed application is received, first payment must be made

not later than the 15th of the month after the month in which the retired member dies, nor later than the 15th of the month after the month in which the Secretary concerned has made a determination that the member is presumed dead. Payments are made in equal monthly installments thereafter as long as entitlement exists.

370203. No annuity accrues or is paid for the month in which all annuitants lose eligibility.

370204. If a member retires and dies during the same month, the annuity is payable for the full month.

3703 ANNUITY PAYMENTS

Upon official notification of death or Secretarial determination that a participating member is presumed dead, annuity accounts are established in accordance with the provisions of the election made by or on behalf of the member. A completed DD Form 768 (Application for Annuity Under RSFPP) validates the annuity account. Payment of annuity is barred when the member is retired for disability before completing 19 years of service (18 years of service before October 1968) if beneficiaries are eligible for VA Dependency and Indemnity Compensation. For payments for a representative payee of an annuitant, see Chapter 46, subparagraph 460103.C.

3704 CLAIMS FOR ANNUITY

The claim for annuity payments must be properly completed and signed by the person or persons authorized to receive annuity.

370401. An individual holding a valid power of attorney may complete (including the signature element) and file the annuity application form on behalf of an annuitant provided payments are to be made directly to the annuitant and provided further that the annuitant has not been determined to be incompetent of managing his or her own affairs by a state court, physician or psychologist. (See Chapter 46, paragraph 460103) An annuitant whose application is signed with an "X" must be witnessed (two disinterested persons) or notarized or countersigned by the person holding power of attorney. A copy of the power of attorney and explanation why the annuitant required assistance must be submitted with the annuity application.

370402. A claim signed by a legal representative must be accompanied by a copy of the court order of appointment.

370403. A claim signed by the custodian of a minor child or children must be accompanied by a document evidencing custodianship.

370404. A doubtful claim must be submitted to the United States General Accounting Office (GAO) for certification before payment.

370405. When a claim is not received within 6 years, the case is closed. If a claim is received later, the case is reopened.

3705 ANNUITY AMOUNTS

370501. Single Option

A. Retirement before Nov 1, 1968. The monthly annuity payable, as elected by the retiree, is one-eighth, one-quarter, or one-half of the retiree's reduced retired pay as computed on the date of retirement or effective date of election, whichever is later.

B. Retirements from Nov 1, 1968 through Sep 20, 1972. The monthly annuity payable as elected by the retiree is:

1. One-eighth, one-quarter, or one-half of the retiree's gross retired pay on date of retirement; or

2. A specific dollar amount of not more than 50 percent nor less than 12-1/2 percent of the retiree's gross retired pay on date of retirement, but in no case less than $25.

370502. Multiple Options

A. Retirements before Nov 1, 1968. The monthly annuity payable for each option, as elected by the retiree, is one-eighth or one-quarter of the retiree's total reduced retired pay as computed on the date of retirement or effective date of election, whichever is later. The combined amount of annuities cannot exceed 50 percent of the retiree's total reduced retired pay.

B. Retirements from Nov 1, 1968 through Sep 20, 1972. The monthly annuity payable for each option, as elected by the retiree, is:

1. One-eighth or one-quarter of the retiree's gross retired pay on date of retirement; or

2. A specific dollar amount of not more than 25 percent nor less than 12-1/2 percent of the retiree's gross retired pay on date of retirement, but in no case less than $25.

370503. Public Law 98-94 (reference (aj)). This statute provides that all monthly annuities to which a survivor becomes entitled on or after Oct 1, 1983, if not a multiple of $1, are rounded to the next lower multiple of $1. Annuities to which survivors were entitled on Sep 30, 1983, were not rounded until there was an adjustment made in accordance with 10 U.S.C. 1401a (reference (c)); then, and with each subsequent adjustment, the amount as adjusted, if not a multiple of $1, is rounded to the next lower multiple of $1. All subsequent adjustments are based on the rounded amount.

3706 PAYMENTS TO WIDOW OR WIDOWER

For unique conditions affecting entitlement of annuity payments to widow or widower, see Table 37-2 for decisions of the Comptroller General.

3707 PAYMENT TO CHILDREN

370701. Annuities for a minor child or children are paid to the legal guardian, or if there is no legal guardian, to the natural parent who has care, custody, and control of the child or children as the custodian, or to a representative payee of the child or children.

370702. Annuities may be paid direct to the child when the law governing the state of residence stipulates the child to be majority age. The child then is considered an adult for annuity payment purposes, and a custodian or legal fiduciary is not required. See Appendix H for age of majority.

370703. The annuity is payable in equal shares to or in behalf of all eligible children. The annuity entitlement terminates when the youngest child becomes an ineligible annuitant.

370704. For unique conditions affecting entitlement and payment of annuities for a child or children, see Table 37-3 for decisions of the Comptroller General.

3708 COST-OF-LIVING ADJUSTMENT

370801. Annuities payable on Sep 30, 1978, to a spouse or child of a member who died on or before Mar 20, 1974, were increased by 66.1 percent effective Oct 1, 1978. The 66.1 percent increase was the percentage change in retired and retainer pay authorized by 10 U.S.C. 1401a (reference (c)) from Sep 21, 1972 to Sep 30, 1978.

370802. Whenever retired pay is increased through a cost-of-living adjustment, each annuity payable on the day before the effective date of that increase to a spouse or child or a member who dies on or before Mar 20, 1974, are increased at the same time by the same percentage. Beginning Oct 1, 1983, after each cost-of-living adjustment the annuity as adjusted, if not a multiple of $1, is rounded to the next lower multiple of $1. All subsequent adjustments are based on the rounded amount.

COMPTROLLER GENERAL DECISIONS - ANNUITY PAYMENTS, GENERAL	
Decision Number	**Synopsis**
1. 35 Comp Gen 12 41 Comp Gen 500	Unpaid Cost for Coverage. Any unpaid RSFPP cost at time of a retiree's death, including nonpayment of direct remittance or erroneous computation of cost, must be collected before payment of any annuities.
2. 34 Comp Gen 664	Retired Pay Status Relinquished. Personnel who relinquish retired status (either voluntarily or involuntarily) are not permitted to pay RSFPP costs to entitle beneficiaries to annuities.
3. 43 Comp Gen 125	Effective Date of Payment. Annuity payments are paid under provisions of the RSFPP law as amended effective Oct 4, 1961, even though the election was made on Oct 4, 1961, before the hour in which the President signed the bill which amended the law.
4. 34 Comp Gen 151 38 Comp Gen 146	Annuity Payment Adjustments. Annuity payments must be adjusted on the basis of proper retired pay at the time the election became effective as though the member had actually been receiving such pay at that time. This applies to elections by members who elected while in a "saved pay" status, who later elected and received pay under the Career Compensation Act (CCA) retroactive to Oct 1, 1949.
5. MS Comp Gen B-156862, Jun 30, 1965	Failure to Submit Valid Election Form. After a member's death a copy of the RSFPP election is found in his personal effects. If it is not attested or notarized, and neither the original nor duplicate is located, it cannot be established that the member made an election. On the basis of information available, no annuity is payable.
6. 43 Comp Gen 418	Allocations of Annuity. The allocation of annuity payable under option 3 between the present spouse and the children of a former marriage applies to elections made before and after the Oct 4, 1961 RSFPP amendment. Public Law 90-485, Aug 13, 1968.
7. MS Comp Gen B-139217, Jun 29, 1959, Aug 12, 1960	Withholding Annuity to Satisfy Members Indebtedness. Annuity payments may be withheld to satisfy the member's indebtedness for overpayment of retired pay since the annuitant is under no obligation to the United States. However, the annuitant may voluntarily agree to repay the indebtedness by withholding from the annuity.
8. 39 Comp Gen 481 MS Comp Gen B-141131, Dec 30, 1959	Valid Intent of Member to Elect Spouse and Child Coverage. Both the spouse and children are covered when it can be established that the member intended to cover the children listed on the election certificate even though the election was checked to show spouse only.
9. 65 Comp Gen 621	Annuity payments should not be made payable to an agent acting under power of attorney when the annuitant is mentally incompetent even if a state statute had preserved the validity of a power of attorney executed before the annuitant was declared to be incompetent.
10. 66 Comp Gen 340	In the absence of a determination of incompetence made by a state court, physician, or psychologist that an annuitant is incapable of managing his or her own affairs, payments may be made directly to the annuitant. An individual, in accordance with a valid power of attorney, may assist the annuitant in completing and filing the annuity application form. (65 Comp Gen 621, clarified).

Table 37-1. Comptroller General Decisions - Annuity Payments, General

COMPTROLLER GENERAL DECISIONS – ANNUITY PAYMENTS, WIDOW OR WIDOWER	
Decision Number	**Synopsis**
1. MS Comp Gen B-158906, Jun 7, 1966	Validity of Annuitant's Marriage to the Member. Evidence must be of record to establish that a former marriage was legally ended. No annuity payments are authorized to be paid until legal proceedings are instituted to determine the validity of the marriage.
2. 44 Comp Gen 480	Foreign Divorce. The State of New York does not recognize a foreign divorce unless both parties appear personally or through authorized counsel in the country where the foreign divorce is obtained.
3. 43 Comp Gen 567	Foreign Divorce. A member's marriage to a woman who had previously obtained an illegal foreign divorce is not valid for annuity payment purposes.
4. MS Comp Gen B-154387, Jul 16, 1964	Interlocutory Decree of Divorce. An interlocutory decree does not end a marriage. A foreign divorce in the interim period is not valid. The final divorce decree terminates the marriage.
5. 42 Comp Gen 112	Divorce and Later Remarriage to Same Spouse. A spouse who divorces the member after retirement terminates eligibility for annuity. A later remarriage of the same people to each other does not reinstate eligibility to the annuity, even though deductions from pay are continued under terms of the member's election.
6. 38 Comp Gen 208	Annuity Elections at Time of Correction of Records. A member is regarded as having been in a retired status on Nov 1, 1953, effective date of the RSFPP law, if after that date a Correction of Records retired the member retroactive to a date before Nov 1, 1953. A spouse whom the member married after Nov 1, 1953 is not entitled to annuity since he or she was not the spouse on Nov 1, 1953.

Table 37-2. Comptroller General Decisions - Annuity Payments, Widow or Widower

COMPTROLLER GENERAL DECISIONS – ANNUITY PAYMENTS, CHILD OR CHILDREN	
Decision Number	**Synopsis**
1. 47 Comp Gen 270	Custodianship of Minor Child. Payment of RSFPP annuity may be made to a natural parent having care and custody of minor child or children, without the appointment of a legal guardian, even though such payments might eventually exceed the sum of $1,000.
2. 35 Comp Gen 521	Custodianship of Minor Children. Payment can also be made to an adopting parent, as custodian of minor child since all rights and duties were acquired with the adoption.
3. 47 Comp Gen 371	Child Physically Incapacitated. A chiropractor's statement attesting to a child's physical incapacity is sufficient to substantiate eligibility as a beneficiary under RSFPP.
4. 48 Comp Gen 167	Ineligible Child. Child born May 1, 1950, became eligible for annuity benefits on May 1, 1968. Payment for month of April 1968 is proper.
5. MS Comp Gen B-160876, Apr 18, 1967	Incapacitated Child. An incapacitated child does not have to meet that condition as of member's retirement date of Nov 1, 1953, if later (as required by DoDD #1332.17, section 102c) to qualify as an eligible RSFPP beneficiary. Also, proof of continued incapacitation of a child annuitant is required at least every 2 years after age 18.
6. MS Comp Gen B-158411, Mar 10, 1966	Mentally Incapacitated Child. Mentally incapacitated child who married and whose marriage was annulled is considered unmarried and an eligible contingent beneficiary.
7. 44 Comp Gen 280	Unmarried Child. The term "unmarried child" is defined as not having a husband or wife at time of member's retirement, and without regard to the fact that the child may have been previously married.
8. MS Comp Gen B-131677, Jun 3, 1957	Legitimate Child. Children born from illegal marriage (one spouse not legally divorced from prior marriage) may be considered legitimate children for RSFPP annuity payments.
9. MS Comp Gen B-132012, Jun 17, 1957	Clarification of Election Fraction. A member who elected option 2 with both 1/2 and 1/8 factors checked, who failed to clarify the fraction desired, and who later stated a wish not to participate in the plan, must be assumed to have elected the minimum of 1/8 rate.
10. 36 Comp Gen 325	Adoption of Child. Child of deceased retired member receiving annuity under option 2 who is adopted after death of a retired member, is entitled to continue receiving the annuity. An adoption before death of retired member, or divorce from wife in which member elected option covering stepchild constitutes basis for terminating reduction of retired pay if option 4 included, and likewise voids entitlement to annuity upon later death of retiree.
11. 35 Comp Gen 521	Amendatory Birth Certificate. Amendatory birth certificate along with statement on election form is normally sufficient to substantiate date of birth and claimed relationship of adopted child.
12. 62 Comp Gen 193	Incapacitated Annuitant. Annuity payable to an incapacitated annuitant may not be suspended unless annuitant is capable of earning amounts sufficient for own particular personal needs through substantial and sustainable gainful employment. Advance written notice will be made prior to suspension and annuitant shall be given the opportunity to submit rebutting evidence.
13. 62 Comp Gen 302	Incapacitated Annuitant – Reinstatement of Annuity - Payment to Third Parties. An annuity may be reinstated upon the recurrence of original disabling condition. Annuity payments to incapacitated adult can be made to third parties only if appointed as guardian by court or under valid power of attorney. Power of attorney executed by mentally incapacitated annuitant may be invalid, even in absence of formal adjudication of incompetence. If annuitant suffering from mental illness has not been adjudged incompetent, and is considered by psychiatrist to be competent to manage annuity properly for personal maintenance, annuity may be paid directly to annuitant. If annuity cannot be paid directly to annuitant or properly paid to third party, annuity should accrue to annuitant's account until annuitant recovers or until guardian is appointed by court.

Table 37-3. Comptroller General Decisions - Annuity Payments, Child or Children

CHAPTER 38

RETIRED SERVICEMAN'S FAMILY PROTECTION PLAN – ANNUITY OVERPAYMENTS

3801 CAUSES OF OVERPAYMENTS

Overpayments in retiree annuity payments may be caused by one or more of the following situations:

380101. Failure of the annuitant, custodian, or guardian to notify the Secretary of the Military Department concerned (or designee) of:

A. Remarriage of the annuitant, before age 60 or death

B. Youngest child reaching age 18

C. Marriage or death of a child annuitant

D. Recovery of an incapacitated child

E. Termination of student status

380102. Erroneous computation

380103. Correction of member's military records

380104. Concurrent payment of RSFPP annuity and DIC if the RSFPP was payable based on the service of a member who retired for disability before completing 18 years of service after October 5, 1961, or before completing 19 years of service after November 1, 1968.

380105. A secretarial determination that a member is alive after the Secretary of the Military Department concerned (or designee) previously determined that the member was presumed dead. The member is liable for any indebtedness created where the annuity payments were made based on the presumption of such member's death. The member's indebtedness cannot be considered for waiver under 10 U.S.C. 2774 or 1442 (reference (c)). If the member dies before those payments are fully recovered, the annuitant may be liable for the indebtedness if the annuitant was the recipient of the annuity payments made under the presumption of death. (See Chapter 28, Table 28-1, of this volume for collection of indebtedness from retired or retainer pay.)

3802 RECOVERY OF OVERPAYMENTS

Upon discovery of an overpayment, start recovery action immediately. Advise the annuitant of the debt and the method in which the overpayment is being, or may be, recovered.

3803 METHOD OF RECOVERY

The debt resulting from an annuity overpayment shall be liquidated by one of the following methods.

380301. Direct remittance to the DFAS-Denver Center

380302. Reduction by the DFAS-Denver Center of later RSFPP annuity payments, or withholding of future annuity payments until debt has been liquidated.

3804 WAIVER OF INDEBTEDNESS

When applicable, the DFAS-Denver Center advises the annuitant of the right to request a waiver of indebtedness.

380401. Recovery of an overpayment of the RSFPP annuity is not required if, in the judgment of the DFAS Director, or the Director's designee, there was no fault by the person to whom the amount was erroneously paid and recovery would be contrary to the purpose of the plan or against equity and good conscience. Proof of hardship is not required if the waiver otherwise is in order. Suspension of collection action may be authorized on receipt of a waiver request. Refund of an amount withheld before receipt of a request for waiver is not authorized. When a waiver is granted, refund amounts collected after receipt of the waiver request.

380402. Failure to withhold the cost of coverage from retired pay of a member cannot be considered an overpayment of annuity to a designated beneficiary to authorize waiver of recovery of the overpayment.

380403. RSFPP annuitants who obtain a correction of records for entitlement to additional survivorship annuity under a second election may not retain the benefits of the original election. A correction made under 10 U.S.C. 1552 (reference (c)), except when procured by fraud, is final and conclusive on all officers of the United States. Recovery of overpayments that occur in these instances may not be waived under 10 U.S.C. 1442 (reference (c)). Repayment may be made over a reasonable period of time as determined by the retired pay activity.

CHAPTER 39

RETIRED SERVICEMAN'S FAMILY PROTECTION PLAN - ANNUITY TERMINATIONS AND REINSTATEMENTS

3901 TERMINATIONS

390101. Time of Termination. Entitlement to the RSFPP annuity terminates as of the end of the month that precedes the month in which eligibility ceases.

390102. Reasons for Termination. Terminate RSFPP annuity upon:

A. Death of Widow or Widower. Terminate payments the last day of the month that precedes the month in which widow or widower dies. If children are involved, see section 3902, below.

B. Remarriage of Widow or Widower Before Age 60. Terminate payments the last day of the month that precedes the month in which widow or widower, younger than age 60, remarries. If children are involved, see paragraph 390202, below.

C. Loss of Eligibility by Child Annuitan. Reasons for loss are:

1. Youngest child reaching age 18 and not incapable of self-support (applicable to children of members who retired before November 1, 1968).

2. Youngest child reaching age 18 and not pursuing a full-time course of study nor incapable of self-support (applicable to children of members retiring on or after November 1, 1968).

3. Youngest child who is pursuing full-time course of study, reaches age 23 and is not incapable of self-support (applicable to children of members who retired on or after November 1, 1968).

4. Marriage or death of child annuitant.

5. Recovery of an incapacitated child over age 18. Annuity may be suspended if the annuitant becomes independently capable of earning amounts sufficient for his or her own particular personal needs through substantial and sustainable gainful employment. The annuitant will receive advance written notice from DFAS prior to suspension. The annuitant will be given an opportunity to submit rebutting evidence. The annuity may be reinstated (see subparagraph 390202.B, below).

6. Termination of student status of a child over age 18, under age 23 (applicable only to retirees who retired on or after November 1, 1968).

7. Reinstatement to widow or widower of annuity previously terminated.

D. Secretarial Determination. Terminate payments the last day of the month preceding the month in which the Secretary of the Military Department concerned (or designee) determines that a participating member previously presumed to be dead is now alive.

390103. Due and Unpaid Annuity. If, on death of the annuitant, an amount remains payable to the annuitant, but is unpaid because the annuity checks were not negotiated or because payments had not been established, the account is settled in accordance with Chapter 31 of this volume. There is no designated beneficiary for settlement of arrears of an annuity.

3902 REINSTATEMENTS

390201. Remarriage Terminated by Death of Spouse and/or Remarriage of Widow or Widower Before Age 60 Terminated by Divorce. The annuity is not reinstated.

390202. Reinstatement of Annuities on Behalf of Children

A. If an annuity was terminated because of the death or remarriage of the widow or widower before age 60, and the member's election also included coverage for children, reestablish the full annuity in equal shares in favor of the eligible children (see Chapter 37). The effective date is the first day of the month in which the death or remarriage of the widow or widower occurred.

B. An annuity to an incapacitated child over 18 years of age may be reinstated upon either a recurrence of the original disability that rendered the annuitant incapable of self-support or upon receipt of evidence from the annuitant that, although engaged in substantial and sustainable gainful employment, wages are not sufficient to cover his or her particular needs.

390203. Termination of Remarriage by Annulment

A. Annulment of a "Void" Marriage:

1. The annuity may not be reinstated for any period earlier than the date of separation after the discovery that the marriage was void.

2. The annuity may not be reinstated for any period in which annuity payments were made on behalf of children under option 3 (when notice is received that the widow or widower's remarriage was void, payment to the children under option 3 is suspended pending resolution of the issues involved).

3. In the absence of a judicial decree terminating the marriage as void, the case must be sent to the Defense Office of Hearings and Appeals for decision.

B. Annulment of a "Voidable" Marriage. The annuity may not be reinstated when a voidable marriage is annulled.

390204. Reinstatement of Annuities Terminated Before Oct 1, 1978 Because of Remarriage of Widow or Widower After Age 60. If the annuity was terminated because of remarriage, and the widow or widower was 60 years of age or older, the annuity may be reinstated not earlier than October 1, 1978. The annuity will be increased by cost-of-living adjustments, if appropriate, in accordance with paragraph 370802 of this volume.

CHAPTER 40

RETIRED SERVICEMAN'S FAMILY PROTECTION PLAN – CERTIFICATES OF ELIGIBILITY AND REPORT OF EXISTENCE

4001 ANNUAL CERTIFICATE OF ELIGIBILITY

400101. Purpose. The certificate validates the continued eligibility of annuitants, whether widow or widower, or eligible children. A widow or widower must remain unmarried for continued eligibility. Children must meet prescribed criteria contained in paragraph 350102 of this volume.

400102. Frequency of Certification

A. Annually. A certificate of eligibility must be sent to the DFAS-Denver Center each year by a:

1. Widow or widower of any age. The form must be signed by the widow or widower. If he or she is incompetent, the form must be signed by the legal fiduciary.

2. Custodian or legal fiduciary for minor children.

B. Biennially. A medical certification must be submitted every 2 years for any incapacitated child over 18 years of age, unless a medical prognosis indicates that the disability is permanent.

C. Other. A student between ages of 18 and 23 must provide evidence of intent to continue study or training at a recognized educational institution. The certificate is required for the school semester or other period in which the school year is divided.

1. Payments to students continue during any interval between school years that does not exceed 150 days if the students have demonstrated to the satisfaction of the DFAS-Denver Center that they have a bona fide intention of starting, resuming, or continuing a full-time course of study or training in a recognized educational institution immediately after that interval.

2. An eligible student annuitant under the RSFPP who is properly enrolled in a recognized educational institution employing the usual quarter or semester system, and who becomes ill or requires non-elective surgery during the school term, retains the student status for the rest of that term.

400103. Failure to Return Certificate of Eligibility. The annuity payment is suspended if the annuitant, custodian, or legal fiduciary fails to furnish the certificate as required. Payments will be restarted only after receiving satisfactory proof of eligibility.

4002 REPORT OF EXISTENCE (ROE)

400201. Purpose. The ROE fulfills the requirement for proof of existence for:

A. Annuitants who receive payments through foreign postal channels. Annuity checks mailed to an APO, FPO, or a finance officer or disbursing officer at an overseas address, do not require submission of a report of existence.

NOTE: Do not mail checks to an annuitant living in currency blocked countries. See Appendix A for a list of blocked countries.

B. Mentally incompetent annuitants who receive payments through a legal fiduciary.

C. Annuitants whose payments are sent to a third party, other than a financial institution for negotiation under a power of attorney.

400202. When Required. An ROE is required on a "1 month behind" basis for those annuitants that meet the criteria of subparagraphs 400201.B. and C., above, and semiannually for annuitants identified in subparagraph 400201.A., above. Receipt of the certificate within the above prescribed time frame after issuance of the annuity check verifies the annuitant's existence. Under no circumstances may the ROE be signed by other than the annuitant, custodian, or legal fiduciary.

400203. Failure to Return Report of Existence. The annuity payment is suspended if the annuitant, custodian, or legal fiduciary fails to return the ROE as required. Payments will be restarted only after receiving satisfactory proof of existence.

CHAPTER 41

RETIRED SERVICEMAN'S FAMILY PROTECTION PLAN – TAXABILITY OF ANNUITIES

4101 FEDERAL INCOME TAX

Annuities paid under the RSFPP are taxable for federal income tax purposes. Refunds for coverage premiums are taxable income to the annuitant. The refund of premiums may result from administrative error, corrections of record, late receipt of withdrawal request, or youngest child attaining age 18. See Table 52-1 for exceptions on the taxability of the annuities.

4102 FEDERAL INCOME TAX WITHHOLDING (FITW)

410201. General Provisions. RSFPP annuity payments are subject to FITW. An annuitant has the right to elect no withholding. In the absence of such an election, or if the annuitant does not otherwise submit a withholding certificate, the DFAS-Denver Center will withhold on a "married-three exemptions" basis. The annuitant may use TD Form W-4P or any substitute form furnished by the payer.

410202. Notice Requirements. The DFAS-Denver Center must advise the annuitant of the withholding requirement, and the right to elect "no withholding," when making the first payment to the annuitant. Thereafter, the DFAS-Denver Center must send an annual notice to the annuitant of the right to elect no withholding, to revoke an election, or to submit a new withholding certificate. An annuitant also may submit a withholding certificate at any time to elect no withholding, revoke such election, or request any rate of withholding.

410203. One-Time Payments. RSFPP annuity payments, other than the regular monthly entitlement, are subject to FITW at the rate of 20 percent unless the annuitant has elected no withholding.

4103 INCOME EXCLUSION

410301. The annuitant may exclude from gross income:

A. Premiums for coverage deducted from retired pay before January 1, 1966, not previously excluded from the member's retired pay.

B. The amount of direct remittance for any RSFPP premiums not previously excluded from the member's retired pay.

410302. In addition, the annuitant may exclude from the RSFPP annuity gross income an amount, not to exceed $5,000, if the member retired on disability and dies prior to attaining retirement age. Reference Public Law 89-365 (reference (ez)).

4104 ADJUSTMENT TO TAXABLE ANNUITIES

Reserved

4105 FEDERAL ESTATE TAX

The value of the annuity at the time of the member's death may be subject to federal estate tax if any portion of the cost was paid by direct remittance, or if the value of the annuity exceeds the amount that may be excluded from the gross estate. The DFAS may furnish the annuitant the current annuity amount and/or a summary of annual payments, and total cost paid (separate totals for deductions and direct remittances). For a computation of the amount of an annuity that will be subject to the tax, if any, the executor of the member's estate may write:

Internal Revenue Service
Chief, Estate and Gift Tax Branch
Attn: CC:IND:E
1111 Constitution Avenue, NW
Washington DC 20224

4106 STATE TAXATION

Whether RSFPP annuities are subject to state inheritance or income tax and the method of calculating such tax depend upon the laws of the state concerned. However, the TD Form W-2P information is furnished to the appropriate state tax authority.

4107 FURTHER TAX INFORMATION

Survivors should be advised that further information concerning taxation of RSFPP annuities may be obtained from the District Director of Internal Revenue or the state tax authority.

CHAPTER 42

SURVIVOR BENEFIT PLAN (SBP) – APPLICATION OF THE PLAN

4201 PURPOSE

420101. SBP establishes a survivor benefit program for military personnel in retirement to complement the survivor benefits under social security laws. This Plan gives all pre-September 21, 1972, Uniformed Service retirees and those who retire on or after September 21, 1972, an opportunity to leave part of their retired pay to their survivors at a reasonable cost. Under this Plan, a member who retired before September 21, 1972 and who had previously elected to participate in the Retired Serviceman's Family Protection Plan (RSFPP) had the option to retain or cancel the RSFPP coverage when electing to participate in the SBP.

420102. The Plan provides, without cost, a minimum guarantee to a widow of a member who died before March 21, 1974. (See Chapter 51.) A surviving spouse of a member who died before November 1, 1953, is entitled to an annuity which may be in addition to the annuity payable under the minimum income annuity provisions.

420103. The Plan includes survivor benefits for the surviving spouse, dependent child or former spouse of a member who dies on active duty under certain circumstances, or to a member eligible to provide a Reserve Component annuity but who dies before notification of retirement eligibility under 10 U.S.C., Chapter 1223 (reference (c)), or during the 90-day period following notification of retirement eligibility if member had not made an election.

420104. The Plan provides for annuity payments under a determination by the Secretary of the Military Department concerned (or designee) that a participating member is presumed dead.

420105. Under a Supplemental SBP program, a member who has maximum annuity coverage for spouse or former spouse also may provide a Supplemental SBP annuity in increments of 5, 10, 15, or 20 percent of the base amount. The Supplemental SBP annuity begins on the first day of the month after the annuitant becomes age 62 or the day SBP annuity becomes payable, whichever is later.

4202 SPECIALIZED TERMS

420201. Annuitant. A person named by or on behalf of the retiree who is eligible for annuity payments under the Plan.

420202. Base Amount. The money amount selected by the member, with the concurrence of the member's spouse if required under, 10 U.S.C. 1448(a)(3) (reference (c)), or the amount selected on behalf of a member by the Secretary of the Military Department concerned, on which the annuity is based. This amount may range from $300 minimum up to full gross retired pay entitlement. If the member's gross pay is less than $300 per month, full gross pay must be

designated as the base amount. The base amount is adjusted consistent with cost-of-living increases in retired pay. If, upon advancement or change from TDRL to PDRL, gross retired pay is reduced to less than the current base amount, the member's new base amount is the new full gross retired pay entitlement. A member may not designate different base amounts between the spouse and the children.

420203. Beneficiary. A spouse and/or child(ren) of the retiree; a former spouse or former spouse and children; a natural person with an insurable interest in the life of the retiree who is designated to receive coverage under the plan.

420204. Change in Coverage. An action taken because of a change in the member's family status which requires a change in beneficiaries.

420205. Change in Election. An authorized change in the type of beneficiary eligible for survivor coverage because of a change in the retiree's family status.

420206. Common-Law Marriage. Marriage as defined by pertinent state law. (See section 3505 of this volume.)

420207. Cost of Coverage. The cost for coverage under the plan paid by deductions from retired pay or by direct remittance when member is not receiving retired pay.

420208. Cost Refund. The difference between cost paid by the member and the recalculated cost of the annuity after Dependency and Indemnity Compensation reduction.

420209. Date of Receipt. The day of receipt of an election or election change by the office administering payment of retired pay. The postmarked date of an election may be considered as date of receipt when the validity of such election might be prejudiced because of a limited time factor.

420210. Declination. Member with eligible beneficiaries declines to elect any type of survivor coverage under this plan.

420211. Dependency and Indemnity Compensation Offset. Reduction from SBP annuity due to compensation entitlement from the Department of Veterans Affairs to the widow or widower of a member who dies after December 31, 1956, from a service-connected or comparable disability.

420212. Determination of Presumed Death. The determination by the Secretary of the Military Department concerned (or designee) that a participating member is presumed dead where the member's retired or retainer pay has been suspended or would have been suspended had the member been in a receipt of pay and the member has been missing at least 30 days under circumstances which lead to a reasonable conclusion that the member is dead.

420213. Former Spouse. The surviving former husband or wife of a person who is eligible to participate in the plan.

420214. Maximum Level. Full, gross retired pay used as a base amount for coverage.

420215. Minimum Income Widow. Any person who on September 21, 1972, was or during the period beginning on September 22, 1972, and ending on March 20, 1974, became a widow of a person who was entitled to retired or retainer pay when he died. This individual must meet the eligibility criteria in paragraphs 510101-510104 of this volume.

420216. Missing Status. A member missing, missing in action, interned in a foreign country, captured, beleaguered, besieged by hostile force, or detained in a foreign country against his or her will.

420217. Natural Person With an Insurable Interest. A person who has a reasonable and lawful expectation of pecuniary benefits from the continued life of the participating member. See Chapter 44 of this volume.

420218. Pre- and Post- September 21, 1972 Retiree. Pre-, a member who retired before September 21, 1972; Post-, a member who retires on or after September 21, 1972.

420219. Plan. The Survivor Benefit Plan or SBP.

420220. Recognized Educational Institute. High school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institute.

420221. Reduced Base Amount. An amount less than the member's full gross retired pay but not less than $300.

420222. Reduction Factor. A four-digit actuarial decimal used to compute the monthly cost for children.

420223. Reserve Component Annuity. An annuity provided by virtue of eligibility under 10 U.S.C. 1448(a)(1)(B) (reference (c)).

420224. Retired Pay. Includes retainer pay.

420225. Social Security Offset. Reduction from SBP annuity due to widow's or widower's social security entitlements based on the member's active service after December 31, 1956.

420226. Standard Annuity. The annuity provided by virtue of eligibility under 10 U.S.C. 1448(a)(1)(A) (reference (c)).

420227. Supplemental Survivor Benefit Plan (SSBP). A supplemental annuity provided to a spouse or former spouse by virtue of eligibility under 10 U.S.C. 1458 (reference (c)).

420228. Surviving Spouse. The widow or widower of a deceased member.

420229. Threshold. This term applies to one of the alternative cost formulas. In the cost formula of 2.5 percent of the first $XXX.XX, plus 10 percent of the remainder of the base amount, the portion of the base amount upon which the member is charged 2.5 percent cost is the threshold. The threshold is indexed. See section 4902 and Table 49-1 of this volume for threshold amounts.

★420230. Consideration for Contract. The total amount of premiums paid by the participant member for the type of SBP selected. Also see definition for cost of coverage in paragraph 420207, above.

4203 ELIGIBLE PARTICIPANTS

Examples of members eligible to participate in the plan are:

420301. A member who retired before September 21, 1972, and elected coverage under the Plan on or before March 20, 1974, if on September 21, 1973, the member had a spouse and/or dependent children or, if not, elected coverage for a natural person with an insurable interest. If, on September 21, 1973, the member had no spouse or dependent children and later marries or acquires dependent children, the member must elect within 1 year from the date of marriage or acquisition of the children in order to participate.

420302. A member who retires on and after September 21, 1972, and does not decline participation in the Plan before the first day of retirement and who:

A. Has a spouse or dependent children on date of retirement; or

B. Has no spouse or dependent children on the date of retirement and before retirement elects coverage for a natural person with an insurable interest; or

C. Has no spouse or dependent children on date of retirement, but later marries or acquires dependent children and elects within 1 year of the date of marriage or acquisition of the children; or,

D. Has a former spouse and elects to provide coverage for that former spouse before the first day of retirement (on or after September 8, 1982) or elects former spouse coverage as set out in paragraph 430503 of this volume.

420303. A non-Regular (Reserve) member eligible for retirement under 10 U.S.C. 12731 (reference (c)) who has applied for such pay.

420304. A Member on the Emergency Officers' Retired List (EORL). Members of the EORL are persons who have served as officers of the Army, Navy, or Marine Corps during World War I, other than officers of the Regular Army, Navy, or Marine Corps and who, during such service, incurred a physical disability in the line of duty and were later awarded retired pay under the Tyson-Fitzgerald Act (reference (fa)). These members are paid retired pay by the Department of Veterans Affairs but the coverage is established and maintained by the DFAS.

420305. A Member on the Temporary Disability Retired List (TDRL). Eligibility ends when the member is removed from TDRL without further entitlement to retired pay. The coverage continues when the member is transferred from TDRL to PDRL. If the member's retired pay is reduced to an amount less than the base amount originally elected, the full retired pay to which the member is entitled thereafter is considered the base amount.

420306. A Mentally Incompetent Member. The plan applies to a mentally incompetent member regardless of date of retirement. If retirement was before September 21, 1972, the Secretary of the Military Department concerned may, upon request, elect survivor coverage that the retiree would have been allowed to elect if the member were competent. The Secretary concerned makes the determination concerning the continuance or discontinuance of the RSFPP coverage when electing into the plan. For members retiring after September 20, 1972, the Secretary concerned, upon request, may act on behalf of the member and elect other than the maximum automatic coverage as provided in section 4301 of this volume. In the absence of an eligible spouse or children, the Secretary concerned may, upon request, elect coverage for a natural person with an insurable interest. The person applying to have an election made is not given preference in designation as the beneficiary.

420307. Retirees After a Record Correction

A. A member whose military record is corrected after September 20, 1972, to show retirement before September 21, 1972, is not automatically covered under the plan. Coverage may be established upon request of the member if the election is received within 18 months from the date of notification of the correction action.

B. A member who retroactively becomes entitled to retired pay on a date after September 20, 1972, is automatically given full coverage, unless the member elects reduced coverage or declines participation before the correction action (date of entitlement).

420308. A member may be eligible to participate under open season provisions in section 4309 of this volume.

CHAPTER 43

SURVIVOR BENEFIT PLAN - ELECTIONS AND ELECTION CHANGES

4301 ELECTION

430101. A member who retired before September 21, 1972 had until March 20, 1974 to elect to participate in the Plan. If the member was recalled to active duty before March 20, 1974, and not returned to the retirement list until after March 20, 1974, an election made at the end of the period of extended active duty may be considered valid. A member who retires on or after September 21, 1972 has automatic participation at the maximum level unless he or she elects otherwise before retirement or is ordered to participate in the Plan by a court order. If, on September 21, 1973 (pre-September 21, 1972 retiree), or on date of retirement (post-September 21, 1972 retiree), the member has no spouse or dependent children and later marries or acquires dependent children, the member may participate in the Plan. This election must be received by the Secretary concerned within 1 year of the marriage date or acquisition of the children. A member retiring between September 21, 1972 and March 20, 1973, had a "grace period" for making the final decision concerning this coverage. This member had 180 calendar days after the retirement date to change the automatic full coverage given at retirement if no election otherwise had been made. An election made before September 21, 1972, was null and void as of September 21, 1972, if the member retired on or after September 21, 1972.

430102. Public Law 97-35 (reference (bq)) gave certain eligible members an opportunity to elect or to change SBP coverage from October 1, 1981, through September 30, 1982. See section 4309, below.

430103. Public Law 98-94 (reference (aj)) gave certain participating members a limited opportunity from September 24, 1983, to September 23, 1984, to change SBP coverage from spouse or spouse and child(ren) to coverage for former spouse.

430104. Public Law 101-189 (reference (fb)), as amended, gave certain eligible members an opportunity to elect or change SBP coverage from April 1, 1992, through March 31, 1993. It also allowed members who were providing spouse or former spouse coverage at the maximum level a chance to elect SSBP.

4302 ELECTION OPTION

430201. Base Amount. A member who participates in the SBP must elect a base amount of maximum coverage or reduced coverage. A member must choose maximum coverage if electing SSBP. The base amount at any level is adjusted with each cost-of-living increase after retirement. See section 4901 of this volume.

430202. Coverage. Coverage may be provided for:

A. Spouse and/or children;

B. Former spouse or former spouse and children; or

C. Natural person with an insurable interest (at maximum level of coverage only).

430203. Supplemental SBP Coverage. A member who elects SBP coverage for spouse or former spouse at the maximum level may elect a supplemental spouse annuity for that beneficiary. A member elects a monthly SSBP annuity payable to the beneficiary in increments of 5, 10, 15, or 20 percent of the base amount. A member may not elect SSBP if the annuity of the spouse or former spouse will be computed under the social security offset method, 10 U.S.C. 1451(e) (reference (c)). However, the member may elect SSBP as any other member if the right to have annuity computed under the social security offset method is waived.

4303 ELECTION DATA

430301. Elections by the Member. DD Form 1881 (SBP Election Certificate by Existing Retiree), DD Form 1882 (SBP Election Change), DD Form 1883 (SBP Election Certificate), and DD Form 2618 (SBP Open Enrollment Election) when available, are recommended for use by the member. Elections in writing, signed by the member, which contain information necessary for establishing or declining coverage are acceptable. Spousal concurrence of certain elections is required beginning March 1, 1986. A member who anticipates becoming an SBP participant with maximum coverage for spouse or former spouse, must elect SSBP before the day on which the member first becomes a participant in SBP. If, upon becoming a participant in SBP, the member is not providing an annuity for spouse or former spouse at the maximum level, any SSBP election shall be void. If the former spouse election form does not include an election statement signed by the member and the former spouse, a separate election statement is required. In the election statement, the member attests as to whether the former spouse election is pursuant to a court order or a voluntary written agreement. Information concerning content of the written statement and the proper court order appears in paragraph 430503, below.

430302. Deemed Elections Requested By the Former Spouse. On deemed elections, requested by the former spouse or the former spouse's attorney, the request for the Secretary of the Military Department concerned to deem that an election has been made is accompanied by a court order or a statement from the clerk of the court. Information concerning content of the request by the former spouse or the former spouse's attorney and the statement from the clerk of the court, where necessary, appears in paragraph 430503.C, below.

430303. Election Data Requirements. The election data requirements are:

A. Identification. Member's name, social security number, birth date, and date of retirement.

B. Base Amount. The election form must indicate full coverage, in lieu of a dollar amount, when maximum coverage is elected. When a reduced base amount is elected, the

dollar amount must be indicated on the election form. The reduced base amount must not be less than $300. When retired pay is less than $300, the election form must indicate full coverage.

C. Beneficiary. Show the name, birthdate, and social security number for each beneficiary named.

1. If coverage includes spouse, or former spouse, the member must furnish the date of marriage and divorce (if applicable).

2. When the beneficiary is a natural person with an insurable interest, the address and relationship must be shown. For the natural person with an insurable interest, the member must provide a signed statement to show proof of financial benefit if the person designated is more distantly related than cousin.

3. If the beneficiary designation is for a former spouse, the member must complete a statement signed by the member and the former spouse setting forth whether the election is being made pursuant to a written agreement previously entered into voluntarily by the member as a part of or incident to a proceeding of divorce, dissolution, or annulment and (of so) whether that voluntary written agreement has been incorporated in, or ratified or approved by, a court order.

D. Signature. The member must sign and date the election. Two disinterested persons must witness a document signed by an "X".

NOTE: An election made on behalf of the member through a power of attorney is not valid. Such an election is not binding and is without force or effect of law.

E. Spousal Concurrence. Effective March 1, 1986, a married member is enrolled with spouse coverage on full retired pay at the time of retirement unless that spouse has concurred in writing to another election requested by the member. When the spouse's concurrence is required, the signature indicating concurrence must be corroborated by one or more witnesses. The spouse's concurrence with, or request for, an election other than that requested by the member shall be disregarded. If all requirements for an election needing the spouse's concurrence have not been satisfied prior to retirement, for whatever reason, full spouse costs and coverage will be implemented, regardless of any request by the member to do otherwise. In such cases, when the member has requested any form of child coverage, full spouse and child coverage will be implemented. Any change in SBP election subsequent to retirement will be done through an administrative correction of records. The requirements for spousal concurrence do not affect any obligation or right of the member to provide coverage for a former spouse. If former spouse coverage is elected or deemed, the spouse's concurrence is not required; however, the spouse will be notified of that election, as previously required when spouse coverage was declined. Spousal concurrence is not required in any case if the member establishes to the satisfaction of the Secretary concerned that either the spouse's whereabouts cannot be determined or, due to exceptional circumstances, the requirement of the member to seek the spouse's concurrence would be otherwise inappropriate. Exceptional circumstances will be evaluated on a case-by-case basis.

F. SSBP Percentage of Annuity Coverage. A member who elects spouse or former spouse coverage at the maximum level may provide an additional percentage of the base amount in increments of 5, 10, 15, or 20 percent. A member may not make an SSBP election if the spouse or former spouse is entitled to annuity computed under the social security offset method, 10 U.S.C. 1451(e) (reference (c)). However, the member may elect SSBP if he or she waives the right to have the annuity computed under the social security offset method

4304 IRREVOCABLE ELECTIONS, CORRECTIONS AND DISCONTINUED PARTICIPATION

430401. An election by a pre-September 21, 1972 retiree on the basis of adequate information concerning the Plan or an election by a post-September 21, 1972 retiree (unless revoked or changed before the first day of retirement) is irrevocable, except under the following circumstances:

A. The member discontinues participation as a totally disabled member under section 4308, below.

B. A mentally incapacitated member later is determined to be mentally competent and revokes or changes the SBP election within 180 days after such determination of judgment.

C. A member, who became an SBP participant between October 19, 1984, and November 8, 1985, elects to withdraw from SBP before November 8, 1986, under the provision of Public Law 99-145, section 711 (reference (fc)).

D. A member retired on March 1, 1986 or later, who elected less than maximum SBP coverage without the spouse's concurrence, and it later is determined by the Secretary concerned that the spouse's concurrence in such election was appropriate.

E. The Secretary concerned revokes an election when necessary to correct an administrative error. Revocation or correction based on administrative error is a prerogative of the Secretary of the Miltiary Department concerned and, except when procured by fraud, is final and conclusive on all officers of the United States.

★F. A member voluntarily terminates SBP coverage for a natural person with an insurable interest (not a former spouse).

430402. The SBP election may be changed as set out in sections 4307 and 4309, below.

4305 ELECTION COVERAGE

430501. Spouse and/or Children

A. A member may elect coverage at the maximum level, or at a reduced amount with spouse's concurrence, if required, for:

1. An eligible spouse only

2. An eligible spouse and dependent children

3. Dependent children only

A member with spouse coverage at the maximum level also may elect SSBP coverage.

B. A member who retires on or after September 21, 1972, automatically is covered at the maximum level for spouse and/or dependent children unless the member elects not to participate or to participate at a reduced level before the first day of eligibility to retired pay with the concurrence of the member's spouse, if required. See subparagraph 430501.D., below.

C. A member with an eligible spouse and dependent children on September 21, 1973, (pre-September 21, 1972, retiree) or on date of retirement (post-September 21, 1972, retiree) who:

1. Declines coverage is prohibited from electing into the Plan, except under section 4309, below;

2. Refuses coverage for an eligible spouse, and elects coverage for children only, is prohibited from electing spouse coverage at a later date, except under section 4309, below.

3. Refuses coverage for his or her dependent children, and elects coverage for spouse only, is barred from electing child coverage at a later date.

D. A married member who is eligible to provide SBP may not elect, without the concurrence of his or her spouse, to decline participation in SBP, to provide an annuity for the member's spouse at less than maximum level, or to provide an annuity for a dependent child but not for spouse unless the member establishes to the satisfaction of the Secretary concerned that:

1. The spouse's whereabouts cannot be determined; or

2. Due to exceptional circumstances, a requirement that the member seek the spouse's consent would otherwise be inappropriate.

E. A member with dependent children, who was unmarried on September 21, 1973, (pre-September 21, 1972, retiree) or on date of retirement (post-September 21, 1972, retiree), may elect spouse coverage upon marriage regardless of whether coverage was elected for his or her dependent children. A member who is going to elect SBP for his or her spouse at the maximum level simultaneously may elect SSBP coverage.

F. A member with an eligible spouse who did not have dependent children on September 21, 1973, (pre-September 21, 1972, retiree) or on date of retirement (post-September 21, 1972, retiree) later may elect coverage for dependent children.

G. If a member elects to provide an SBP annuity for a former spouse or a former spouse and child and the member has remarried, the member's spouse shall be notified of that election and any SSBP election. The member may make such election without spousal concurrence.

430502. Natural Person With Insurable Interest. An election for a natural person with an insurable interest may be made only when there is no eligible spouse or dependent children. As an exception, a person who is unmarried but who has a dependent child may provide coverage for that child under the insurable interest provision rather than an election for child. For a pre-September 21, 1972, retiree, the Secretary concerned must have received the election by March 20, 1974 and, for the post-September 21, 1972, retiree, before the first day of eligibility for retired pay. A member must elect full coverage when electing for a natural person with an insurable interest.

430503. Former Spouse or Former Spouse and Children. When a member elects former spouse coverage, the member and the former spouse must complete an election statement indicating whether the election is being made pursuant to the requirements of a court order or by a voluntary written agreement. If the member entered into a voluntary written agreement as a part of, or incident to, a proceeding of divorce, dissolution or annulment, the member must indicate on the written statement whether the agreement has been incorporated in, or ratified or approved by, a court order. If the member has a spouse or child, a former spouse election prevents an annuity to that spouse or child (other than the child beneficiary under an election for a former spouse and child). If there is more than one former spouse, the member shall designate which former spouse is to receive the annuity.

A. Upon Retirement. A member who has a former spouse and dependent child when becoming eligible to participate on March 1, 1986, or later may elect former spouse or former spouse and child coverage, provided the child resulted from the member's marriage to that former spouse. A member with former spouse coverage at the maximum level also may elect SSBP coverage. The annuity for the former spouse is provided under the spouse category. If the former spouse election was effective before March 1, 1986, the former spouse annuity was provided under the insurable interest category and child coverage, in conjunction with former spouse coverage, was unavailable. A member participating before March 1, 1986, with former spouse coverage could provide an annuity for a former spouse and child, if such election was made before March 1, 1987, for a member who elected former spouse coverage before November 8, 1985, and not later than

November 13, 1987, for the member who elected former spouse coverage November 8, 1985 through February 28, 1986.

NOTE: An annuity for the former spouse first must be provided under the spouse category in order to add child coverage.

B. Following Retirement. A member with spouse or spouse and child coverage may, before September 24, 1984, or within 1 year of date of the decree of divorce, dissolution, or annulment, whichever is later, change that election to provide an annuity to a former spouse or to a former spouse and child. If the member elects to provide former spouse coverage at the maximum level, he or she simultaneously may elect SSBP coverage. A member who has SSBP for spouse and who changes coverage from spouse to former spouse may drop SSBP. If a member had SBP and SSBP coverage for spouse and the member is changing to former spouse coverage, the level of SSBP may be increased. The former spouse beneficiary may not be the former spouse that the member had when he or she became eligible to participate in the Plan. If the SBP election was changed to former spouse coverage and was in effect before March 1, 1986, the annuity was provided under the insurable interest category and child coverage in conjunction with former spouse coverage was unavailable. A member participating in the Plan before March 1, 1986, with former spouse coverage could provide an annuity to a former spouse and child if such election was made before March 1, 1987, for a member who elected former spouse coverage before November 8, 1985, and not later than November 13, 1987, for the member who elected former spouse coverage November 8, 1985 through February 28, 1986.

NOTE: An annuity for the former spouse must first be provided under the spouse category before child coverage may be added. If a member elects coverage for a former spouse who the member acquired after becoming eligible for retired pay, the member and former spouse must have been married at least one year or the former spouse must be the parent of a child or children born of that marriage in order for the former spouse to be an eligible beneficiary. Public Law 99-145 (reference (fc)) allowed SBP participants who had not elected former spouse coverage to elect former spouse coverage during the period November 8, 1985 through November 7, 1986.

C. Deemed Elections. If a member enters, incident to a proceeding of divorce, dissolution, or annulment, into a written agreement to elect an SBP annuity for a former spouse, and such agreement has been incorporated in, or ratified or approved by, a court order, and then the member fails or refuses to make the election, the Secretary concerned may deem an election for the former spouse. The former spouse or the former spouse's attorney makes a written request. The request is acceptable if it refers to, or cites provisions in a court order concerning SBP former spouse coverage, or makes clear by other references to SBP that there is an intent that the coverage be provided to a former spouse. The written request is accompanied by a copy of the court order and/or a statement from the clerk of the court. The court order, regular on its face, must require an SBP election or, incorporate, ratify, or approve the written agreement of the member. If an election is deemed on a case involving a statement from the clerk of the court, the statement from the clerk of the court or other appropriate official must indicate that the agreement has been filed with the court under applicable state law.

★1. The former spouse will provide a certified copy of the court order, regular on its face, which requires such election, or incorporates, ratifies, or approves the written agreement of the member; a statement from the clerk of the court (or other appropriate official) that such agreement has been filed with the court in accordance with applicable state law; or, for a deemed SBP election only, a copy of the court order which requires the SBP election. A court order which requires the member to elect (or to enter into an agreement to elect) SBP for a former spouse or former spouse and child must be issued on or after November 14, 1986. If the member was ordered by a court to elect former spouse coverage before November 14, 1986, a second court order, issued on or after November 14, 1986, enforcing the original order which requires a former spouse election, constitutes a modification of the previous order and establishes a new one-year period during which a request for a deemed election may be filed.

2. The request from the former spouse must have been received by the Secretary concerned before October 1, 1985, or within 1 year of the date of the court order or filing involved, whichever is later. If an election of former spouse coverage was agreed to or ordered by an earlier court order, a subsequent order or modification that merely restates the previous provision and imposes no new obligation on the member does not begin a new 1-year period. A subsequent court order holding a member in contempt of court for failing to fulfill the prior agreement is not the type of court order that can be used to begin a new 1-year period to deem an election.

3. No election may be deemed to have been made which could never have been made by the member concerned.

4. If the request is received from a former spouse and the member still has time remaining during the 1-year period in which to make an election, the member should not yet be considered to have failed to make the election. The member should be notified within 30 days of receipt of the former spouse's request for a deemed election. The member shall be given 60 days from the date of the notice in which to make a voluntary election.

5. A qualifying election shall be deemed no later than the last known day during which the member voluntarily could make the election, or 60 days after the member had been notified, whichever is earlier.

6. If a member dies before making an election, a former spouse's request, which is otherwise qualified, shall be honored even if the date of the request is after the date of the member's death.

7. If a member has more than one former spouse, the first request for a deemed election received with complete documentation shall be the one honored.

430504. SSBP. A member may not be ordered or required to elect (or to enter into an agreement to elect) to provide a spouse or former spouse with a supplemental spouse annuity. Except as provided in subparagraph 430503.C, above, in no case shall a person be deemed to have made an election to provide a supplemental annuity for a spouse or former spouse of such person.

430505. Federal Civil Service Retiree

A. A member with SBP coverage (or SBP and SSBP coverage) who (1) retires under the civil service retirement program, (2) waives military retired pay to combine civilian and military service credits and (3) elects survivor coverage, at any level, under the civil service retirement, has SBP coverage suspended while the waiver is in effect. If the waiver is terminated for any reason, SBP (or SBP and SSBP) coverage resumes concurrent with the resumption of retired pay. The type of coverage and level of participation, as adjusted by any changes in retired pay during the period of waiver, is as first elected. If the retired service member dies while the waiver of military retired pay is in effect, no SBP (or SBP and SSBP) annuity becomes due and payable to either the surviving spouse and/or children.

B. An election in the SBP with concurrent cancellation of previous RSFPP coverage is without force or effect if retired pay previously was waived for civilian retirement and survivor coverage from the civilian annuity was elected.

C. A member who elects SBP coverage, including SSBP coverage, and who does not waive military retired pay for civil service retirement, may have survivor coverage under both retirement plans.

D. A member may waive retired pay in total to receive VA compensation and retire from civil service. The waiver of full retired pay in favor of VA benefits also may be considered as a waiver of retired pay for the purpose of a civil service retirement. A specific waiver of military retired pay for the civilian retirement is not required. The SBP coverage, including SSBP coverage, is suspended if survivor coverage is elected from the civil service annuity.

E. Provisions in subparagraphs 430505.A. and D., above, do not apply to a member who retired under 10 U.S.C. 12731 (reference (c)) or retired due to a combat-incurred disability.

F. Death of a federal civil service employee before waiver of military retired pay. The survivor of a federal civil service employee who was awarded retired pay based on any period of military service and who dies before separation from civil service shall receive a survivor annuity computed using military service. The survivor annuity from civil service shall be reduced by any military survivor benefits payable. The survivor may elect not to be covered by this provision, which automatically uses military service credit in computing the federal survivor annuity.

G. Foreign Service and Judiciary Retirements. Except for participation in federal service survivor annuity programs, SBP coverage does not terminate when a member participates in other survivor benefit plans administered by the U.S. Government such as under the Foreign Service or federal judges retirement systems.

4306 COMBINED RSFPP AND SBP COVERAGE

430601. Members participating in RSFPP on or before September 21, 1972, could, before March 20, 1974:

A. Decline SBP coverage and continue RSFPP, or

B. Cancel RSFPP in favor of SBP, or

C. Elect coverage under both Plans.

430602. The commitment concerning the RSFPP participation must have been made at the time of the SBP election. In the absence of such commitment, coverage under both Plans was established and the member was contacted regarding his or her intent on the RSFPP. A member could not cancel RSFPP participation and, at the same time, decline SBP coverage. Cancellation of the RSFPP in favor of SBP was both final and complete. A member having RSFPP coverage under two options could not cancel one option and retain the other.

430603. When electing coverage under both Plans, the member could, within certain limitations, designate the amount of coverage under each Plan. The total of the annuities could not exceed the gross retired pay entitlement on the effective date of the SBP election. The reduced base amount limits had to be maintained and the original RSFPP base amount could not be increased. A member retiring before November 1, 1968, could reduce RSFPP coverage to one-fourth or one-eighth of the gross pay entitlement or reduce RSFPP coverage on date of retirement. A member retiring on or after November 1, 1968, and electing SBP, could reduce the RSFPP annuity by any amount provided the amount was not less than 12-1/2 percent of the retired pay entitlement on the date SBP was elected and the monthly annuity elected was not less than $25.

430604. Cancellation of the RSFPP at the time of election into the SBP did not entitle the member to a refund of the previous RSFPP premiums. Any delinquent premiums under the RSFPP on the date of conversion to SBP continued as debts, subject to interest, until paid.

4307 CHANGES IN ELECTION AND COVERAGE

430701. Later-Acquired Spouse and/or Child. This election must be received within 1 year of the event.

A. A member who is participating with spouse or spouse and child coverage and who does not have an eligible spouse beneficiary may, upon remarriage: resume coverage, increase the level of coverage up to and including full retired pay, or elect not to have spouse coverage resumed. A member who is participating with maximum spouse coverage, but who is not a participant in the SSBP, may elect SSBP upon remarriage. The SSBP election is irrevocable and shall be made within one year after the remarriage.

1. The member may not add child coverage by virtue of this remarriage alone if child coverage was previously bypassed.

2. The level of SBP coverage may not be reduced nor may child coverage be eliminated. The SSBP level of coverage may be increased upon remarriage.

3. SBP elections become effective when the new spouse becomes an eligible beneficiary, and any increase in premium, plus interest, has been paid. When the level of SBP coverage is increased, the member must pay the difference between the present premium and the premium that would have been incurred had the higher level of coverage been elected originally, plus interest. Interest is compounded monthly using a factor equal to the 12th root of 1 plus the annual interest rate used by the DoD Board of Actuaries to calculate the retirement accrual costs. The current compounding factor is 1.00526. Interest is to be compounded monthly on the accumulated difference existing prior to any computation month. If payment of cost plus interest is not completed before spouse becomes an eligible beneficiary, the election becomes null and void and a refund of cost and interest and reinstatement of original election coverage occurs. Cost plus interest will be paid to member's estate should the member die before refund is completed.

4. If a member has spouse or spouse and child coverage and elects not to resume SBP participation for the spouse, the spouse is notified and any SSBP coverage is terminated. An election to terminate spouse coverage is irrevocable. If the member elects to increase the level of spouse coverage to an amount less than full retired pay, the spouse is notified.

B. If, on September 21, 1973, for the pre-September 21, 1972, retiree, or on date of retirement, for the post-September 21, 1972, retiree, the member:

1. Has no eligible beneficiaries and declines to participate, the declination does not prohibit the later election for spouse and/or children; or

2. Has no eligible spouse and elected for children only, he or she may, within 1 year after marriage or remarriage, include the spouse with coverage previously elected for the children.

3. Has no eligible children and elected for spouse only, he or she may, within 1 year of acquisition of children, include the children with coverage previously elected for the spouse.

4. Elects coverage for a former spouse or former spouse and children, or elects coverage for a natural person with an insurable interest, the member may later change the election to spouse and/or children. The member is not required to change the election to spouse and/or children; however, if such a change is made, it permanently terminates the eligibility of the former spouse or the natural person with insurable interest. It is not necessary that maximum level coverage be elected for the spouse and/or children. See paragraph 430703, below, for additional information concerning changes in former spouse coverage.

430702. Change From Spouse or Spouse and Children. A member who elected spouse or spouse and child coverage may terminate that election and provide an SBP annuity for a former spouse or former spouse and child, provided the child resulted from the member's marriage to that former spouse. A member who elects to provide former spouse coverage at the maximum level may elect SSBP coverage. If the member is married when the former spouse election is made, that spouse is notified (See subparagraph 430501.G, above). A former spouse may request that an election be deemed by the Secretary of the Military Department concerned (or designee).

A. The Secretary concerned shall notify the former spouse of any changes in election.

B. Changes to a Former Spouse Election

1. If a member was required to elect former spouse coverage by a court order, incident to a proceeding of divorce, dissolution, or annulment, the member may change to spouse or child coverage if the member furnishes, to the Secretary of the Military Department concerned (or designee) a certified copy of a court order. The court order, regular on its face, modifies the provisions of all previous court orders relating to the former spouse election so that the member is permitted to change the election. The member certifies to the Secretary concerned that the court order is valid and in effect. These same restrictions apply to the member who elected former spouse coverage pursuant to a written agreement that was incorporated in, or ratified or approved by, a court order.

2. In the case of a written agreement that has not been incorporated or ratified or approved by a court order, the member shall furnish, to the Secretary concerned, a statement (in a format prescribed by that Secretary), signed by the member and the former spouse that evidences the former spouse's agreement to an election change. The member must certify that the statement is current and in effect.

430703. Change to Former Spouse Coverage Under Insurable Interest. Members were allowed to change an election for former spouse coverage under the insurable interest category to former spouse coverage under the spouse category during the period November 8, 1985, through November 7, 1986. A member also could add child coverage to former spouse coverage provided the child was the result of the member's marriage to that former spouse and if member is providing coverage for the former spouse under the spouse category. These election changes apply to elections effective before March 1, 1986.

430704. Changed Retirement Eligibility. If a member elects RCSBP coverage and subsequently becomes eligible for retirement under another law, thereby losing eligibility under 10 U.S.C., Chapter 1223, (reference (c)), the RCSBP election remains effective until the member actually retires. A member then may make a new election as any other retiring member.

430705. Open Enrollment Periods

A. Public Law 97-35 (reference (bq)) allowed certain members to enroll in the SBP, to increase a reduced level of coverage, or to add spouse coverage to child coverage. The open enrollment period was October 1, 1981, through September 30, 1982. See section 4309, below. Public Law 97-252 (reference (ei)) allowed certain Reservists to participate in an open enrollment period October 1, 1982, through September 30, 1983.

B. See subparagraphs 430503.A., B. and C., above, for open periods under Public Laws 98-94 (reference (aj)), 98-525 (reference (ej)), 99-145 (reference (fc)), and 99-661 (reference (ek)) involving elections for a former spouse. Members who elected SBP (or RCSBP) during the period October 19, 1984, through November 8, 1985 could elect to withdraw November 8, 1985 through November 7, 1986, with a refund of cost plus interest.

C. Public Law 100-180 (reference (fd)) provided an open season withdrawal. A member with spouse or spouse and child coverage who remarried before March 1, 1986, and at a time when that person was a participant in SBP could, with the spouse's consent, withdraw from the Plan. The withdrawal period was March 3, 1988, through March 2, 1989. Premiums and coverage stop on the first day of the month following receipt of the withdrawal request. There is no refund of SBP premiums.

D. Public Laws 101-189 (reference (fb)) and 101-510 (reference (el)) provided an open season April 1, 1992, through March 31, 1993. A member who was not participating in SBP could have elected into the SBP program. A member who elected SBP coverage for spouse or former spouse at the maximum level during open season also could elect SSBP. A member could add spouse coverage or increase the base amount of coverage during open season. A member who already was participating in SBP with maximum coverage for a spouse or former spouse could have elected SSBP during open season.

430706. Mental Incompetency. If a mentally incompetent member later is determined to be mentally competent, he or she may, within 180 days after such determination, change or revoke the SBP, or SBP and SSBP election made on his or her behalf. The change or revocation shall be effective on the date of the member's request.

430707. Correction of Administrative Error. The Secretary of the Military Department concerned (or designee) may correct any election or any change or revocation of an election when the Secretary considers it necessary to correct an administrative error. See paragraph 420307 of this volume.

4308 DISCONTINUANCE OF PARTICIPATION

★430801. Withdrawal by a Totally Disabled Member

★A. Any person who elects to participate in SBP with a service-connected disability rated by the Department of Veterans Affairs (VA) as totally disabling and is so rated for

10 or more continuous years (or, if so rated for a lesser period, at least 5 years from the date of last discharge or release from active duty) may request to discontinue participation in the Plan by submitting a request to the Secretary of the Military Department concerned (or designee). The initial date for determining the 5- or 10-year period is the effective date of the VA rating of total disability. Validation must be obtained from the VA if not available from the individual.

1. The request for discontinuance must be with the written consent of the beneficiary or beneficiaries under the Plan. Should that beneficiary be a dependent child or children, written consent may be accepted from a parent, stepparent, foster parent, guardian, or an individual appointed by a court of competent jurisdiction.

2. The Secretary concerned shall furnish a written statement of the advantages of participating and the possible disadvantages of discontinuing participation or the provisions of 10 U.S.C. 1452(g) (reference (c)) to each person requesting discontinuance.

3. A person may withdraw the discontinuance request within 30 days of submission to the Secretary concerned.

4. Participation in the Plan and cost of SBP and SSBP coverage is discontinued on the first day of the month after receipt of the request by the Secretary concerned. This provision is effective December 1, 1980.

5. If a member dies after the date that the request for withdrawal has been received by the Secretary concerned, but before the effective date of that request, the beneficiary is entitled to the annuity.

★B. Upon the death of a person who has discontinued participation in the Plan under this section, a refund of SBP and SSBP amounts deducted from retired or retainer pay without interest shall be made to the widow or widower.

★C. Any person who has discontinued participation in the Plan may again elect to participate if the VA reduces the disability rating to less than total and the person applies within 1 year to participate in the Plan and includes the required information determined by the Secretary concerned.

1. Participation in the Plan and reduction in pay is effective the first day of the month after receipt of the application to the Secretary concerned on DD Form 1883 (SBP Election Certificate). Documentation attesting to the less than total disability rating must accompany the application.

2. If the member applies for resumption of participation, but dies before the effective date, the beneficiary is entitled to an annuity on the date the election would have been effective.

3. Resumption of participation shall be limited to the type and level of coverage initially elected allowing for beneficiary changes as otherwise provided for in Chapters 42 through 57.

★430802. Voluntary Termination of Coverage for a Natural Person With an Insurable Interest

A. A member who is participating in SBP with coverage for a natural person with an insurable interest (not a former spouse) voluntarily may terminate his or her participation in SBP. No request for termination is effective before November 1, 1994.

B. If a member is considering termination of an insurable interest coverage, he or she should contact the responsible agent: DFAS-Cleveland Center, or the Military Service Reserve Component Personnel Center for members not yet age 60 (or an appropriately determined office for non-DoD Uniformed Services).

C. A member who is eligible and wants to terminate coverage may send a written request to the responsible agent identified in subparagraph 430802.B., above. The request, signed by the member, must identify the member and state that the member wants to terminate SBP participation. A request for information is not a request to terminate SBP participation.

D. When the responsible agent receives a request from an SBP participant eligible to terminate coverage, the agent will determine whether the request is for information or actually is a request to terminate participation. In either case, the member will be mailed two fact sheets that explain: the procedures for terminating participation; and the advantages and disadvantages of participation and the disadvantages of terminating participation. If the request is determined to be a request for termination, the member will be advised in the cover letter that a request for termination can be withdrawn within 30 days of the date of that letter.

E. No premiums are refunded as a result of terminating coverage. No premiums will be charged after the effective date of termination unless the member had Reserve Component Survivor Benefit Plan (RCSBP) coverage. See paragraph 560305 of this volume for recomputation of the original "add-on" portion of the RCSBP premium when member terminates coverage before age 60.

F. A member who wishes to withdraw the request to terminate participation must notify the Secretary of the Military Department concerned (or designee) using a legible, signed written notice to the member's responsible agent in subparagraph 430802.B., above. The notice must identify the member's name and social security number and state that the member no longer wants to discontinue SBP participation. If the member withdraws the request to discontinue participation within the prescribed 30-day period, the SBP participation is not terminated. If the withdrawal notice is received after the prescribed date, it has no effect and the member is so notified within 30 days. However, if the member provides proof of the date of the mailing and such date is favorable to honoring the member's withdrawal request, that date of mailing serves as the date submitted. If the member effectively withdraws a request to discontinue participation, the

member is notified within 30 days. If participation already was discontinued, it will be reinstated as if no break in coverage occurred. Any premiums not collected or paid, or premiums that were refunded, will be collected from the member and the member notified of the final action concerning participation.

G. The member may only resume SBP participation by electing coverage for a spouse or dependent child within one year of acquiring a family member.

4309 OPEN ENROLLMENT PERIODS

430901. Eligible members from each Military Service were notified of Public Law 97-35 (reference (bq)), which provided an open enrollment period for SBP from October 1, 1981, through September 30, 1982. Public Law 97-252 (reference (ei)) authorized an open enrollment period for certain Reservists October 1, 1982, through Sep 30, 1983.

A. An eligible member was a member or former member of the Uniformed Services who was entitled to retired or retainer pay on or before August 13, 1981. If a member discontinued participation in the SBP program under provisions of Public Law 96-402 (reference (fe)) for the totally disabled before August 13, 1981, that member could re-enroll during the open enrollment period or resume participation under paragraph 430801, above. The Secretaries of the Military Departments were permitted to make elections on behalf of mentally incompetent members. A member who did not have an eligible beneficiary during the open enrollment period could not elect into SBP later except under subparagraphs 430501.D and E, above. Also, a member who previously did not have an eligible beneficiary to make an election for, could be able to elect coverage for that beneficiary under subparagraphs 430501.D and E.

B. An eligible member could elect to:

1. Enroll in the SBP if not presently participating (an initial election for former spouse coverage could be made from September 8, 1982, through September 30, 1982);

2. Change the current level of coverage to a higher level; and/or

3. Change the current children only coverage to include coverage for spouse. Election information can be accepted in writing rather than on the approved form.

C. A member could only elect or change SBP once during the open enrollment period.

D. The election was effective when received by the Secretary of the Military Department concerned. The postmark of the envelope could be used when beneficial to the member or survivor. An annuity was not payable under the open enrollment election for a period of 2 years. The 2-year waiting or penalty period began on the effective date of the open enrollment election and ended 2 years from that date.

1. If a member died before the end of the 2-year waiting period:

a. The open enrollment election was void and premiums attributed to that election were refunded to or on behalf of the beneficiary(ies) designated in the open enrollment election. If the member had no prior coverage and elected for spouse and children, the total refund was made to the eligible spouse beneficiary. If the eligible spouse beneficiary was no longer living, premiums were refunded without interest, to the remaining eligible beneficiary(ies). If the member had an election in effect before the open enrollment election, the premium was recalculated under the earlier election and deducted from the refund of the premiums due the eligible beneficiary(ies) for the open enrollment election.

b. An annuity was established to the eligible beneficiary(ies) under the terms of the earlier election.

c. If a member made an initial election to provide spouse coverage during the open enrollment period, changed that election made under paragraph 430702, above, during the 2-year waiting period, and died before the end of the 2-year waiting period, no annuity was payable to the former spouse. Premiums attributed to the open enrollment election were refunded to or on behalf of the beneficiary(ies) of that election; premiums attributed to the changed election were refunded to the former spouse. If the member had an election in effect before the open enrollment election, the premium was recalculated under the earlier election and deducted from the refund of premiums due the former spouse.

2. If the beneficiary died during the 2-year period, the premium was suspended on the first day of the month after death. If the member later acquired the same type of beneficiary, but during the 2-year waiting period, the premium was resumed for the remainder of the 2-year period. If the member acquired the beneficiary after the 2-year waiting period, the premium was resumed when the beneficiary became eligible for the annuity. See paragraphs 440101 and 440102 of this volume.

E. A member who wished to cancel RSFPP coverage to coincide with the election of SBP during the open enrollment period had to initiate separate action to withdraw from RSFPP under section 3402 of this volume.

F. The Military Services were not required to notify the beneficiary of a change in the member's election.

G. SBP cost for an open enrollment election was effective on the first day of the month after receipt of the election (by the Secretary of the Military Department concerned at the appropriate DFAS Center), except that costs for an initial election of former spouse coverage were effective February 1, 1983. See Table 45-2.

H. If a member increased the base amount (or level of coverage), the premiums were recalculated on the existing cost factor(s). If the member made an initial election which

included children or added spouse coverage, premiums were calculated using cost factors that were based on ages on the date of election.

I. SBP costs were not refunded to a member who was discharged from the TDRL.

J. The cost for spouse coverage paid during the 2-year waiting period are included in any cost refund that results from a DIC award.

430902. Public Law 101-189 (reference (fb)), amended by Public Law 101-510 (reference (el)), provided an open enrollment period from April 1, 1992 through March 31, 1993. A member could make only one open season election. A member with suspended spouse or former spouse coverage could make any election otherwise allowable even if the premium resulting from the open season election was immediately in a suspended status.

A. Non-participants. A member or former member of the Uniformed Services who, on March 31, 1992, was not a participant in the SBP and was entitled to retired pay could elect SBP during the open enrollment period. A member could make an election for spouse, former spouse, spouse/former spouse and child, child only, or a natural person with an insurable interest. If the member elected spouse or former spouse coverage at the maximum level, the member could elect Supplemental SBP.

B. Existing participants:

1. A member with reduced SBP coverage could elect to increase the base amount of coverage.

2. A member could add spouse or former spouse coverage to child coverage. If adding spouse coverage, existing child coverage could not be dropped. An election for former spouse coverage terminated any previous coverage. If adding a former spouse, a member could drop coverage for children. A member could cover former spouse and children; however, the only children eligible were the children of the member-former spouse marriage. Thus, when a member with child coverage elected former spouse and child coverage, any children not the result of the member-former spouse marriage became ineligible and coverage for such children ceased.

3. A member could not change from spouse to former spouse coverage even if the spouse coverage and premium currently were suspended. A member could not change from former spouse to spouse coverage. A member with coverage for a natural person with an insurable interest (including a former spouse covered under the insurable interest category) could not change that election.

4. A member with spouse or former spouse coverage at the maximum level could elect Supplemental SBP.

C. No election could be deemed under the provisions of the open enrollment period.

D. An open enrollment election for a former spouse, by a member who is otherwise under a qualified court order to elect SBP coverage for a former spouse, is later subject to the provisions of that court order. This applies even though the open enrollment election was purely voluntary.

E. The open enrollment election was effective for premium purposes on the first day of the month after the election was received by the Secretary concerned, but not earlier than April 1, 1992. If the date received is prejudicial to the member, the postmark date is considered the date the election was received.

F. The premium for an open season election was established as though the member first became a participant in SBP at the time of election.

G. In addition to the SBP premium for an open enrollment election for spouse or former spouse, there is an additional premium charged on the basis of the number of years the member has been retired. The number of years was determined from the date of initial retirement through the date the election became effective. Months and days less than a full year were ignored. The additional premium percentage was applied to the full base amount or, if the member was previously providing reduced coverage for a spouse or former spouse, to the increase in the base amount over the annuity base amount that previously existed. The premium addition did not apply to any member making an open season election who was currently paying an RSFPP premium for spouse coverage or, who was electing SBP coverage for spouse and who previously participated in SBP but who later withdrew from participation under the provision for totally disabled members. The additional premium percentage charged for an open season election is not refunded when recalculating SBP premium due to DIC award.

H. An open season election became void if the member died before the end of the 2-year survival period beginning on the cost-effective date in subparagraph 430902.E., above, with the exception of the member who made an open enrollment election for a spouse and that spouse was entitled before November 1, 1990, to receive DIC based on a previous marriage to another member. If an open season election was void, the member's election reverted to any previously established coverage.

I. Any premium for the voided open enrollment election is refunded to the member's beneficiary under the open enrollment election. If the beneficiary predeceases the member, there is no refund of premium.

F. In the case of a member who has served 20 years of active service and who dies on active duty, and the member's spouse is no longer living, the child remains an eligible beneficiary through age 22 if pursuing a full-time course of study in a recognized educational institution.

440103. Spouse and Children. Eligibility requirements are as shown in paragraphs 440101 and 440102, above. The spouse is the primary beneficiary with coverage passing to the children if the spouse remarries before age 55 (age 60, if remarried before November 14, 1986), or dies. Exception: If the annuity is payable because member dies on active duty (See 10 U.S.C. 1448(d) (reference (c))), or the member is eligible to provide RCSBP but dies before notification of eligibility or during the 90-day period after notification (See 10 U.S.C. 1448(f) (reference (c))), eligibility does not pass to the child when a spouse remarries.

440104. Former Spouse or Former Spouse and Child. A former spouse is an eligible beneficiary if:

A. The former spouse is the member's former spouse (at time of retirement) when the member became eligible to participate in the Plan and is elected the beneficiary by the member or through a request to the Secretary of the Military Department concerned to deem an election.

B. The former spouse was not the member's former spouse (at time of retirement) when the member becomes eligible to participate in the Plan, and the prior election is changed pursuant to paragraph 430503 of this volume to provide coverage for the former spouse. A former spouse acquired after member became eligible to participate in the Plan is an eligible beneficiary if married to the member for at least 1 year or the parent of issue of the marriage.

C. If coverage includes child, former spouse is the primary beneficiary with coverage passing to the children if the former spouse remarries before age 55 (age 60, if remarried before November 14, 1986), or dies. The child is an eligible beneficiary provided the conditions in subparagraph 440102.D, above, are met and the child resulted from the member-former spouse marriage.

440105. Natural Person With Insurable Interest. The eligibility requirements are:

A. A person who has a reasonable and lawful expectation of pecuniary benefit from the continued life of the member. This category may include parents, stepparents, grandparents, grandchildren, aunts, uncles, sisters, brothers, half-sisters, half-brothers, dependent or non-dependent child or stepchild, any other person more nearly related than cousin, or

B. Any individual having a reasonable and lawful basis, founded upon the relationship of parties to each other, either pecuniary or of blood or affinity, to expect some benefit or advantage from the continuance of the life of the retiree.

NOTE: Proof of financial benefit from the continuance of the life of the member is required for persons other than those listed in subparagraph 440105.A., above. The legal staff of the supporting Military Service activity may coordinate on the eligibility requirements.

CHAPTER 45

SURVIVOR BENEFIT PLAN - PREMIUMS

4501 GENERAL

450101. SBP. The premium for SBP coverage is based on the type of coverage (spouse and/or children, former spouse or former spouse and children, or natural person with an insurable interest) and the base amount, maximum or reduced, as elected by or on behalf of the member. The SBP premium increases at the same time and by the same percentage as do increases for retired or retainer pay.

450102. SSBP. The SSBP premium for spouse or former spouse coverage is added to the SBP premium. The SSBP premium is expressed as a percentage of the base amount, full retired pay. The SSBP premium increases in the same manner as the SBP premium.

4502 PREMIUM/FORMULA

450201. If the SBP coverage is for spouse and child, former spouse and child, or child only, a formula must be applied against the base amount (or base amount times 55 percent before April 1983) to determine the charge for coverage of the children. The age of the youngest child is used to determine the premium; however, if there is an incapacitated child over 18 years of age and there also is a competent child over age 18 but younger than the incapacitated child, then use age 17 to determine the premium. The premium can be determined from the SBP Factor Table available at the DFAS-Denver Center. When the premium cannot be determined from the SBP Factor Table, refer to DFAS-Denver Center procedures.

450202. Before enactment of Public Law 99-145 (reference (fc)), the initial premium was computed on a standard cost formula of 2.5 percent of the first $300 of the base amount, plus 10 percent of the base amount in excess of $300. The "$300" is now referred to as a threshold amount and is subject to two possible indexing provisions.

A. First, a member who becomes a participant on or after March 1, 1986, will have the $300 threshold amount increased by any active duty percentage increase effective October 1, 1985, or later, provided his or her retired pay is based on that active duty basic pay rate. For example, a member retires on March 31, 1986, and retired pay is computed on the active duty basic pay rate in effect on October 1, 1985. The active duty increase was 3 percent. The formula is 2.5 percent of the first $309 ($300 times 3 percent), plus 10 percent of the base amount in excess of $309.

B. Secondly, a member who becomes a participant on or after March 1, 1986, and who receives the benefit of a cost-of-living adjustment in the initial computation of retired pay (and that cost-of-living adjustment is effective on or after October 1, 1985) will have the threshold amount increased by that cost-of-living adjustment percentage. For example, if a member retires on March 31, 1986, with retired pay computed under the October 1985 active duty basic pay rates and adjusted by a December 1985 cost-of-living adjustment increase of 2.4 percent under 10 U.S.C.

1401a (reference (c)), the cost formula is 2.5 percent of the first $316.42 ($300 times 3 percent October 1985 times 2.4 percent December 1985), plus 10 percent of the base amount in excess of $316.42. If a member retires on March 31, 1986, and retired pay is computed on basic pay rates effective before October 1985, but retired pay includes a cost-of-living adjustment of 3.1 percent for December 1985, the formula is 2.5 percent of the first $309.30 ($300 times 3.1 cost-of-living adjustment percentage), plus 10 percent of the base amount in excess of $309.30. On March 1, 1990, the formula for spouse or former spouse coverage is a flat 6.5 percent of the base amount.

C. A member who is entitled to retired pay under 10 U.S.C., Chapter 61, disability retirement (reference (c)), or Chapter 1223, non-Regular service retirement (reference (c)), is entitled to use whichever formula is more favorable. If the individual first became a member of a Uniformed Service before March 1, 1990, and is providing spouse coverage and SBP premium exceeds 6.5 percent of the base amount, the SBP premium will be recomputed effective March 1, 1990, on the flat-rate reduction formula of 6.5 percent.

450203. On March 1, 1990, the SBP formula for spouse or former spouse coverage is 6.5 percent of the base amount. A member who is entitled to retired pay under Chapter 61, disability retirement, or Chapter 1223, non-Regular service retirement, 10 U.S.C. (reference (c)) is entitled to whichever formula is more favorable. If the individual first became a member of a Uniformed Service before March 1, 1990, and is providing spouse coverage, and the SBP premium exceeds 6.5 percent of the base amount, that SBP premium was recomputed effective March 1, 1990, on the flat-rate reduction formula of 6.5 percent.

450204. Supplemental SBP coverage became available April 1992. The premium for SSBP is in addition to premium for SBP. The SSBP premium is expressed as a percentage of the base amount. The member elects SSBP coverage in increments of 5, 10, 15, or 20 percent of the base amount and the SSBP premium is computed by multiplying the SSBP premium factor based on member's age at election by 1, 2, 3, 4, respectively. The premium rates are for each 5 percent of SSBP coverage. Standard SSBP rates are shown on Table 45-5.

450205. A member who became an SBP participant, increased the base amount of coverage, or elected spouse or former spouse coverage during the open enrollment period April 1, 1992, through March 31, 1993, was subject to an additional premium based on the number of years member had been retired. The open enrollment premium additions are shown on Table 45-6.

4503 COMPUTATION OF PREMIUM

450301. Spouse Only or Former Spouse Only. See Table 45-1, rule 1.

450302. Spouse and Child, Former Spouse and Child, or Children Only. See Table 45-1, rules 2 and 3. The steps to be used in computing the premium are:

A. Compute age of member, spouse and child for spouse and child coverage. Compute the age of member, former spouse and child for former spouse and child coverage. Compute age of member and child for child coverage. If the member has less than 19 years of

service, add 5 years to member's age. Note: The SBP Factor Tables, effective April 1, 1983, no longer require this adjustment.

B. Determine the cost factor from SBP Factor Table.

C. Multiply base amount by the factor to determine the child premium. Add the child premium to the spouse (or former spouse) premium.

Example 1: A member retires on July 1, 1985, with 20 or more years of active service. The gross retired pay is $1,000. The member elects maximum coverage for spouse and children. Birthdates are: member-February 2, 1950; spouse-September 2, 1954; child-May 1, 1980.

Step 1. Compute ages. Six months or more is considered a full year.

Member	890701	Spouse	890701	Child	890701
	500202		540902		800501
	390429		340929		90200
	(39)		(35)		(9)

Step 2. Use the SBP Factor Table to locate the combination of a member age 39, spouse 35, and child 9. The resulting factor is .0012.

Step 3. Determine total premium: Compare the spouse premium under the flat-rate formula of 6.5 percent to the spouse premium under the threshold formula, where applicable (see section 4502, above).

Spouse premium:		
(Threshold formula)	$1,000.00	
	- 337.00	(Table 49-1)
	663.00	
	x .10	
	66.30	
	+ 8.43	($337.00 x .025)
	$ 74.73	
(Flat-rate formula)	$1,000.00	
	x.065	
	$ 65.00	$65.00
Child premium:	$1,000.00	
	x .0012	
	$ 1.20	+$ 1.20
Total Premium:		$66.20

Example 2: The spouse in Example 1 becomes an ineligible beneficiary on March 3, 1990. Coverage changes to child only. (If the former spouse becomes an ineligible beneficiary, coverage changes to child.)

Step 1. Recompute the ages for member and child.

Member	900304	Child	900304
	500202		800501
	400102		91003
	(40)		(10)

Step 2. Use the SBP Factor Table to locate combination of a member age 40 and child age 10. The resulting factor is .0051.

Step 3. Determine total premium: $1,000 x .0051 = $5.13

Example 3a: The member elects spouse and child coverage (Example 1). The spouse becomes an ineligible beneficiary and coverage changes to child only (Example 2). The member remarries on May 14, 1990. The birthdate for the new spouse is October 12, 1955. Coverage reverts to spouse and child on May 14, 1991, unless the member elects not to resume spouse coverage. The new premium for spouse and child is effective on June 1, 1991 (Table 45-3, rule 9 and note 8).

Step 1. Recompute ages for member, spouse, and child.

Member	910514	Spouse	910514	Child	910514
	500202		551012		800501
	410312		350702		110013
	(41)		(36)		(11)

Step 2. Use the SBP Factor Table to locate combination of a member age 41, spouse 36, and child 11. The resulting factor is .0009.

Step 3. Determine the total premium:

Spouse premium:

(Threshold formula)	$1,005.00	
	- 338.69	(Table 49-1)
	666.31	
	x .10	
	66.63	
	+ 8.47	($338.69 x .025)
	$ 75.10	

(Flat-rate formula)	$1,005.00	
	x .065	
	$ 65.33	$ 65.33
Child premium:	$1,005.00	
	x .0009	
	$ .90	+ $ .90
Total Premium		$ 66.23

Example 3b: The member elects spouse and child coverage (Example 1). The spouse becomes an ineligible beneficiary and coverage changes to child only (Example 2). The member remarries on May 14, 1990. The birthdate for new spouse is October 12, 1955. Coverage would have resumed on spouse and child on May 14, 1991, the first anniversary; however, the spouse becomes the parent of issue by that marriage before the first anniversary. Coverage changes to spouse and child on the date the child is born of that marriage. The new premium is effective the first day of the month following the birth (Table 45-3, rule 9 and note 8). Assume that the child is born March 27, 1991.

Step 1. Recompute ages for member, spouse, and child.

Member	910327	Spouse	910327	Child	910327
	500202		551012		910327
	410125		350515		000000
	(41)		(35)		(0)

Step 2. Use the SBP Factor Table to locate combination of a member age 41, spouse 35, and child 0. The resulting factor is .0037.

Step 3. Determine total premium:

Spouse premium:		
(Threshold formula)	$1,005.00	
	- 338.69 (Table 49-1)	
	666.31	
	x .10	
	66.63	
	+ 8.47	($338.69 x .025)
	$ 75.10	
(Flat-rate formula)	$1,005.00	
	x .065	
	$ 65.33	$65.33

Child premium:	$1,005.00	
	x .0037	
	$ 3.72	+$ 3.72
Total Premium:		$69.05

Example 4: Same facts as Example 1. The member divorces on April 15, 1990, and coverage changes to child only. See Example 2 for recomputation. The member elects coverage for former spouse and child, and the election is received on June 2, 1990. Coverage for former spouse and child is effective on June 2, 1990, and the premium for the former spouse and child is effective July 1, 1990. Recompute ages on date election is received.

Step 1. Recompute ages.

Member	900602	Former	900602	Child	900602
	500202	Spouse	540902		800501
	400400		350900		100101
	(40)		(36)		(10)

Step 2. Use the SBP Factor Table to locate combination of a member age 40, spouse 36, and child 10. The resulting factor is .0010.

Step 3. Determine the premium as in Example 1.

Example 5: The member has spouse and child coverage (Example 1). The member divorces and coverage changes to child coverage (Example 2). The member elects former spouse and child coverage (Example 4). The member remarries on March 22, 1991, and elects coverage for newly acquired spouse. See Examples 3a and 3b for resuming spouse coverage on the first anniversary or on the birth of a child of the marriage, if married less than 1 year. The premium is recomputed on the date of the event, remarriage or birth, and the premium change is effective the first day of the month after the event. However, if the birth or remarriage occurs on the first day of the month, the premium change is effective that month.

Example 6: The member has spouse and child coverage (Example 1). The member divorces and coverage changes to child coverage as in Example 2. The member elects former spouse or former spouse and child coverage as in Example 5. The member remarries on March 22, 1989, and chooses to elect for newly acquired spouse. The premium and coverage for newly acquired spouse effective as in Examples 3a or 3b.

450303. Former Spouse (Insurable Interest Category) or Natural Person With an Insurable Interest. See Table 45-1, rule 4.

4504 EFFECTIVE DATE OF PREMIUM

See Table 45-2 or 45-3 as applicable.

4505 SUSPENSION, CHANGE, AND TERMINATION OF PREMIUM

★450501. Suspend premiums for spouse or former spouse coverage when there is no longer an eligible beneficiary during any period after:

A. SBP--October 1, 1976;

B. SSBP--April 1, 1992.

Suspend premiums for child coverage when there is no eligible child beneficiary.

450502. If the SBP premium was adjusted or discontinued based on school nonattendance of the child beneficiary, the premium is adjusted retroactively to the first day of the month after the child resumed school attendance.

450503. The premium changes when coverage is:

A. For spouse and children (or former spouse and children) and the last dependent child is no longer an eligible beneficiary. The premium for coverage is changed to spouse (or former spouse) only. See Table 45-3, rule 8.

B. For spouse only and the spouse is no longer eligible. Within 1 year after member's remarriage, the member may:

1. Resume coverage (including SSBP);

2. Elect not to resume spouse coverage (any SSBP terminates);

3. Increase the base amount up to and including full retired pay for spouse or spouse and child coverage (see Table 45-3, rule 6); or

4. Elect SSBP if participation is at the maximum base amount. See Table 45-3, rule 6.

C. For spouse and children (or former spouse and children) and the spouse (or former spouse) is no longer eligible. See Table 45-3, rule 7, for computation of the premium for child coverage. Within 1 year after the member's remarriage, the member has the same options as in subparagraph 450503.B., above. See Table 45-3, rule 9.

D. For spouse before March 21, 1974 (pre-September 21, 1972 retiree), or on date of retirement (post-September 21, 1972 retiree), and the member subsequently divorces and

then remarries that former spouse. The premium is effective the first day of the month following the remarriage, unless the remarriage is the first day of the month, then the premium is effective on the date of marriage.

E. Elected for spouse on or after March 21, 1974 (pre-September 21, 1972 retiree) or after date of retirement (post-September 21, 1972 retiree), subsequently divorces and remarries that former spouse. The premium of coverage is resumed the first day of the month following the first anniversary unless the remarriage is the first day of the month, then the premium resumes the first day of the first anniversary.

F. For spouse or spouse and child is changed to coverage for former spouse under paragraph 430703 of this volume. Beginning on the first day of the month after receipt by the Secretary of the Military Department concerned of the change in election, the premium will be calculated as provided in Table 45-3, rule 10. If the member elects SSBP coverage for a former spouse, begin collecting the premium for SSBP.

★G. For retired or retainer pay increases under 10 U.S.C. 1401a (reference (c));

1. SBP premiums normally increase at the same time and by the same percentage that retired pay increases by cost-of-living adjustment.

2. When the payment of increased retired pay due to a cost-of-living adjustment is delayed, the increase to SBP premiums will occur at the same time the retired pay is increased rather than the effective date of the cost-of-living increase (or the date that the retired pay would have increased if the member were currently in receipt of retired pay).

★450504. Terminate the SBP premium for a natural person with an insurable interest when the beneficiary dies, when the member terminates coverage for the natural person with an insurable interest, or on the date a spouse or child acquired after retirement becomes the eligible beneficiary. The SBP premium is terminated as of the date shown in Table 45-4, Suspension and Termination of Cost. See section 4308 of this volume for termination procedures.

450505. See Table 45-4 for other suspension and termination of premium situations.

4506 PAYMENT OF PREMIUM

450601. A member who receives enough retired pay to cover the premiums for SBP and SSBP has those premiums withheld from his or her retired pay. Voluntary allotments may be discontinued to satisfy the premiums for SBP and SSBP coverage (see Chapter 19). Do not treat the reduction in retired pay for the premium of SBP and SSBP coverage as a collection for accounting purposes.

450602. Civil Service Annuitant

A. For any period in which the member is not receiving retired pay because of non-entitlement to or waiver of such pay or the pay received is not enough to cover the total cost of coverage, the member must remit the amount due to the DFAS-Denver Center. Deposits are due on the effective date of coverage. For example, member retires June 1, the first payment is due June 1, for the period June 1-30. A member who waives full retired pay for VA compensation may pay the premium by direct remittance or by deduction from the compensation payments.

B. If the member waives participation in the military survivor benefit program and elects participation in the civil service survivor benefit plan, and the civil service waiver later becomes ineffective for any period for any reason, previous participation in the military survivor benefit program is resumed and military SBP premium is due from the member.

450603. Emergency Officer's Retired List (EORL). A member on the EORL may pay premiums by direct remittance or by deduction from EORL payments.

450604. If a member is recalled to active duty for more than 30 days after a break in service, the member does not pay the premium while on active duty.

450605. The member remains an SBP participant while on active judicial duty and is required to pay the SBP premiums while military retired pay is suspended.

4507 DELINQUENT SBP PREMIUMS

Interest at the rate of 6 percent compounded annually is levied against delinquent SBP premiums. Any delinquent RSFPP premiums existing on date of conversion to the SBP continue, with interest, until paid. Upon the death of a retiree, any delinquency, plus interest, is collected from the annuitant's benefits before payment of any annuity.

★4508 TAXABILITY OF PREMIUMS

For federal income tax purposes, premiums for SBP coverage are excluded from taxable income when they are deducted from the member's retired pay. A member whose pay is subject to tax reporting will, while in a pay status, receive the tax benefit through a reduction in the taxable income reported to the Internal Revenue Service. No reduction against the taxable income can be given for interest paid on the delinquent premiums.

4509 INCOME EXCLUSION

The member will receive an income exclusion for the amount of direct remittance for coverage premiums upon returning to a pay status. The appropriate DFAS Center will exclude the amount of the direct remittance from the taxable income on IRS Form 1099R (Distributions From Pensions, Annuity, Retirement or Profit Sharing Plans, IRAs, Insurance Contracts, etc.) See paragraph 450602, above, for payment of premiums during nonreceipt of retired pay.

COMPUTATION OF SBP PREMIUM ON ESTABLISHMENT		
RULE	A	B
	If beneficiary is	the formula is
1	spouse or former spouse (spouse category)	6.5 percent of the base amount (note 1) or 2.5 percent of the threshold amount (note 2), as adjusted, plus 10 percent of the remaining base amount. If gross retired pay is less than $300, 2.5 percent of gross retired pay.
2	spouse (former spouse-spouse category) and children (notes 3, 4)	Spouse (former spouse) premium determined under rule 1, plus an additional premium for children computed by applying the factor from the SBP Factor Table against the base amount. See section 4503 for examples.
3	children only (notes 3, 4)	to apply the factor shown in the SBP Factor Table, based on the ages of the member and youngest dependent child, against the base amount. See section 4503 for example.
4	natural person with an insurable interest or former spouse (insurable interest category)	10 percent of the member's gross retired pay if the age of the beneficiary is equal to or greater than member's age. If the beneficiary's age is less than member's age, the formula is 10 percent of the member's gross retired pay, plus an additional 5 percent of the gross retired pay for each full 5 years that the beneficiary is younger than member. Six months or more is not counted as an additional year. Total premium may not exceed 40 percent of gross retired pay.

NOTES:
1. The following members are entitled to spouse premium computation under the flat-rate formula of 6.5 percent of the base amount:
   a. A member who is entitled to retired pay based on disability;
   b. A member who is entitled to retired pay based on a non-Regular service retirement, 10 U.S.C. 12731; or
   c. A member who first became a member of a Uniformed Service before March 1, 1990, and who is providing spouse (or former spouse) coverage under the threshold formula at a cost in excess of 6.5 percent of the base amount.
2. The members described in note 1 are entitled to spouse premium computation under the threshold formula if more beneficial than the flat-rate formula of 6.5 percent of the base amount. The threshold portion of the cost formula upon which the member pays 2.5 percent as cost is subject to two possible indexing provisions for those members who become participants March 1, 1986 or later-percentage increases for active duty basic pay rates and cost-of-living adjustment under 10 U.S.C. 1401a, on or after October 1, 1985.
3. Do not recalculate premiums when a child different from the child first established as the youngest child becomes the youngest eligible child.
4. Dependent Child-use age of youngest child. Exception: Use age 17 for an incapacitated child over 18 years of age when there is a competent child also over 18, but younger than the incapacitated child.

Table 45-1. Computation of SBP Premium On Establishment

EFFECTIVE DATE OF PREMIUM-INITIAL ELECTION					
RULE	A	B			
	If on the date of election (pre-September 21, 1972 retiree) or date of retirement (post-September 21,1972 retiree), the member has	effective date of premium is			
		first day of the month following retirement	first day of the month following election by the Secretary of the Military Department concerned	first day of the month following receipt of the election	first day of the month following the first anniversary of the marriage
1	spouse, spouse and children, children only, or natural person with insurable interest (NIP) (pre-September 21, 1972 retiree)			X	
2	spouse, spouse and children, children only, or NIP (post-September 21, 1972 retiree)	X			
3	no dependents, later marries (note 1)				X (note 4)
4	no dependents, later acquires dependent children (note 1)			X (note 2)	
5	no dependents, later marries and acquires dependent children (note 1)			X (note 3)	X (note 5)
6	been declared mentally incompetent (Secretary may make election)		X		
7	former spouse (post-September 7, 1982 retiree) or former spouse and children (post-February 28, 1986 retiree)	X (note 6)			

NOTES:
1. Member must elect within 1 year of marriage or acquiring dependent children.
2. Compute the child premium using ages of member and youngest child as of date of receipt of election.
3. The child only premium is established and continues until the first of the month following the first anniversary of the marriage. Compute child only premium using ages of member and youngest child on date of receipt of the election. When spouse becomes an eligible beneficiary, child only coverage then is changed to spouse and children coverage. Then compute child premium using ages of member, spouse, and youngest child on the date the spouse becomes an eligible spouse beneficiary.
4. If the first anniversary is on the first day of the month, cost begins that month.
5. If a child is born of that marriage before the first anniversary, the premium for spouse and child coverage is effective the first of the month following the event. If the birth or anniversary is the first day of the month, the premium is charged for that month.
6. The effective date of premium for an election for a former spouse election made from September 8, 1982 through January 31, 1983 is February 1, 1983.

Table 45-2. Effective Date Of Premium-Initial Election

EFFECTIVE DATE FOR CHANGE OF PREMIUM					
RULE	A	B			
	If on the date of election (pre-September 21, 1972 retiree) or date of retirement (post-September 21, 1972 retiree) the member has	the effective date of premium change is			
		first day of the month following receipt of election	first day of month following family status change	first day of month following first anniversary of (re)marriage	first day of month after loss of eligibility or October 1, 1976, whichever is later
1	spouse, no child, later acquires children (notes 1, 2)	X			
2	no spouse, child only, later acquires spouse (notes 1, 7, 8)			X	
3	natural person with insurable interest (NIP) (or former spouse), later marries (notes, 1, 7, 8, 11)			X	
4	NIP (or former spouse), later acquires child (notes, 1, 3, 8, 11)	X			
5	NIP (or former spouse), later acquires spouse and child (notes 1, 4, 7, 8, 11)	X (child)		X (spouse)	
6	spouse, loses spouse, remarries (notes 1, 7, 8, 9)			X	
7	spouse and child (or former spouse and child), loses spouse (or former spouse), premium is recomputed for child (notes 5, 9)			X	
8	spouse and child (or former spouse and child), loses child (note 6)		X		
9	spouse and child (or former spouse and child), loses spouse (or former spouse), premium recomputed for child, member later marries (notes 1, 4, 7, 8, 11)			X	

Table 45-3. Effective Date for Change of Premium

RULE	A	B			
		the effective date of premium change is			
	If on the date of election (pre-September 21, 1972 retiree) or date of retirement (post-September 21,1972 retiree) the member has	first day of the month following receipt of election	first day of month following family status change	first day of month following first anniversary of (re)marriage	first day of month after loss of eligibility or October 1, 1976, whichever is later
10	spouse and/or child, acquires former spouse, changes coverage to former spouse or former spouse and child (note 10)	X			
11	election for former spouse deemed by Secretary concerned	premium and coverage on the later of: (a) member's retirement date; (b) the first day member could have voluntarily made such an election; or (c) the first day of month after the effective date of court order involved.			
12	been declared mentally incompetent but later adjudged competent may, within 180 days, change a Secretarial election	X			

NOTES:

1. Member must elect within 1 year of (re)marriage or acquiring dependent child or children.
2. Compute premium for additional child using ages of member, spouse, and youngest child as of date of receipt of election.
3. Compute premium for child using ages of member and youngest child as of date of receipt of election.
4. Child only premium is effective until the first of the month following the first anniversary of the (re)marriage. Compute child only premium using ages of member and youngest child on the date of receipt of the election or on the day after the date spouse eligibility is lost (rules 5 and 8). When spouse becomes an eligible beneficiary, child only coverage is changed to spouse and child coverage. Then compute new child premium using ages of member, spouse, and youngest child on date spouse becomes an eligible spouse beneficiary.
5. Compute child only premium using ages of member and youngest child as of the first date following the date the spouse (or former spouse) became an ineligible beneficiary or October 1, 1976, whichever is later. If eligibility was lost the first day of the month, the child only premium begins the following month.
6. If member gives exact date of loss of last dependent child, the change in premium is effective the first of the month following date provided. If exact date is not given, use first day of the month after receipt of notification.
7. The premium for spouse coverage is effective first day of the month following the birth of child of that marriage if earlier than first anniversary of the marriage.
8. If birth or anniversary is the first day of the month, the premium is effective that month.
9. Before enactment of Public Law 94-496, October 14, 1976, the deduction for spouse premium continued past the date spouse became an ineligible beneficiary.
10. Member must make election within 1 year of the date of a decree of divorce, dissolution, or annulment of marriage to spouse. Election for former spouse only may not be effective before September 24, 1983 (earliest day for premium is October 1, 1983). Election for former spouse and child may not be effective before March 1, 1986 (earliest date for premium is March 1, 1986).
11. An election to terminate coverage for a NIP premium must be done in accordance with subparagraph 430701.B; an election to terminate coverage for a former spouse must be done in accordance with subparagraph 430701.B.; an election to terminate coverage for a spouse or spouse and child must be done in accordance with paragraphs 430701 and 430702.

Table 45-3. Effective Date For Change of Premium (Continued)

SUSPENSION AND TERMINATION OF PREMIUM					
RULE		then the premium is			
	If a member	terminated	suspended	with an effective date	and member is
1	is deceased	X		last day of month of death.	
2	is recalled to active duty for more than 30 days		X	the day before entry on active duty	not required to remit premium for coverage while on active duty.
3	waives retired pay for a civil service retirement		X	date of waiver as furnished by member	providing coverage elected under civil service retirement.
4	is removed from the TDRL and retired pay is terminated (note 1)	X		date of removal from TDRL	not entitled to a refund of prior premiums.
5	elected for children and the last dependent child is no longer an eligible beneficiary (note 2)	X		first of the month after loss of eligibility (notes 3 and 4)	due a refund from first of month after loss of eligibility (note 5).
6	who has been declared mentally incompetent is restored to competency and, within 180 days, revokes election made on his or her behalf	X		first of month after receipt of election	not due a refund for period of coverage.
7	elected for spouse (or former spouse) and spouse (or former spouse) becomes an ineligible beneficiary		X	first day of month after that in which spouse became an ineligible beneficiary	due a refund from October 1, 1976 or first of month after ineligibility, whichever is later.
8	elected coverage for a natural interest person (or former spouse in insurable interest category) who dies before the member	X		last day of month in which beneficiary dies	
★9	elected coverage for a natural interest person (not a former spouse) and member discontinues participation from the Plan (see Chapter 56, paragraph 560305 for the RCSBP participant)	X		first day of month after receipt of election	

Table 45-4. Suspension and Termination of Premium

NOTES:

1. If the member returns to active duty and is subsequently retired, a new election must be made. Any election in effect while on TDRL is void.
2. A child is no longer an eligible beneficiary when he or she dies, marries, is between age 18 and 22 and not attending school, or has reached age 22 (see note 3).
3. A student whose 22nd birthday occurs before July 1 or after August 31 of any calendar year is considered age 22 on July 1 after that birthday and the premium is discontinued.
4. When the birthday is the first day of the month, the premium terminates the first day of that month.
5. If the member gives exact date of loss of last dependent child, cost is terminated the first of the next month. If exact date is not given, use first day of month after receipt of notification

Table 45-4. Suspension and Termination of Premium Continued

STANDARD SUPPLEMENTAL SBP ANNUITY PREMIUM RATES - EACH 5%					
16	.0067	48	.0162	80	.0668
17	.0070	49	.0167	81	.0698
18	.0072	50	.0174	82	.0725
19	.0075	51	.0180	83	.0761
20	.0077	52	.0188	84	.0795
21	.0080	53	.0197	85	.0842
22	.0083	54	.0207	86	.0884
23	.0086	55	.0217	87	.0931
24	.0089	56	.0227	88	.0975
25	.0093	57	.0237	89	.1029
26	.0097	58	.0248	90	.1082
27	.0100	59	.0260	91	.1135
28	.0104	60	.0262	92	.1187
29	.0108	61	.0287	93	.1239
30	.0113	62	.0302	94	.1291
31	.0118	63	.0316	95	.1342
32	.0123	64	.0331	96	.1391
33	.0127	65	.0346	97	.1439
34	.0133	66	.0362	98	.1482
35	.0136	67	.0380	99	.1520
36	.0119	68	.0395	100	.1543
37	.0112	69	.0413	101	.1579
38	.0113	70	.0430	102	.1635
39	.0117	71	.0450	103	.1681
40	.0122	72	.0474	104	.1710
41	.0127	73	.0495	105	.1764
42	.0128	74	.0518	106	.1871
43	.0131	75	.0538	107	.2180
44	.0137	76	.0564	108	.2741
45	.0143	77	.0590	109	.5809
46	.0149	78	.0613		
47	.0156	79	.0642		

Table 45-5. Standard Supplemental SBP Annuity Premium Rates - Each 5%

OPEN ENROLLMENT PREMIUM ADDITIONS	
Years Retired	**Added Premium (Percent of Increased Base Amount)**
0	.0%
1	.2%
2	.4%
3	.6%
4	.8%
5	1.0%
6	1.2%
7	1.4%
8	1.6%
9	1.8%
10	2.1%
11	2.4%
12	2.7%
13	3.0%
14	3.3%
15	3.6%
16	3.9%
17	4.2%
18 +	4.5%

Table 45-6. Open Enrollment Premium Additions

CHAPTER 46

SURVIVOR BENEFIT PLAN - ANNUITY AMOUNT AND OFFSETS

4601 ANNUITY AMOUNT

460101. General

A. The SBP, as originally enacted, provided a monthly annuity of 55 percent of the annuity base amount, cost-of-living adjusted, to the eligible spouse or children. The monthly annuity for a natural person with an insurable interest was 55 percent of the amount of the gross retired pay after cost of participation is subtracted. The annuity payable to a spouse was subject to social security offset when the spouse reached age 62.

B. If the former spouse election was effective before March 1, 1986, an annuity is provided under the insurable interest category. The annuity for a former spouse election effective on or after March 1, 1986 (or where coverage was changed to spouse category with former spouse's concurrence), is provided under the spouse category.

C. Effective March 1, 1986, under Public Law 99-145, section 711 (reference (fc)), there is a two-tier annuity benefit system for spouse and former spouse (spouse category) beneficiaries. The social security offset system was eliminated. Effective March 1, 1986, if the spouse or former spouse (spouse category) annuitant is under age 62 when becoming entitled to the annuity, the monthly annuity is 55 percent of the base amount, as adjusted under 10 U.S.C. 1401a (reference (c)). If the beneficiary is age 62 or older when becoming entitled to the annuity, the monthly annuity is 35 percent of the base amount, as adjusted under 10 U.S.C. 1401a (reference (c)). Where the annuitant reaches age 62 after becoming entitled to the annuity, the amount of the annuity is reduced to 35 percent of the base amount, as adjusted by 10 U.S.C. 1401a (reference (c)), on the first day of the month after the annuitant reaches age 62. The annuity entitlement for a natural person with an insurable interest or former spouse (insurable interest category) remains unchanged.

1. A spouse or former spouse who is an eligible annuitant on October 1, 1985, will receive 55 percent of the base amount, as adjusted under 10 U.S.C. 1401a (reference (c)), less social security offset or 35 percent of the base amount, as adjusted under 10 U.S.C. 1401a (reference (c)), whichever is greater. The greater amount becomes payable March 1, 1986 or effective on the first day of the month after the annuitant reaches age 62, whichever is later. There is no subsequent comparison.

2. The eligible spouse or former spouse beneficiary of a member on October 1, 1985, who:

a. Is a Plan participant,

b. Is entitled to retired pay,

c. Is qualified for that pay except that member has not applied for or been granted that pay, or

d. Would be eligible for retired pay under 10 U.S.C., Chapter 1223, (reference (c)) but for the fact that member is under age 60, may receive the greater of the two annuity amounts described in subparagraph 460101.C.1., above. The greater annuity amount becomes payable the first month the annuitant would otherwise be entitled to the annuity of 35 percent of the base amount. There is no subsequent comparison.

D. Effective April 1, 1992, a member may provide the spouse or former spouse annuitant with a Supplemental SBP (SSBP) annuity. The SSBP is an additional 5, 10, 15, or 20 percent of the annuity base amount as elected by the member and becomes payable when the annuitant reaches age 62. The SSBP is increased by cost-of-living adjustments similar to SBP.

460102. Eligible Annuitants and Annuity Amounts. Monthly annuities to which a survivor becomes entitled on or after October 1, 1983, if not a multiple of $1, shall be rounded to the next lower multiple of $1. Annuities to which survivors were entitled on September 30, 1983, shall be rounded when there is an adjustment under 10 U.S.C. 1401a (reference (c)); then, and with each subsequent adjustment, the amount as adjusted, if not a multiple of $1, shall be rounded to the next lower multiple of $1. All subsequent adjustments shall be based on the rounded amount. SSBP annuities, if not a multiple of $1, shall be rounded to the next lower multiple of $1.

A. Spouse or Former Spouse (Spouse Category) Only. See Table 46-1. The SBP annuity for a spouse or former spouse is reduced by any Dependency and Indemnity Compensation (DIC), if the annuity is payable on behalf of the same member. An SSBP annuity is not reduced by DIC.

B. Children Only. If there is more than one eligible child, the annuity is paid in equal shares. The annuity for children is not subject to DIC offset.

C. Spouse and Child or Former Spouse and Child. The annuity is paid to the spouse or former spouse, as long as eligibility exists. If the surviving spouse or former spouse loses eligibility due to death or remarriage before age 55 (age 60, if remarried before November 14, 1986), the annuity is paid to the child annuitants. An election for former spouse and child includes the children that resulted from the member-former spouse marriage. The annuity amount for the spouse or former spouse is shown on Table 46-1. The annuity amount for children is the same as for children only in subparagraph 460102.B, above. If member elects coverage for the spouse and children and the spouse is not eligible under 10 U.S.C. 1447(3)(A) (reference (c)), the spouse qualifies as the eligible annuitant on the birth of a posthumous child of the member's marriage.

D. Former Spouse (Insurable Interest Category) or Natural Person with an Insurable Interest. The annuity is payable only to the former spouse or natural person with an insurable interest as designated by or on behalf of the member. The benefits may not be transferred to another person. The annuity amount is 55 percent of the member's gross retired pay less cost, at the time of member's death. The annuity is not reduced by DIC.

460103. Payment of Annuity

A. The SBP annuity is paid monthly to the eligible annuitant. The SBP payment is effective the first day after the death of the member unless death occurs on the 30th day of a 31-day month. In that case, the annuity starts on the first day of the next month. If a member elected coverage for a former spouse between September 8, 1982 and January 31, 1983, and died before February 1, 1983, the annuity begins February 1, 1983. Annuity payments end effective the last day of the month before the month in which the annuitant becomes ineligible.

1. An annuity for a minor child is paid to the legal guardian or, if there is no legal guardian, to the natural parent who has care, custody, and control of the child as the custodian, or to a representative payee of the child. An annuity may be paid directly to the child when the child is considered to be of majority age under the law in the state of residence. The child then is considered an adult for annuity purposes and a custodian or legal fiduciary is not required. See Appendix H for age of majority by state.

2. When the payment of premiums is in arrears, no annuity may be paid until that debt, with interest (6 percent compounded annually) has been recovered.

3. Debts of a deceased member, other than for delinquent premiums, are not the responsibility of the annuitant and may not be offset involuntarily against the annuity.

4. The annuity is neither assignable nor subject to execution, levy, attachment, or garnishment (except for alimony or child support).

5. Debts to the United States or any of its instrumentalities incurred by the annuitant may be offset from the annuity.

6. The annuity may be paid to a trustee in bankruptcy pursuant to the order of a bankruptcy court in a proceeding under Chapter 13 of the Bankruptcy Code (reference (dg)) since such proceeding is voluntary.

7. An annuity may be paid to a third party on behalf of an incapacitated annuitant only if the third party has been appointed as guardian, custodian, or other fiduciary pursuant to a state court order or has been designated a representative payee under subparagraph 460103.C., below. Otherwise, the annuity may be paid only to the annuitant unless the annuitant has been determined to be incompetent of managing his or her own affairs by a state court, physician or psychologist. If the annuity cannot be paid directly to the annuitant or to a third party, amounts will remain unpaid and credited on account until the annuitant is determined to be competent or until a third party has been properly appointed to receive the annuity on behalf of the annuitant.

8. An eligible survivor who is physically or mentally incapacitated (but who has not been determined to be mentally incompetent by a state court, physician, or psychologist) may accept assistance from a person holding a power of attorney in completing

(including the signature element) and filing the annuity application form. Benefit payments must be made payable thereunder directly to the annuitant.

9. If the Secretary of the Military Department concerned determines that a participating member is presumed dead, the annuity accrues from the first day after retired or retainer pay was suspended or would have been suspended had the member been in receipt of pay on the basis that the member is missing.

B. The SSBP annuity begins on the later of:

1. The day on which SBP annuity becomes payable to the spouse or former spouse beneficiary if age 62 or older; or

2. The first day of the month after the month in which the spouse or former spouse beneficiary becomes age 62.

The SSBP annuity is paid monthly. The SSBP terminates effective the first day of the month in which the spouse or former spouse dies or becomes ineligible to receive an SBP annuity (except if ineligible for SBP annuity due to DIC award). SSBP coverage was not available until April 1, 1992, and the earliest effective date for SSBP annuity payment is May 1, 1992.

C. The SBP annuity due a minor, mentally incompetent, or otherwise legally disabled person for whom a guardian or other fiduciary has not been appointed may be paid to a representative payee, who in the judgment of the Secretary of the Military Department concerned, is responsible for the care of the annuitant. This includes any SSBP payable to the spouse or former spouse annuitant. The representative payee is required to spend or invest the amount paid on behalf of the annuitant solely for the benefit of the annuitant. The representative payee must certify that SBP (and SSBP, if applicable) payments received on the annuitant's behalf are used for the annuitant's benefit.

1. An annuitant is determined to be incompetent if the Secretary concerned receives an actual determination of incompetency made either by a state court, or by a physician or psychologist. A representative payee will not be established solely on the basis of a letter request from a third party that an annuitant is incapable of handling financial affairs. The annuitant will be notified of actions being taken to make a determination of incompetency and will be provided an opportunity to review the evidence being considered. The annuitant also will have the opportunity to submit additional evidence before a determination is made.

2. If a court order provides for payment of a fee to the representative payee, or if the Secretary concerned determines that payment of a fee is necessary in order to obtain the fiduciary services of a representative payee, a monthly fee will be allowed. In such circumstances, a fee of 4 percent of the monthly SBP annuity will be allowed, unless a court order dictates a lesser fee. In the case of a spouse or former spouse annuitant, the fee will be no more than 4 percent of the adjusted annuity-gross annuity less any DIC or social security offset reduction. Any court order that provides for a fee in excess of 4 percent shall be limited to 4 percent. The

representative payee will be notified of the fee percentage allowed. The fee is not a separate payment to be mailed to the representative payee, but can be withheld by the representative payee from the monthly annuity payment. The fee is part of the periodic financial accounting by the representative payee.

3. In cases where it appears necessary to protect the annuitant, the Secretary concerned may require the payee to provide a surety bond in an amount sufficient to protect the interests of the annuitant. The representative payee may pay for such bond(s) out of the SBP annuity. This is part of the periodic financial accounting by the representative payee. The Secretary concerned will determine the amount necessary in surety bond(s) based on the amount of the SBP annuity payable. A surety bond ordinarily will not be required if the representative payee is a close family member or a government or financial institution.

4. The representative payee shall be required to maintain (and, upon request by the Secretary concerned, provide) a periodic accounting of expenditures and investments of amounts paid to the payee. If the representative payee is a close family member or a government or financial institution, a periodic accounting will not be required. In situations where a periodic accounting is required, it ordinarily will be submitted annually, unless the Secretary concerned determines that a more frequent submission is required.

a. Final financial reporting will be required upon: the loss of a beneficiary's eligibility; a change of representative payee; or the determination later that an annuitant is competent to manage financial affairs.

b. Major expenditures (i.e., those in excess of $1,000 or the value of the annuity for one year, whichever is less) from the representative payee's bank account for the annuitant require prior written approval by the Secretary concerned.

c. If the Secretary concerned has evidence to suggest that the annuity funds have been or are being misused by the representative payee, the annuity may be suspended. An investigation will be conducted to determine if a new representative payee should be appointed or if payments may be resumed to the representative payee.

5. The selection of the representative payee will be made on the basis of the individual annuitant's circumstances. Generally, the order of preference for appointing a representative payee is the:

a. Spouse

b. Son or daughter or legally adopted son or daughter

c. Brother or sister

d. Parents

e. Head of federal or state institution

f. Trustee of a private trust

g. Any other individual whose appointment appears to be in the best interest of the annuitant.

If more than one person or institution requests to be named the representative payee of the annuitant, the Secretary concerned shall determine which applicant is a more appropriate payee.

6. In addition to SBP annuity payments (including payments to Minimum Income Widows covered under Chapter 51 of this volume), annuity payments under USCOA, RSFPP, and RCSBP also may be made to a representative payee.

7. The representative payee will be required to submit Reports of Existence and Certificates of Continued Eligibility as specified in Chapter 50 of this volume.

8. An annuity paid to a person on behalf of an annuitant in accordance with these provisions discharges the obligation of the United States for payment to the annuitant of the amount of the annuity paid.

460104. Provisional Annuity Payments

A. In cases involving delayed receipt of an annuity application, the head of the retired pay activity may authorize that provisional annuity payments for 2 consecutive months provided that all of the following conditions have been met:

1. The Military Service verifies that the member is deceased

2. The annuitant has been contacted

3. The SBP election confirms the beneficiary's identity and eligibility

4. The annuity to a child is paid only after the Military Service verifies school attendance for dependent child annuitants age 18 to 22.

B. Upon receipt of the annuity application, there will be an adjustment for the difference between the actual annuity entitlement due and the provisional annuity payments made.

C. Annuity payments will be suspended if a completed annuity application is not received within 60 days of the first provisional payment.

4602 OFFSETS TO THE ANNUITY

460201. When Required. The gross SBP annuity payable to a spouse or former spouse (spouse category) is offset by an award of DIC. The annuity may be further reduced by social security offset. Social security offset was eliminated March 1, 1986. When the two-tier benefit system was established, a grandfather provision allowed certain annuitants to receive annuity computed at 55 percent of the annuity base amount less social security offset if it exceeded 35 percent of the base amount. Where both offsets apply, DIC is applied first.

460202. Dependency and Indemnity Compensation (DIC) Offset. The Department of Veterans Affairs (VA) determines entitlement to and the amount of the DIC award. DIC rates are listed in Appendix L. DIC rates were based on pay grade of member until January 1, 1993. Effective January 1, 1993, DIC is payable at a flat-rate, cost-of-living adjusted. The survivors of members who died before January 1, 1993 continue to receive DIC rates based on pay grade, if it exceeds the flat-rate. The award is effective the first day of the month in which the retiree dies. The DIC payment begins on the first day of the month after the effective date of the award. The SBP annuity is reduced by the amount of the DIC as of the date on which the DIC payment begins. The DIC offset equals the actual DIC payment the spouse or former spouse receives and it increases each time DIC rates increase. For offset purposes, the DIC entitlement does not include any amount attributable to child entitlement or aid and attendance. Payment of the SBP annuity is not withheld or delayed pending verification of the DIC award if the annuitant signs a statement authorizing the VA to collect any overpayment that results from the overlap of the DIC and SBP payments.

A. Premium Refund Due to DIC Award

1. SBP. When an annuity is reduced due to DIC entitlement, a refund of SBP premium is made based on the difference between the premium actually paid and the premium that would have been needed to provide the annuity payable after the DIC reduction. The refund of premium is computed using the SBP annuity of 55 or 35 percent, whichever is applicable on the effective date of the DIC award. If the annuity is later reduced to 35 percent at age 62, no additional refund is due. If DIC entitlement is lost due to remarriage of the spouse or former spouse, SBP may be reinstated provided the spouse or former spouse repaid, or is repaying in installments, the refund of SBP contributions. When a refund is repaid and annuity begins, no additional refund is authorized if spouse or former spouse again becomes entitled to DIC.

2. SSBP. SSBP premium are not refunded. At age 62 when the SBP annuity amount decreases to 35 percent, SSBP becomes payable at the 5, 10, 15, or 20 percent rate elected by the member whether or not the SBP annuity is or was exceeded by DIC.

B. DIC Equal to or Greater than Annuity. The SBP annuity to the spouse or former spouse ends permanently except under the conditions shown in subparagraph 460202.D., below. The SSBP annuity is not affected. The SBP premium for spouse or former spouse only is refunded to the spouse or former spouse after any annuity debt is liquidated. If the annuitant dies before a refund of SBP premium is made, the refund shall be made to the annuitant's estate. If the

spouse or former spouse becomes ineligible through death, the full annuity is paid to the eligible children in equal shares.

C. Sample Computation of Refund. See Tables 46-2, 46-3, and 46-4 for a sample computation of refund. If DIC later exceeds the gross SBP annuity, the SBP annuity to the spouse or former spouse terminates.

D. Reinstatement of SBP Annuity Upon Loss of Entitlement to DIC Because of Remarriage After Age 55

1. If the spouse or former spouse whose SBP annuity entitlement was adjusted under subparagraph 460202.A. or B., above, subsequently loses entitlement to DIC because of remarriage, and the beneficiary is 55 years of age (60 years of age if remarried before November 14, 1986) or more at the time of remarriage, the annuity is reinstated under conditions specified in subparagraph 460202.D.2., below, on the effective date of the loss of DIC entitlement. The annuity is adjusted to reflect all authorized cost-of-living adjustments. If the spouse or former spouse again should become eligible for DIC, a second refund is not authorized if the spouse or former spouse received any annuity payments.

2. The widow(er) or former spouse who loses entitlement to DIC may repay the amount due in either a lump sum or in installments. If repayment is in installments, the installment payments is deducted from the SBP annuity payable. The installment will be 50 percent of the DIC amount or 50 percent of the gross annuity, whichever is less. When annuity is increased by cost-of-living adjustment, the same percentage increase will be applied to the installment deduction. No interest will accrue until the date of the first readjusted annuity payment. Thereafter, interest accumulates on any unrepaid balance at the rate of .534 of 1 percent monthly until the full amount has been repaid. Thus, the remaining debt on the date of each installment deduction will be increased by a factor of 1.00534. This is based on the 12th root of 1 plus the current 6.6 percent annual interest rate used by the DoD Board of Actuaries to determine the retirement accrual cost.

E. Late Award of DIC. When a claim for DIC is not filed within 1 year after the member's death and the spouse received an SBP annuity, no cost refund is made when DIC is later awarded. The effective date of the reduced annuity is the date that the VA receives.

460203. Social Security Offset

A. Social security offset was eliminated on March 1, 1986; however, certain spouse and former spouse annuitants age 62 or over are eligible under the social security offset system, if it provides a larger SBP annuity. Annuitants who are eligible under the grandfather provision include:

1. The spouse annuitant of a member who, on October 1, 1985:

a. Is a participant in the plan;

b. Is entitled to retired pay or is qualified for that pay except that member has not applied for or been granted that pay; or

c. Would be eligible for retired pay under 10 U.S.C., Chapter 1223 (reference (c)), except member is under age 60.

2. The former spouse annuitant of a member described in subparagraphs 460203.A.1a through c, above, whose divorce from the member became final on or after November 30, 1989.

★B. Before March 1, 1986, spouse annuity was reduced by social security offset based on eligibility for or receipt of social security benefits resulting from a member's active service after December 31, 1956. The SBP annuity was reduced by social security offset based on entitlement to the social security benefits of the mother, or father, or widow(er). Benefits in the social security offset system are computed under the primary insurance amount (PIA) Table Method, a Decoupled (Indexing) Formula Method, or a Transitional Guarantee Savings provision.

1. Under the PIA Table Method, the social security benefit is based upon the PIA which is determined from a schedule that relates the member's average monthly earnings (AME) under social security covered employment to the PIA. See Appendix S for this method which applies to members who attained age 62, became disabled or died before January 1, 1979. If a member in a missing-in-action status later is presumed dead, include in social security benefits only earnings through the year in which the member entered the "missing" status.

2. Under the Decoupled Formula Method (also called the "Indexing Method"), the social security benefit is computed by indexing the member's past earnings, which take into account the change in general wage levels that has occurred during the member's years of service, in proportion to the increase in average wages of all workers. Use this method to determine the member's "average indexed monthly earnings" (AIME). Compute the PIA using portions of the AIME which are multiplied by constant percentages called "bend points" depending on the year of eligibility. This method, which appears in Appendix T, applies to members who reach age 62, become disabled or die after 1978. See subparagraph 460203.B.3 for the exception. If the member was in a missing-in-action status and is later presumed dead, include in social security benefits only the earnings through the year in which the member entered the missing status.

★3. Under the Transitional Guarantee savings provision, which applies to any member who became age 62 during the period January 1, 1979 through December 31, 1983, the social security offset is computed under the Decoupled (Indexing) Method and the Transitional Guarantee formula. The Transitional Guarantee formula is computed using the pre-1979 PIA Table Method, except that earnings in the first year of eligibility and later are not included. The DFAS uses the method that provides the higher social security benefit.

C. A member with SSBP waives the right to have an SBP annuity computed under the social security offset method. The waiver is irrevocable.

460204. Offset to SBP Annuity Because of Social Security Benefits. The offset is based on the member's active military service after December 31, 1956. The reduction factor applies against the total military PIA calculated to member's age 65, unless the annuitant demonstrates that the benefit was reduced because the member was receiving a nondisability social security retirement benefit before age 65. Establish and continue the offset unless evidence is received that makes it improper. The burden is on the survivor to furnish documentation for this purpose. In applying this offset, the annuitant is considered entitled to social security benefits even if he or she has not applied for those benefits. The annuitant also is considered to be entitled, if otherwise eligible, but instead has elected to receive benefits based on his or her personal employment or the employment of some third person.

NOTE: SBP annuity is not reduced by social security offset if the Social Security Administration (SSA) determines that the annuitant is ineligible for benefits.

A. Denial of Benefits. When establishing a social security offset, advise the annuitant to submit a copy of any letter denying social security benefits. Reasons for denial of benefits include, but are not limited to, the following: insufficient credits for a member to qualify for a benefit, administrative denial, and receipt of a governmental pension.

B. Reduction of Benefits

1. A working widow(er)'s social security offset is reduced to the same extent that the full social security benefit is reduced. For example, if a widow loses 80 percent of the full social security benefit as a result of wages or salaries earned and receives only 20 percent of the benefit, the offset is computed by taking 20 percent of the member's benefit based on military earnings times the widow(er)'s offset factor. The social security offset is adjusted on verification of the social security reduction shown on the Annual Report of Earnings letter.

2. If social security payments are reduced because of employment of the widow(er) at any age with only one dependent child under age 16 (or disabled before age 22, while unmarried), the amount of the offset is a ratio computed as follows:

$$\text{Offset} = \frac{\text{Total mother's benefit after SSA reduction}}{\text{Total mother's benefit before SSA reduction}} \times \text{Mother's benefit attributable to military service}$$

The offset is recomputed on receipt of the Annual Report of Earnings letter furnished by the SSA. Significant changes in earnings during a calendar year may be reported to adjust benefits and preclude large overpayments at the end of a calendar year.

3. Offset may be reduced because of work even though no claim has been made for social security benefits.

4. If the deceased member drew nondisability social security retirement (old-age) benefits before age 65, step 16 of Appendices S and T provides for a reduction in the social security offset calculation. The social security offset calculation is not adjusted if the annuitant drew nondisability benefits before age 62.

C. Period of Offset

1. No dependent children. Social security offset begins the first day of the month after the widow, widower, or former spouse reaches age 62 or when the member dies if the annuitant is age 62 or older. The offset percentage factor is computed under subparagraph 460205.A., below.

2. One dependent child. Social Security offset began the first day of the month in which there was only one dependent child remaining. Social Security offset due to receipt of mother's SSA benefit was terminated after February 1986 under Public Law 99-145 (reference (fc)).

460205. Offset Factors

A. Widow, Widower, or Surviving Divorced Spouse's Benefit. The offset percentage factor is permanently fixed based on the survivor's age on the date the annuity starts. If the survivor's age is:

1. Under 62, the offset factor is 82.9 percent of military PIA at age 62 when the offset becomes effective.

2. Between 62 and 65, the offset factor is 100 percent of the military PIA less 19/40 of 1 percent for each month the widow or widower is under 65. See Appendix O for table of computations.

3. Age 65 or over, the offset factor is 100 percent of military PIA.

NOTE: Fractions of a month are not considered in computing the factor for ages 62-65; 6 months or over do not constitute an additional year. Before October 1977, the offset percentage for the widow or widower age 62 or over was computed at 82.5 percent of the PIA.

B. Mother's Benefit. The offset is 75 percent of the PIA based solely on the member's active service. The offset is reduced by any amount not payable by SSA because of the widow's earnings.

460206. Computation of Social Security Offset. See Appendix S for computation of social security offset for members whose eligibility year is before 1979. See Appendix T for computation of social security offset for members whose eligibility year is after 1978. The amount of the social security offset that was effective December 1, 1980, may not exceed 40 percent of the annuity payable to the surviving spouse or former spouse.

460207. Computing Social Security Offset for 10 U.S.C. 12731 (reference (c)) Retirees. The member's military earnings are computed on periods of active duty or active duty for training after December 31, 1956. Free wage credits are awarded assuming active duty tours were performed during July, unless information is provided showing actual active duty tours.

A. The member is credited with free wage credits of $300 in any calendar quarter from January 1, 1957, through December 31, 1977, in which active duty or active duty for training wages were paid.

B. The member is credited with free wage credits in $100 increments for each $300 of active duty or active duty for training wages paid after December 31, 1977.

C. Any period of less than 30 continuous days of service performed on or after December 1, 1980, for which the member is entitled to a federal tax refund of the social security tax paid on the income from that service is excluded from the computation for the social security offset.

D. Appendices S and T are applicable for computation of social security offset for 10 U.S.C. 12731 (reference (c)) retirees.

ANNUITY FOR WIDOW OR WIDOWER OR FORMER SPOUSE (SPOUSE CATEGORY)				
	A	B	C	D
RULE	If member died or was declared dead after September 20, 1972 and was (note 8)	and the annuitant was	and the annuity is (note 6)	offset by (note 9)
1	in a retired status	married to member on date of election (pre-September 21, 1972 retiree) or on date of retirement and married to member at time of member's death (note 1)	35 or 55 percent of base amount of coverage on date of member's death (note 2)	Dependency and Indemnity Compensation (DIC); Social Security offset.
2		married to member a minimum of 1 year at time of member's death if marriage occurred after September 21, 1973 (pre-September 21, 1972 retiree) or on date of retirement (note 3)		
3		the parent of a "living issue" of the marriage which occurred after September 21, 1973 or date of retirement (note 4)		
4		the former spouse of a member when member became eligible to participate September 8, 1982 or later; or the former spouse that a member acquired after becoming eligible to participate and who had been married to member at least 1 year or was the parent of issue of that marriage (note 4)		
5	on active duty before September 21, 1972 and was entitled to retired or retainer pay but had not applied for or been granted such pay	married to member on member's date of death	55 percent of retired pay to which the member would have been entitled at date of death based on active service as adjusted from date of death through November 30, 1980 (note 7)	DIC, Social Security offset, RSFPP annuity.

Table 46-1. Annuity for Widow or Widower or Former Spouse (Spouse Category)

RULE	A If member died or was declared dead after September 20, 1972 and was (note 8)	B and the annuitant was	C and the annuity is (note 6)	D offset by (note 9)
6	on active duty September 21, 1972 or later but was qualified for retired pay but had not applied for or been granted such pay	married to member on member's date of death or the former spouse of a member when member became eligible to participate on September 8, 1982 or later; the former spouse member acquired after becoming eligible to participate and who was married to member at least 1 year or the parent of issue of that marriage; or the former spouse which member was required under a court order or spousal agreement to provide an annuity to upon becoming eligible to participate (note 10)	35 or 55 percent of retired pay to which member would have been entitled based on years of service at time of death (note 2)	DIC, Social Security offset.
7	on active duty September 21, 1972 or later, completing 20 years of active service but, before member is able to retire as a commissioned officer because member has less than 10 years of active commissioned service		35 or 55 percent of retired pay to which member would have been entitled based on the basic pay rate at time of death for highest grade other than a commissioned officer grade in which member served on active duty satisfactorily as determined by the Secretary of the Military Department concerned (note 2)	
8	on active duty after having been retired but immediately recalled to active duty		35 or 55 percent of retired pay entitlement on date of death which pay may be computed under 10 U.S.C. 1402(a) or (e), whichever is higher and which previous election has no effect (note 2)	
9	on active duty after having retired and recalled to active duty for more than 30 days after break in service		35 or 55 percent of retired pay at time of death. Pay may be computed by whichever of two methods gives the higher rate of annuity: (a) as if member had never retired and computed as if rule 5, or (b) pay at the time of retirement, with applicable adjustments for SBP coverage as elected by the member (note 2)	

Table 46-1. Annuity for Widow or Widower or Former Spouse (Spouse Category) (Continued)

RULE	A If member died or was declared dead after September 20, 1972 and was (note 8)	B and the annuitant was	C And the annuity is (note 6)	D offset by (note 9)
10	eligible to authorize Reserve Component annuity and dies: (a) before being notified of retirement eligibility under 10 U.S.C., Chapter 1223, or (b) during the 90–day period beginning when member receives notification of retirement eligibility, if member had not made an election	married to member on member's date of death or the former spouse of a member when member became eligible to participate September 8, 1982 or later; the former spouse member acquired after becoming eligible to participate and who was married to member at least 1 year or the parent of issue of that marriage; or the former spouse which member was required under a court order or spousal agreement to provide an annuity to upon becoming eligible to participate (note 10)	35 or 55 percent of retired pay to which member would have been entitled based on years of active service when the member died and computed on basic pay rates in effect on the effective date of the annuity (note 2)	DIC, Social Security offset.
11	being carried in a "missing in action" status at the time determination of death was made by the Secretary of the Military Department concerned, provided member met retirement eligibility at time of declaration of death	married to member on date Secretary concerned makes the determination of death	(See rule 5.)	DIC and Social Security offset.
12	retired from both military and civil service but did not waive military service for civil service purposes	(See rules 1, 2, or 3.)	(See rule 1.)	
13	retired from both military and civil service, waived military retired pay for civil service purposes, but did not elect survivor coverage at any level under the civil service retirement			

Table 46-1. Annuity for Widow or Widower or Former Spouse (Spouse Category) (Continued)

NOTES:

1. For a member married to the same spouse at time of retirement and date of death, the statute does not require that an intervening divorce be followed by 1 year of remarriage immediately before date of death.
2. a. If the beneficiary is under age 62 when becoming entitled to the annuity, the monthly annuity shall be 55 percent of the annuity base amount (as adjusted under 10 U.S.C. 1401a). The SBP annuity shall be reduced to 35 percent on the first day of the month after the beneficiary reaches age 62. However, if the beneficiary is eligible to have SBP annuity computed under the old social security offset method, 10 U.S.C. 1451 (e), the more favorable computation is payable. If a member has SSBP coverage, the member was required to waive any annuity computation under the social security offset method and the SSBP annuity of 5, 10, 15, or 20 percent of the annuity base amount, as elected by the member and adjusted under 10 U.S.C. 1401a, begins on the first day of the month after the beneficiary becomes age 62.
   b. If the beneficiary is age 62 or older when becoming entitled to the annuity, the monthly SBP annuity shall be 35 percent of the annuity base amount (as adjusted under 10 U.S.C. 1401a). However, if the beneficiary is eligible to have SBP annuity computed under the old social security offset method, 10 U.S.C. 1451(e), the more favorable computation is payable. If a member has SSBP coverage, the member was required to waive any annuity computation under the social security offset method and the SSBP annuity of 5, 10, 15, or 20 percent of the annuity base amount, as elected by the member and adjusted under 10 U.S.C. 1401a.
   c. Under the social security offset method, 10 U.S.C. 1451(e), a former spouse was entitled to 55 percent less no social security offset, if the divorce from the member became final before November 30, 1989, (date of P.L. 101–189 technical amendment to 10 U.S.C. 1451(e)).
3. Minimum requirement for a marriage is 1 year. A widow(er) previously ineligible to receive an annuity because of a 2-year requirement may now qualify for the annuity. No monetary adjustment is made for persons before October 1, 1976.
4. "Living issue" means the "issue by that marriage" or a child of such marriage who dies shortly after birth (such child's birth is the criterion, not the duration of the child's life).
5. If member is required under a court order or spousal agreement to provide an annuity to a former spouse upon becoming eligible to participate in the Plan or if a member has made an election to provide former spouse annuity, the Secretary concerned may not pay the annuity to the surviving spouse.
6. All SBP monthly annuities to which a survivor becomes entitled on or after October 1, 1983, if not a multiple of $1, shall be rounded to the next lower multiple of $1. Annuities to which survivors were entitled on September 30, 1983, shall not be rounded until there is an adjustment under 10 U.S.C. 1401a; then the amount, as adjusted, if not a multiple of $1, shall be rounded to the next lower multiple of $1. All subsequent adjustments shall be based on the rounded amount. SSBP annuities, if not a multiple of $1, shall be rounded to the next lower multiple of $1.
7. If the "forgotten widow" is entitled to an SBP or RCSBP annuity resulting from a subsequent marriage to a member, the individual may not receive the two annuities, but must elect in writing which to receive. The annuity for a "forgotten widow" is effective December 1, 1980.
8. Under 10 U.S.C. 1448(d), annuity is payable to the surviving spouse and dependent children of a person who dies on active duty after September 20, 1972, and the former spouse of a person who dies after September 7, 1982. Under 10 U.S.C. 1448(f), annuity is payable to the surviving spouse and dependent children of a person who dies after September 30, 1978, and the former spouse of a person who dies after September 7, 1982.
9. If annuity is computed as 35 percent of the annuity base amount for an annuitant age 62 or older, the social security offset reduction under 10 U.S.C. 1451(e) does not apply.
10. Former spouse annuity applicable only where member dies after September 7, 1982.

Table 46-1. Annuity for Widow or Widower or Former Spouse (Spouse Category) (Continued)

SAMPLE COMPUTATION OF SBP COST REFUND EFFECTIVE THROUGH FEB 28, 1981 (Note 1)

Election or Change Effective (note 1)	Period Through (note 2)	Base Amount	Annuity	Simulated DIC Award During This Period Would Have Been	Difference	New Base Amount (note 4)	Original Cost for Spouse (note 3)	Adjusted Cost	Difference in Cost	Refund Due Widow/er (note 5)
1 Oct 72	30 Jun 73	$1,000.00	$550.00	$337.00	$213.00	$387.27	$77.50	$16.23	$61.27	$551.43
1 Jul 73	31 Dec 73	1,061.00	583.55	337.00	246.55	448.27	83.60	22.33	61.27	367.62
1 Jan 74	30 Apr 74	1,119.36	615.65	337.00	278.65	506.64	89.44	28.16	61.28	245.12
1 May 74	30 Jun 74	1,119.36	615.65	394.00	221.65	403.00	89.44	17.80	71.64	143.28
1 Jul 74	31 Dec 74	1,191.00	655.05	394.00	261.05	474.64	96.60	24.96	71.64	429.84
1 Jan 75	31 Jul 75	1,276.74	702.21	394.00	308.21	560.38	105.17	33.54	71.63	501.41
1 Aug 75	28 Feb 76	1,341.85	738.02	441.00	297.02	540.04	111.69	31.50	80.19	561.33
1 Mar 76	30 Sep 76	1,414.31	777.87	441.00	336.87	612.49	118.93	38.75	80.18	561.26
1 Oct 76	28 Feb 77	1,414.31	777.87	476.00	301.87	548.85	118.93	32.39	86.54	432.70
1 Mar 77	18 Apr 77	1,482.20	815.21	476.00	339.21	616.75	125.72	39.18	86.54	138.38

NOTES:
1. The DoD Actuary's formula, as approved by the SBP Board, was available for use beginning March 1, 1983. For example: If the cost refund period extends from April 1, 1980 through September 30, 1983, the portion of cost refund for April 1, 1980 through February 28, 1981, is computed using Table 46-2. The portion of the refund for March 1, 1981 through September 30, 1983, is computed on the DoD Actuary's formula. See Table 46-3.
2. Legend: Member is a colonel, first election effective October 1, 1972 for spouse and children. Member died on April 18, 1977. DIC awarded on April 19, 1977.
3. Refund of cost is made for cost of coverage for spouse only.
4. New base amount is computed by dividing the difference of the annuity and DIC award by 55 percent.
5. Interest charges are due to delinquent cost should not be refunded to annuitant.

Table 46-2. Sample Computation of SBP Cost Refund Effective Through February 28, 1981 (Note 1)

REFUND OF MONTHLY PREMIUM FOR SBP EFFECTIVE MARCH 1, 1983 (See Note)

All figures should be in month that premium calculation is desired. A change would occur in any month the base amount, DIC, or cost changes. Additionally, the cost formula for spouse and former spouse changed effective March 1, 1990.

1. Month of premium calculation =
2. Actual SBP base amount =
3. Spouse annuity = (.35 or .55) times (2) =
4. DIC amount =
5. Revised spouse annuity = (3) minus (4) =
6. Revised base amount = (5) divided by .35 (or .55) =
7. Calculate N.

For members with cost computed on the 6.5 percent flat–rate reduction formula, skip to (17).

Step 1. Month of retirement =

Step 2. Point in time premium calculation is desired =

Step 3. List all applicable cost of living increases which the member received between (or included in) the months listed in steps 1 and 2 as a factor of 1.xxx where xxx is the cost of living increase. For example, the 4.4 percent cost of living increase of March 1981 would be listed as a factor of 1.044.

	FACTORS	
	FULL	SPECIAL
Beginning of SBP	1.0	
March 1981	1.044	
March 1982	1.087	
April 1984	1.039	1.033
December 1984	1.035	
December 1986	1.013	
December 1987	1.042	
December 1988	1.04	
December 1989	1.047	
December 1990	1.054	
December 1991	1.037	
December 1992	1.03	
December 1993	1.026	
December 1994	1.028	
December 1995	1.026	

Step 4. Multiply all factors in step 3 together. If no factors appear in step 3, use 1.0 here. =

Table 46-3. Refund of Monthly Premium for SBP Effective March 1, 1983 (See Note)

	Step 5. N = Step 4 times 300 (or initial threshold amount if it was not $300)	=
8.	Revised base amount minus N = (6) – (7) (if less than zero, use zero)	=
9.	.025 times the lesser of (6) or (7)	=
10.	.1 times (8)	=
11.	Revised premium = (9) + (10) If actual premium for the month known, skip to (15)	=
12.	Base minus N = (2) – (7)	=
13.	.1 times (12)	=
14.	.025 times (7)	=
15.	Actual premium = (13) plus (14)	=
16.	Monthly refund = (15) – (11)	
17.	If member had cost computed using the 6.5 percent flat–rate reduction formula, the difference in cost due the annuitant is: .065 times (2) less .065 times (6)	=

NOTE: Table 46–3 is effective March 1, 1983, for refund periods which include March 1, 1981 or later.

Table 46-3. Refund of Monthly Premium for SBP Effective March 1, 1983 (See Note) (Continued)

TABLE 46-4

REFUND OF MONTHLY PREMIUM FOR SBP EFFECTIVE JANUARY 4, 1994 (See Note)

The refund of premiums due a spouse or former spouse is determined using the following defined values:

CBP or Current Basic Premium: The actual current premium amount for the basic SBP spouse coverage elected by the member. This does not include premiums for child coverage, Supplemental SBP premiums, open enrollment premium additions, or any interest charges.

CRP or Current Recalculated Premium: The implied current premium associated with recalculated SBP basic annuity as reduced due to receipt of DIC. This does not include premiums for child coverage, Supplemental SBP premiums, open enrollment premium additions, or any interest charges.

TP or Total Premiums: The Total Premiums paid by the member for basic SBP, including open enrollment premium additions. This does not include any premiums for child coverage, Supplemental SBP premiums, or interest charges. This amount may be obtained from historical pay files pertaining to the member and/or from a file of total spouse premiums to be produced under the Director of Compensation, ODASD (Military Personnel Policy) by the DoD Actuary and the Defense Manpower Data Center in coordination with the DFAS.

PR or Premium Refund: This is the premium refund amount. The premium refund is determined according to the following formula:

PR = (1 - CRP/CBP) X TP

For example: Member is a retired 0-5, deceased July 1, 1993.
Data is for June 1994.

Retired Pay:		$2,297.00	
Current Basic Premium (CBP):		149.31	
SBP Spouse Annuity: .55 X 2,297	=	1,263.00	
DIC Annuity:		750.00	
Recalculated SBP Annuity		1,263.00 - 750.00 =	513.00
Implied Base Amount = $513.00/.55	=	932.73	
Current Recalculated Premium (CRP)	=	60.63	
Total Premiums (TP) from Data Files	=	10,153.08	

Premium Refund (PR) is:

PR = (1 - 60.63/149.31) X 10,153.08
= (1 - .4060679) X 10,153.08
= .5939321 X 10,153.08 = 6,030.24

NOTE: Table 46-4 is effective January 4, 1994 for deaths which occurred on or after January 1, 1993.

Table 46-4. Refund of Monthly Premium for SBP Effective January 4, 1994

CHAPTER 47

SURVIVOR BENEFIT PLAN - ANNUITY OVERPAYMENTS

4701 CAUSES OF OVERPAYMENTS

470101. Generally, SBP annuity overpayments are caused by:

A. Failure to reduce annuity by amount of Dependency and Indemnity Compensation (DIC) or social security benefits.

B. Nontermination of annuity because of ineligibility.

C. Erroneous computation.

D. Insufficient or untimely information.

E. A determination by the Secretary of the Military Department concerned that a participating member is alive after the Secretary concerned previously determined that the member was presumed dead.

4702 LIABILITY

The annuitant is liable for debts created from the overpayment of an annuity. The member is liable for any indebtedness created where the annuity payments were made based on the presumption of such member's death. The member's indebtedness cannot be considered for waiver under 10 U.S.C. 2774 or 1453 (reference (c)). If the member dies before such payments are fully recovered, the annuitant may be liable for the indebtedness if such annuitant was the recipient of the annuity payments made under the presumption of death. (See Chapter 28, Table 28-1 for the collection of member's indebtedness.)

4703 LIQUIDATION OF DEBT

470301. Upon discovery of an overpayment, advise the annuitant of the debt and the method in which the overpayment is being, or may be, liquidated. The debt may be liquidated by:

A. The annuitant making direct remittance to the DFAS-Denver Center.

B. The annuitant authorizing the Department of Veterans Affairs to reduce DIC and remit the amount collected to the DFAS-Denver Center.

C. The DFAS-Denver Center reducing later SBP annuity payments.

4704 WAIVER OF INDEBTEDNESS

When applicable, the DFAS-Denver Center advises the annuitant of the right to request a waiver of indebtedness. The right to request a waiver does not constitute removal of the responsibility for repayment of the debt.

470401. Recovery of an overpayment of an SBP annuity is not required if, in the judgment of the Secretary of the Military Department concerned (or designee) and the Comptroller General, there was no fault by the person to whom the amount was erroneously paid and recovery would be contrary to the purpose of the plan or against equity and good judgment. DFAS reviews the facts of the case and recommends to the Comptroller General whether the debt should be waived.

470402. Suspension of collection action may be authorized upon receipt of a waiver request. Refund of an amount withheld before receipt of a request for a waiver is not authorized. When a waiver is granted, any amount collected after the receipt of the waiver request is refunded to the annuitant.

CHAPTER 48

SURVIVOR BENEFIT PLAN - ANNUITY TERMINATIONS, REINSTATEMENTS AND SUSPENSIONS

4801 TERMINATIONS

480101. Time of Termination. Entitlement to an SBP or SSBP annuity terminates effective as of the first day of the month in which eligibility is lost. If a determination is made by the Secretary of the Military Department concerned that a participating member is alive after the Secretary concerned previously determined that the member was presumed dead, the annuity is terminated immediately since entitlement exists.

480102. Reasons for Termination. Terminate the SBP annuity when:

A. Dependency and Indemnity Compensation (DIC) equals or exceeds the SBP annuity. No annuity is paid to children if the member also provided coverage for children. SSBP annuity may be payable, however, to the spouse or former spouse annuitant age 62 or older.

B. Spouse or former spouse (spouse category) annuitant remarries before age 55 (age 60, if remarried before November 14, 1986), or dies. If the member also provided coverage for children, the full annuity is payable, in equal shares, to the remaining eligible dependent children effective on the first of the month in which the spouse or former spouse dies or remarries.

C. Child or children annuitants lose eligibility because of:

1. Child's attaining age 18 and not pursuing a full-time course of study.

2. Marriage or death of child annuitant.

3. Recovery of an incapacitated child over age 18. An annuity may be suspended if annuitant becomes independently capable of earning amounts sufficient for his or her own particular personal needs through substantial and sustainable gainful employment. The annuitant will receive advance written notice from DFAS-Denver Center prior to suspensions and will be given an opportunity to submit rebutting evidence. An annuity may be reinstated. See paragraph 480204, below.

4. Termination of student status (child over age 18 and under age 22).

5. Reinstatement of spouse or former spouse (spouse category) annuity following divorce or annulment. When only one child loses eligibility, the annuity is redivided among the remaining eligible dependent children in equal shares.

D. Former spouse (insurable interest category) or natural person with an insurable interest dies. The termination is final. There are no provisions for designating a contingent survivor annuitant.

E. A determination by the Secretary concerned that a participating member is alive after the Secretary concerned previously determined that the member was presumed dead.

480103. Due and Unpaid Annuity. If, on the death of the annuitant, an amount remains due to the annuitant, unpaid either because the annuity checks were not negotiated or because the payment had not been established, the account is settled in accordance with Chapter 31 of this volume. There is no designated beneficiary for settlement of arrears of annuity.

4802 REINSTATEMENT OF ANNUITY

480201. Remarriage Terminated by Death of Spouse. Reinstate the annuity effective the first day of the month in which the death occurs. If annuity entitlement from the terminated marriage exists, the spouse or former spouse (spouse category) may not receive both annuities but must elect the one desired. If the spouse or former spouse elects to receive the annuity which had been terminated, update the annuity by any cost-of-living increases which occurred after termination.

480202. Remarriage Terminated by Divorce or Annulment. The annuity normally is reinstated effective the first of the month in which the divorce decree is final. In the case of foreign divorce, annulment, or other questionable information, contact the DFAS-Denver Center legal staff for guidance.

480203. Loss of DIC Entitlement Because of Remarriage After Age 60. The annuity is reinstated effective as of the date of the loss of the DIC entitlement, adjusted to reflect all cost-of-living adjustments. See subparagraph 460202.D of this volume.

480204. Reinstatement of Annuity to Incapacitated Annuitant. An annuity to an incapacitated child over 18 years of age may be reinstated upon the recurrence of the original disability rendering the annuitant incapable of self-support, or if the annuitant furnishes evidence that, although engaged in substantial and sustainable gainful employment, wages are not sufficient to cover his or her particular personal needs.

480205. Child Resumes School Attendance. The child's eligibility for an annuity which is terminated for school nonattendance is reinstated effective the first day of the month that the child resumes school attendance.

480206. Child's Marriage Terminated by Annulment. An annulment of a child's marriage which renders the marriage void or invalid, or by a judicial decree by a court of competent jurisdiction declaring the marriage void, would serve as a basis for reinstating a child's eligibility for annuity prospectively from the date of the judicial decree. The termination of a child's marriage by death or divorce does not serve as a basis for reinstatement of annuity eligibility.

4803 SUSPENSION

480301. Reasons for Suspension

A. Non-receipt of yearly certificate of eligibility or monthly report of existence (see Chapter 50 of this volume)

B. Non-receipt of verification of school attendance

C. Recoupment of the cost of coverage

D. Adjustment of the annuity due to administrative error

CHAPTER 49

SURVIVOR BENEFIT PLAN - COST-OF-LIVING ADJUSTMENT

4901 BASE AMOUNTS

All SBP base amounts are increased by cost-of-living adjustments. The adjustment to the base amount is made at the same time and by the same total percentage that retired or retainer pay is increased. If a member before retirement elects a base amount that is less than full gross pay, the elected base amount is established as the initial base amount regardless of the cost-of-living adjustment that apply to the initial computation of retired pay (excluding RCSBP elections effective July 1, 1986).

4902 THRESHOLD AND PREMIUMS FOR COVERAGE

490201. Before March 1, 1986, initial SBP cost was computed on a standard formula of 2.5 percent of the first $300 of the base amount and 10 percent of the base amount in excess of $300. When retired pay increased by a cost-of-living adjustment under 10 U.S.C. 1401a (reference (c)), the SBP premium was recomputed under the standard cost formula. Effective December 1, 1980, and beginning with the March 1981 cost-of-living adjustment, the percentage increase applies directly to the premium.

490202. Beginning March 1, 1986, members who elect SBP and have retired pay computed on active duty basic pay rates in effect October 1, 1985, or later, will have initial SBP premium computed using the standard formula described in paragraph 490201, above, except that the $300 threshold amount is indexed by active duty basic pay rates effective October 1, 1985, or later. For example: A member retires on May 1, 1986. Active duty basic pay rates increased by 3 percent effective Oct 1, 1985. The initial SBP premium is computed on 2.5 percent of the first $309 ($300 threshold x 1.03 increase October 1985), plus 10 percent of the base amount in excess of $309. If the member's initial computation of retired pay includes a cost-of-living adjustment effective October 1, 1985, or later, the threshold amount will be adjusted by the same cost-of-living adjustment percentage. After retirement, cost increases on cost-of-living adjustments as in paragraph 490201, above. See Table 49-1 for SBP threshold amounts.

490203. On March 1, 1990, the formula for spouse and former spouse coverage changed to a flat-rate reduction of 6.5 percent of the base amount. An individual who entered a Uniformed Service before March 1, 1990, or a member who is entitled to retired pay under Title 10, United States Code chapter 61 (disability) or chapter 1223 (non-Regular service retirement) (reference (c)) is entitled to use whichever formula is more favorable to the member.

490204. The SSBP premium is a percentage of the base amount. SSBP premiums increase in the same manner as SBP premiums. The member elects SSBP coverage in increments of 5, 10, 15, or 20 percent, and the SSBP premium is computed by multiplying the SSBP premium factor (factor rates are for each 5 percent of SSBP coverage) based on member's age at election by 1, 2, 3, or 4, respectively. The SSBP premium rates are shown on Table 45–5.

490205. Members who elect spouse or former spouse coverage, or who increase the base amount of spouse or former spouse coverage during the open enrollment period April 1, 1992, through March 31, 1993, are subject to a premium addition as shown on Table 45-6. The additional premium is based on the number of years member had been retired. The premium addition does not apply to any member making an open season election who currently is paying RSFPP premiums for spouse coverage or who is electing SBP coverage for spouse and previously participated in SBP but later withdrew from participation under the provision for totally disabled members.

4903 ANNUITIES

★490301. Normally, SBP and SSBP annuities increase under 10 U.S.C. 1401a (reference (c)) at the same time and by the same percentage that retired pay increases by cost-of-living adjustment. EXCEPTION: When the payment of increased retired pay due to a cost-of-living adjustment is delayed by law, the increased annuity due to a cost-of-living adjustment is not delayed.

A. The cost-of-living adjustment applies to the monthly gross annuity amount (that is, before any reductions such as DIC).

B. Annuities that initially were effective on the same day as the cost-of-living adjustment before December 1, 1980 were not entitled to the adjustment as the law required that an annuity be payable on the day before the effective date of the adjustment. Effective December 1, 1980, annuities were recomputed to include the previously denied cost-of-living adjustment; however, no retroactive payment was made for the period before December 1, 1980.

C. In April 1983, costs that normally would have increased by the full cost-of-living adjustment were increased by 3.3 percent (one-half of an assumed cost-of-living adjustment) for members under age 62 effective March 1, 1983. Costs increased by 3.9 percent for members age 62 or older on March 1, 1983, or any age if retired for disability. All base amounts for computing SBP annuity increased by 3.9 percent. See paragraph 080454 of this volume.

★490302. See paragraph 510202 of this volume regarding cost-of-living adjustments for Minimum Income Widow annuities.

SURVIVOR BENEFIT PLAN THRESHOLD AMOUNT			
RULE	A If retired pay is based on active duty rates effective	B and increased by cost-of-living adjustment	C Then the SBP threshold is
1	before October 1, 1985		$300.00
2	October 1, 1985- 3 %		309.00
3		December 1, 1986- Pre-August 1986 Member 1.3% Post-August 1986 Member 0%	313.02 309.00
4	January 1, 1987- 3%		318.00
5		December 1, 1987: Pre-August 1986 Member 3.7% Post-August 1986 Member: if retired January-March 1987 3.7% if retired April-June 1987 2.5% if retired July-September 1987 1.2% if retired October-December 1987 0%	329.77 329.77 325.95 321.82 318.00
6	January 1, 1988- 2%		324.00
7		December 1, 1988: Pre-August 1986 Member 3.2% Post-August 1986 Member: if retired January-March 1988 2.4% if retired April-June 1988 2.1% if retired July-September 1988 1.1% if retired October-December 1988 0%	334.37 331.78 330.80 327.56 324.00
8	January 1, 1989- 4.1%		337.00
9		December 1, 1989: Pre-August 1986 Member 3.6% Post-August 1986 Member: if retired January-March 1989 2.9% if retired April-June 1989 2.1% if retired July-September 1989 .5% if retired October-December 1989 0%	349.13 346.77 344.08 338.69 337.00
10	January 1, 1990- 3.6%		349.00
11		December 1, 1990: Pre-August 1986 Member 4.4% Post-August 1986 Member: if retired January-March 1990 3.7% if retired April-June 1990 2.2% if retired July-September 1990 1.5% if retired October-December 1990 0%	364.36 361.91 356.68 354.24 349.00

Table 49-1. Survivor Benefit Plan Threshold Amount

RULE	A If retired pay is based on active duty rates effective	B and increased by cost-of-living adjustment		C then the SBP threshold is
12	January 1, 1991- 4.1%			$363.00
13		December 1, 1991: Pre-August 1986 Member Post-August 1986 Member: if retired January-March 1991 if retired April-June 1991 if retired July-September 1991. if retired October-December 1991	2.0% 1.2% .9% .5% 0%	 370.26 367.36 366.27 364.82 363.00
14	January 1, 1992- 4.2%			378.00
15		December 1, 1992: Pre-August 1986 Member Post-August 1986 Member: if retired January-March 1992 if retired April-June 1992 if retired July-September 1992 if retired October-December1992	2.3% 1.5% 1.2% .5% 0%	 386.69 383.67 382.54 379.89 378.00
16	January 1, 1993- 3.7%			392.00
17		December 1, 1993: Pre-August 1986 Member Post-August 1986 Member: if retired January-March 1993 if retired April-June 1993 if retired July-September 1993 if retired October-December 1993	1.9% 1.2% .7% .2% 0%	 399.45 396.70 394.74 392.78 392.00
18	January 1, 1994- 2.2%			401.00
19		December 1, 1994: Pre-August 1986 Member Post-August 1986 Member: if retired January-March 1994 if retired April-June 1994 if retired July-September 1994 if retired October-December 1994	2.2% 1.4% 1.2% .7% 0%	 409.82 406.61 405.81 403.81 401.00
20	January 1, 1995- 2.6%			411.00
21		December 1, 1995: Pre-August 1986 Member Post-August 1986 Member: if retired January-March 1995 if retired April-June 1995 if retired July-September 1995 if retired October-December 1995	2.0% 1.3% .8% .2% 0%	 419.22 416.34 414.29 411.82 411.00

Table 49-1. Survivor Benefit Plan Threshold Amount (Continued)

RULE	A If retired pay is based on active duty rates effective	B and increased by cost-of-living adjustment	C then the SBP threshold is
22	January 1, 1996- 2.4%		421.00
★23		December 1, 1996: Pre -August 1986 and Pre-September 8, 1980 Member: 2.5% Pre-August 1986 and Post September 7, 1980 Member: Retired January-March 1996 2.5% Retired April-June 1996 1.5% Retired July-September 96 .5% Retired October-December 1996 0% Post-August 1986 Member: Retired January-March 1996 1.7% Retired April-June 1996 1.0% Retired July-September 1996 .2% Retired October-December 1996 0%	431.53 431.53 427.32 423.11 421.00 428.16 425.21 421.84 421.00
★24	January 1, 1997 - 3.0%		434.00

Table 49-1. Survivor Benefit Plan Threshold Amount (Continued)

CHAPTER 50

SURVIVOR BENEFIT PLAN – CERTIFICATE OF ELIGIBILITY AND REPORT OF EXISTENCE

5001 ANNUAL CERTIFICATE OF ELIGIBILITY

500101. Purpose. The certificate validates continued eligibility of annuitants, whether eligible spouse, former spouse (spouse category), or children. The spouse, former spouse, and child must meet eligibility requirements in section 4401 of this volume.

500102. Frequency of Certification

A. Annually. Each year the eligible spouse, former spouse (spouse category), or custodian or legal fiduciary for a minor child must submit a certificate of eligibility to the DFAS-Denver Center.

B. Biennially. Every 2 years a medical certification must be submitted to the DFAS-Denver Center for an incapacitated child over 18 years of age, unless medical prognosis indicates the disability is permanent.

C. Other. A student between the ages of 18 and 22 must submit evidence of intent to continue study or training at a recognized educational institution. The certificate is required for the school semester or other period in which the school year is divided.

1. Payments to students continue during any interval between school years that does not exceed 150 days if those students demonstrate, to the satisfaction of the DFAS-Denver Center, that they have a bona fide intention of resuming or continuing a full-time course of study or training in a recognized educational institution immediately after that interval.

2. An eligible student annuitant under SBP properly enrolled in a recognized educational institution employing the usual quarter or semester system, who becomes ill or requires non-elective surgery during the school term, retains his or her student status for the rest of that term.

500103. Failure to Furnish Certificate. Annuity payments are suspended if the annuitant, custodian, or legal fiduciary fails to furnish the certificate as required. Payments are restarted only after receiving satisfactory proof of eligibility.

5002 REPORT OF EXISTENCE (ROE)

500201. Purpose. The ROE fulfills the requirement for report of existence for:

A. Annuitants who receive payment through foreign postal channels. The ROE is not required when the payment is addressed to a United States Consulate, American Embassy, military attache', or FPO or APO address. NOTE: Do not mail checks to an annuitant living in currency-blocked countries. See Appendix A for a list of blocked countries.

B. Mentally incompetent annuitants who receive payments through a third party.

C. Annuitants whose payments are sent to a third party, other than a financial institution for negotiation under a power of attorney.

500202. Frequency. An ROE is required on a "1 month behind" basis for those annuitants that meet the criteria of subparagraphs 500201.B and C, above, and semi-annually for annuitants in subparagraph 500201.A, above. The term "1 month behind," as defined in Appendix K, means a member's acknowledgement of the receipt of a check would permit the release of the check for the next month. Receipt of the certificate within the above-prescribed time frames after issuance of the annuity check verifies the annuitant's existence. Under no circumstances may the ROE be signed by other than the annuitant, custodian, or legal fiduciary.

500203. Failure to Return Report of Existence. Annuity payments are suspended if the annuitant, custodian, or legal fiduciary fails to return the ROE as required. Payments are restarted only after receiving satisfactory proof of existence.

CHAPTER 51

SURVIVOR BENEFIT PLAN - MINIMUM INCOME WIDOW

5101 ELIGIBILITY CRITERIA

510101. An annuity under the minimum income widow provision of the SBP law (see paragraph 420102 of this volume) is payable to widows receiving a Spanish-American War pension without regard to income. The annuity is payable to all other widow's who meet all of the following conditions.

A. The widow is not otherwise entitled to an annuity under other provisions of the Plan or to Dependency and Indemnity Compensation from the Department of Veterans Affairs.

B. The widow is eligible for a widow's non-service-connected death pension from the Department of Veterans Affairs under 38 U.S.C., Chapter 15, subchapter III (reference (ar)).

C. The widow has annual income from all sources (including amount of RSFPP annuity entitlement but excluding amount of VA pension), as determined by the Department of Veterans Affairs, that is less than the annual income rate in Appendix R. If the widow previously was denied an annuity because of income in excess of income limitations, entitlement may exist upon notice from the widow or from the Department of Veterans Affairs that her current yearly income, as determined by the Department of Veterans Affairs, is less than the income limitation. The annuitant is not entitled to a monetary adjustment for periods before October 1, 1976.

D. The widow is a person who, on September 21, 1972, was--or during the period beginning on September 22, 1972, and ending on March 20, 1974, became--a widow of a person who was entitled to retired or retainer pay when he died. Remarriage by the widow bars entitlement to an annuity under this provision of law unless the remarriage is terminated by an annulment. If there are questions as to whether an annuity should be reinstated after an annulment, refer the matter to the appropriate legal office.

NOTE: DD Form 1885 (Survivor Benefit Plan-Minimum Income Claim) and DD Form 1895 (Request for Veterans Administration Pension and Annual Income Information) have been approved for use in administering the minimum income widow annuity under Public Law 92-425 (reference (ew)) and 38 U.S.C. 1503 (reference (ar)).

5102 AMOUNT OF ANNUITY

The maximum annuity payable is shown in Appendix R. The Department of Veterans Affairs determines the yearly entitlement and advises the DFAS. This amount is prorated by the DFAS-Denver Center and is paid on a monthly basis.

510201. The annuity of a widow receiving a Spanish-American War pension is reduced by the amount of any RSFPP which may be payable.

510202. The amount of the annuity is neither rounded nor increased to reflect retired pay cost-of-living adjustments. However, the annual income rates (Appendix R) shall be increased by the same amount and shall have the same effective date whenever there is an increase in the limitation on annual income for the purposes of eligibility for pension benefits under 38 U.S.C. 1541(b) (reference (ar)).

510203. There is no social security offset against the annuity.

510204. The annuity is subject to federal income tax.

510205. The annuity is neither assignable nor subject to execution, levy, attachment, or garnishment (except for alimony or child support).

5103 EFFECTIVE DATE OF ENTITLEMENT

The effective date of entitlement is the date that the SBP law was enacted (September 21, 1972) or the date on which the requirements of law are met, whichever is later, subject to the 6-year statute of limitations.

5104 ANNUITANT - MENTALLY OR PHYSICALLY INCAPACITATED

510401. If, for any reason, a minimum income widow is mentally or physically incapable of applying for or negotiating the payment of the annuity, a court-appointed guardian may act on her behalf. If no guardian has been or will be appointed, the person having care, custody, and control of the incapacitated annuitant is authorized to act on her behalf.

510402. A report of existence is required when the annuitant receives payments through foreign postal channels or through a third party if the annuitant is incapacitated. See paragraph 500201 of this volume.

510403. The yearly certificate of continued eligibility is not required.

5105 CHANGES AND TERMINATION

Changes in the amount of the annuity payable or termination of the annuity must be in accordance with the effective date of change or termination as shown by the Department of Veterans Affairs. If termination is due to death of the annuitant, entitlement ceases as of the first day of the month in which death occurs. Any amounts which are due and payable at the time of annuitant's death may, on receipt of a properly executed and documented claim, be paid to the widow's estate.

5106 REOPENED CLAIM

The DFAS-Denver Center will reestablish an annuity that has been temporarily suspended because of the widow's excessive income or net worth as of the first day of the month in which the widow meets the income level for an annuity as determined by the Department of Veterans Affairs. Notification of any change in income is the widow's responsibility.

5107 CAUSES OF OVERPAYMENT

510701. The widow's minimum income annuity was not timely terminated when her annual income exceeded the applicable rates shown in Appendix R.

510702. Erroneous computation.

510703. Insufficient or untimely information.

5108 LIABILITY

510801. The annuitant is liable for debts caused by overpayment of the annuity. The annuity may not be used as an offset against an indebtedness incurred by the member. The debt may be liquidated by:

A. The annuitant by making direct remittance to the DFAS-Denver Center.

B. The annuitant authorizing the Department of Veterans Affairs to reduce the pension under 38 U.S.C., Chapter 15, subchapter III (reference (ar)), and remitting the amount collected to the DFAS-Denver Center.

C. The DFAS-Denver Center by reducing later annuity payments to minimum income widows.

5109 WAIVER OF INDEBTEDNESS

The request for waiver consideration is handled under the provisions of 10 U.S.C. 1453 (reference (c)). See section 4704 of this volume.

CHAPTER 52

SURVIVOR BENEFIT PLAN - TAXABILITY OF ANNUITIES

5201 FEDERAL INCOME TAX

SBP annuities are taxable for federal income tax purposes. A refund of cost resulting from an administrative error, correction of records, or the awarding of DIC is taxable to the annuitant. The member's retired pay tax status has no bearing on the taxability of the annuity or the refund of cost. See Table 52-1 for exceptions on the taxability of the annuities.

5202 FEDERAL INCOME TAX WITHHOLDING (FITW)

520201. General Provisions. SBP annuity payments are income subject to FITW. An annuitant has the right to elect that no tax be withheld. In the absence of such an election, or if the annuitant does not otherwise submit a withholding certificate, the DFAS-Denver Center will withhold on the basis of "married, three exemptions." The annuitant may use TD Form W-4P or any substitute form furnished by the payer.

520202. Notice Requirements. The DFAS-Denver Center must advise the annuitant of the withholding requirement, and the right to elect that no tax be withheld, when making the first payment to the annuitant. Thereafter, the DFAS-Denver Center must provide annual notice to the annuitant of the right to elect no withholding, revoke an election or submit a new withholding certificate. An annuitant also may submit a withholding certificate at any time to elect no withholding, revoke such election, or request any rate of withholding.

520203. One-Time Payments

A. SBP Cost Refunds. Cost refunds, a "non-periodic distribution," are subject to FITW at the rate of 10 percent unless the annuitant has elected no withholding. The annuitant has the right to make a FITW election on this refund separately from any election already in operation for all other SBP annuity payments.

B. Other. SBP annuity payments, other than the regular monthly entitlement, and other than the cost refunds above, are subject to FITW at the rate of 28 percent unless the annuitant has elected no withholding.

5203 INCOME EXCLUSION

520301. Consideration for Contract. The SBP annuitant is entitled to an income exclusion when, upon death of the participant member, the "consideration for contract" has been excluded in whole from the member's gross income.

After December 31, 1965, the member's survivor who is receiving the annuity may exclude from gross income such annuity payments received until the total exclusion equals the portion of

the "consideration of contract" not previously excluded from the member's taxable income. The DFAS-Denver Center will accomplish the applicable direct reduction in taxable income for the annuitant and report the residual amount as taxable income on the annuitant's Form 1099-R.

Example: When a member died on January 1, 1995, $1000 of the total "consideration for contract" had not yet been excluded from the member's non-disability retired pay. For 1995, DFAS would have reported the taxable annuity less $1000, and this reported residual amount would have been used by the surviving spouse in his or her income tax computation for the calendar year.

★520302. Disabled Member's Death Before Normal Retirement Age. In addition to the income exclusion allowed for "consideration for the contract," the survivor of a member who retired because of a physical disability resulting from military service and died after September 20, 1972, but before August 21, 1996, before reaching normal "retirement age," may exclude an aggregate of $5,000 from taxable income on income tax returns. The survivor includes amounts in excess of $5,000 in gross income. The DFAS-Denver Center should, upon request, provide the effective date of premiums, the total premiums paid (showing separate totals for deductions and direct remittances), the effective date, and amount of annuity.

★520303. Direct Cost Payments. The tax-free benefit on SBP premiums is not available to members who waived military retired pay to receive disability compensation from the Department of Veterans Affairs (see paragraph 450602 of this volume). Instead, upon the member's death, annuity paid to the member's survivor will be exempt from federal income tax until the amount excluded equals the total of the member's direct cost payments.

5204 ADJUSTMENT TO TAXABLE ANNUITY

Reserved

★5205 FEDERAL ESTATE TAX

The value of the annuity at the time of the member's death may be subject to federal estate tax if any portion of the cost was paid by direct remittance, or if the value of the annuity exceeds the amount that may be excluded from the gross estate. The DFAS may furnish the annuitant the current annuity amount and/or a summary of annual payments, and total cost paid (separate totals for deductions and direct remittances). For a computation of the amount of an annuity that will be subject to the tax, if any, the executor of the member's estate may write to:

Internal Revenue Service
Chief, Estate and Gift Tax Branch
Attn: CC:DOM:PSI:4 RM 5431
1111 Constitution Avenue, NW
Washington, DC 20224

Commercial Telephone (202) 622-3090

5206 STATE TAXATION

The Form 1099-R information is furnished to the appropriate state tax authority whether SBP annuities are subject to state inheritance or income tax and the method of calculating such tax depend upon the laws of the state concerned.

5207 FURTHER TAX INFORMATION

Survivors should be advised that they may obtain further information concerning taxation of SBP annuities from the cognizant District Director of Internal Revenue or the cognizant state tax authority.

TAXABILITY OF SURVIVOR BENEFIT PLAN/RETIRED SERVICEMAN'S FAMILY PROTECTION PLAN-NON-RESIDENT ANNUITANTS RESIDING OUTSIDE THE UNITED STATES				
	A	B	C	D
RULE	If the SBP annuitant resides in the country of	and	then the SBP annuity is	at the rate of
1	Australia, Belgium, Cyprus, Egypt, Finland, France, Germany, Iceland, Korea, Morocco, Netherlands, Norway, Pakistan, Romania, Trinidad and Tobago, and United Kingdom	is a citizen of the country in which residing	not taxable (note)	
2	Italy	is an Italian national		
3		is not an Italian national	taxable	30 percent.

NOTE: In order to claim entitlement to exemption from taxation based upon a tax convention or treaty, a non-resident alien annuitant is required to file Treasury Form 1001 (Ownership, Exemption, or Reduced Rate Certificate) with DFAS–Denver Center.

Table 52-1. Taxability Of Survivor Benefit Plan/Retired Serviceman's Family Protection Plan-Non–Resident Annuitants Residing Outside the United States

CHAPTER 53

RESERVE COMPONENT SURVIVOR BENEFIT PLAN (RCSBP) – APPLICATION OF PLAN

5301 PURPOSE

The RCSBP extends eligibility to the survivor benefit program to Reserve Component members who would be eligible to receive retired pay at age 60. The Plan allows members to leave a portion of their retired pay to survivors.

5302 SPECIALIZED TERMS

530201. Base Amount. The amount of monthly retired pay to which a member would be entitled:

A. On date of death, if the member died before age 60 and elected the immediate annuity option, or died after age 60 with an immediate or a deferred annuity option; or

B. Upon age 60, if member died before age 60 and elected the deferred annuity option; or

C. Any lesser amount of pay designated by the member before the end of the 90-day period beginning on the date the member receives the 20-year notification of eligibility for retired pay under 10 U.S.C., Chapter 1223 (reference (c)), with the concurrence of the spouse of the member, if required, but not less than $300. If full retired pay is less than $300, full retired pay must be designated by the member.

530202. Date of Receipt of Election for RCSBP. The date of the receipt of the election by the member's records custodian, or the date of postmark on the envelope in which the election was received by the records custodian when the member's election intent may be prejudiced.

530203. Date of Retirement. The first day the member is entitled to draw pay or the first day the member would have received pay if alive at age 60.

530204. Eligible for Retired Pay. The date the member receives notice of eligibility for retired pay at age 60.

530205. Entitled Member. A person who is age 60 and is entitled to receive retired pay.

530206. Member. Current and former Reserve Component personnel who have completed 20 years of qualifying federal service.

530207. RCSBP or Plan. The Reserve Component Survivor Benefit Plan.

530208. Reserve Components. The following is a listing of the Reserve Components:

A. Army National Guard of the United States

B. U.S. Army Reserve

C. U.S. Naval Reserve

D. U.S. Marine Corps Reserve

E. Air National Guard of the United States

F. U.S. Air Force Reserve

G. U.S. Coast Guard Reserve

H. Army National Guard

I. Air National Guard

J. Navy Militia.

530209. Retirement-Eligible Member or Eligible Member. A member who becomes eligible for retired pay under 10 U.S.C., Chapter 1223 (reference (c)), upon completion of 20 years of satisfactory service.

530210. SBP. The Survivor Benefit Plan for members of the Uniformed Services.

NOTE: SBP (see Chapters 42 through 52 of this volume) and RCSBP share many of the same terms. Terms that are not defined specifically in this paragraph are defined in section 4202 of this volume.

530211. Supplemental Survivor Benefit Plan (SSBP). This is a supplemental annuity paid to a spouse or former spouse by virtue of eligibility under 10 U.S.C. 1458 (reference (c)). The SSBP for Reserve Component SBP participants sometime is referred to as RC-SSBP.

5303 ELIGIBLE PARTICIPANTS

The following members are eligible to participate in the Plan in one of the following coverage categories: spouse, spouse and child, child, or natural person with an insurable interest. Members who became eligible to participate in the Plan on September 8, 1982, or later, may elect

former spouse coverage. Members who became eligible to participate on March 1, 1986, or later, may elect former spouse and child coverage.

CHAPTER 54

RESERVE COMPONENT SURVIVOR BENEFIT PLAN – ELECTION AND ELECTION CHANGES

5401 ELECTION

540101. Any member who was eligible for retired pay under 10 U.S.C., Chapter 1223 (reference (c)) on September 30, 1978, but who was under age 60, or who received by June 30, 1979, a notification of completion of the years of service required for eligibility of such retired pay, had until September 30, 1979 to make an RCSBP election. Public Law 96-107 (reference (ff)) extended the period to elect participation in the RCSBP. Any member who met the service requirement, but not the age, before September 30, 1978, had through March 31, 1980 to elect RCSBP, to decline RCSBP or to revoke a previous RCSBP election. A member who declined RCSBP or revoked a previous RCSBP election retained eligibility to participate in the SBP at age 60.

540102. Any member who is notified of his or her completion of the years of service required for retired pay eligibility under 10 U.S.C., Chapter 1223 (reference (c)) may elect to participate in the Plan before the end of a 90-day period that begins on the date of such notification. A member who does not participate before the end of the 90-day period remains eligible to participate in the SBP at age 60.

540103. Any Reserve member in receipt of retired pay on August 13, 1981 was eligible to participate in the SBP or to increase RCSBP coverage during the open enrollment period October 1, 1981 through September 30, 1982.

540104. Any Reserve member who was entitled to retired pay under 10 U.S.C., Chapter 1223 (reference (c)), but not yet age 60 on August 13, 1981, was eligible for the open enrollment period October 1, 1982 through September 30, 1983.

540105. Any Reserve member who has a former spouse and dependent child when becoming eligible to participate in the Plan on March 1, 1986, or later, may elect former spouse or former spouse and child coverage, provided the child is the result of the member-former spouse marriage. If the member elected former spouse coverage between September 8, 1982 and February 28, 1986, that former spouse coverage is under the insurable interest category and the election does not include children.

540106. Any Reserve member participating in the Plan with spouse or spouse and child coverage could have changed that election between September 24, 1983 and September 23, 1984, or within 1 year of the date of divorce, dissolution or annulment, whichever is later, to provide an annuity to a former spouse (elections March 1, 1986, or later, may be for former spouse or former spouse and child).

540107. Any member who became a participant between October 19, 1984, and November 8, 1985, could have withdrawn from the Plan between November 8, 1985, and November 7, 1986, except those participating with former spouse coverage on the basis of a deemed election.

540108. Any member who made a former spouse election before November 8, 1985, could have changed that election between November 8, 1985, and November 7, 1986, to provide coverage for former spouse and child provided the child was the result of the member-former spouse marriage.

540109. Any member who elected former spouse coverage before November 8, 1985, could have, with the concurrence of the former spouse, changed that election from former spouse (insurable interest category) to former spouse (spouse category). Such election had to be made between November 8, 1985 and November 7, 1986.

540110. Any member who was a participant before November 8, 1985, and who did not elect former spouse coverage, could have elected former spouse coverage between November 8, 1985 and November 7, 1986.

540111. Any member who, before November 8, 1985, elected former spouse coverage could have changed the election to former spouse and child coverage not later than March 1, 1987. Any member who elected former spouse coverage between November 8, 1985 and February 28, 1986, could have changed the election to former spouse and child coverage not later than November 13, 1987.

540112. Effective April 1, 1992, members who are providing spouse or former spouse coverage at the maximum level may elect Supplemental SBP coverage. A member who anticipates becoming an RCSBP participant with maximum coverage for spouse or former spouse, and who wants Supplemental SBP coverage, must elect RC-SSBP before the day on which the member first becomes a participant in the Plan. If, upon becoming a participant in the Plan, the member is not providing an annuity for spouse or former spouse at the maximum level, any RC-SSBP election shall be void. Certain eligible members were given an opportunity from April 1, 1992 through March 31, 1993, to elect RCSBP, RC-SSBP coverage, or to change RCSBP coverage.

5402 ELECTION DATA

540201. The modified version of DD Form 1883 (Survivor Benefit Plan Election Certificate) and DD Form 1882 (Survivor Benefit Plan Election Change (when available)), are recommended for use by the member. However, any election is acceptable provided it is in writing, contains the information necessary to establish or decline coverage, and is signed by the member. Spousal concurrence of certain elections, however, is required beginning March 1, 1986. A former spouse election by the member will be accompanied by a written statement setting forth whether the election is made pursuant to a voluntary, written agreement previously entered into by the member as a part of, or incident to, a proceeding of divorce, dissolution, or annulment and, if so, whether

such agreement has been incorporated in, or ratified or approved by a court order. On a deemed former spouse election, the Secretary of the Military Department concerned receives a written request, in a manner prescribed by the Secretary, and a copy of the court order, regular on its face, which incorporates, ratifies, or approves the voluntary, written agreement of such person or a statement from the clerk of the court (or other appropriate official) that such agreement has been filed with the court in accordance with applicable state law. The election should show:

A. Identification. Member's name, social security number, date of birth, and date of retirement.

B. Base Amount. A member who participates in the Plan elects a base amount of maximum or reduced coverage. Effective July 1, 1986, a member who receives a 20-year notification of eligibility, and who elects to participate in RCSBP, must elect to cover:

1. One hundred percent of retired pay; or

2. A percentage of retired pay which is less than 100 percent, but which is greater than or equal to $300 when computed against the amount of retired pay which would be payable as of the effective date of the election; or

3. A given dollar amount which is greater than or equal to $300, but less than 100 percent of retired pay.

If a member's full retired pay, computed as of the effective date of the election, is less than $300, he or she must elect to cover 100 percent of retired pay. If the member elects to cover a dollar amount which is greater than 100 percent of his or her retired pay, as computed on the effective date of the election, the election will be considered to be for 100 percent of retired pay. Any dollar election will be converted to a percentage of retired pay as of the effective date of the election. A member making this election should be advised that his or her election will be converted to a percentage of retired pay as would be payable if he or she were 60 years of age on the date the RCSBP election becomes effective and will be based on that same percentage of retired pay regardless of the changes in the retired pay that may occur as a result of pay rate increases, additional points accumulated, or promotion or longevity step increases.

C. Annuity Option. In addition to Option A, Survivor Benefit Plan (SBP), the member has two survivor annuity options, Options B and C.

1. Option A. The member defers a survivor annuity election or declines coverage until age 60. There is no coverage for the years between becoming eligible for retirement and reaching age 60. If the member dies before reaching age 60, no survivor annuity is payable. At age 60, the member may elect to participate in SBP as any other member becoming entitled to retired pay.

2. Option B. The member elects to provide a deferred survivor annuity that begins on the date that would have been the member's 60th birthday, or on the day after the member's death, whichever is later.

3. Option C. The member elects to provide an immediate survivor annuity beginning on the day after the member's death, whether before or after age 60.

D. Coverage. A member may elect coverage for:

1. Spouse and/or children;

2. Former spouse or former spouse and children; or

3. Natural person with an insurable interest (at maximum level of coverage only).

E. Beneficiary. Show the name, birthdate, and social security number for each beneficiary named. If coverage includes spouse, the member must furnish the date of marriage. When the beneficiary is a natural person with an insurable interest, the address and relationship must be shown. For the natural person with an insurable interest, the member must provide a signed statement to show proof of financial benefit if the person designated is more distantly related than cousin.

F. Signature. The member must sign and date the election. Two disinterested persons must witness a document signed by an "X."

NOTE: An election made on behalf of the member through a power of attorney is not valid. Such an election is not binding and is without force or effect of law.

G. Spousal Concurrence. Effective March 1, 1986, a married member who elects RCSBP coverage for less than maximum coverage for the spouse, when the member becomes eligible to participate, must obtain the concurrence of the spouse in writing. If former spouse coverage is elected or deemed, the spouse's concurrence is not required; however, the spouse is notified of the former spouse coverage. (See paragraph 430305 of this volume if spousal concurrence is required.) If the member chooses to defer the SBP decision to age 60; that is, elects Option A, spousal concurrence is not required.

H. SSBP Percentage of Annuity Coverage. A member who elects spouse or former spouse coverage at the maximum level may provide an additional percentage of the base amount in increments of 5, 10, 15, or 20 percent. A member may not make an SSBP election if the spouse or former spouse is entitled to annuity computed under the social security offset method (see 10 U.S.C. 1451(e) (reference (c))). However, the member may elect SSBP if he or she waives the right to have annuity computed under the social security offset method.

5403 IRREVOCABLE ELECTIONS AND DISCONTINUED PARTICIPATION

540301. Elections filed during the 90-day period are irrevocable unless revoked before the expiration of the 90-day period, except under the following circumstances:

A. The election was revoked before March 31, 1980.

B. The member discontinues participation as a totally disabled member as described in section 4308 of this volume.

C. The mentally incapacitated member later is determined to be mentally competent and revokes or changes the RCSBP election within 180 days after such determination of judgment.

D. The member, who elected to participate between October 19, 1984, and November 8, 1985, elected to withdraw from RCSBP before November 8, 1986, under section 711 of Public Law 99-145 (reference (fc)).

E. The member elected less than maximum coverage without spousal concurrence and it later is determined by the Secretary of the Military Department concerned that spousal concurrence was appropriate.

F. The Secretary concerned revokes an election when necessary to correct an administrative error. Revocation or correction based on administrative error is a Secretarial prerogative and, except when procured by fraud, is final and conclusive on all officers of the United States.

G. The SBP election may be changed to and from former spouse coverage shown in sections 4307 and 5405 of this volume.

H. Changed retirement eligibility. See section 5405 of this volume.

★I. The member voluntarily terminates RCSBP coverage for a natural person with an insurable interest (not a former spouse).

5404 ELECTION COVERAGE

540401. Spouse and/or Children

A. A member may elect coverage at the maximum level or at a reduced amount for an eligible spouse, spouse and children, or dependent children only. Spousal concurrence is required on elections for less than maximum spouse coverage. A member with maximum spouse coverage may also elect SSBP coverage.

B. When a member declines coverage for eligible spouse and children beneficiaries, the member is prohibited from later electing in to the Plan except under section 4309 (open enrollment) or section 5405 (changed retirement eligibility). When a member refuses coverage for only one class of eligible beneficiary, apply the same exceptions contained in sections 4309 and 5405 of this volume.

540402. Former Spouse or Former Spouse and Child. A former spouse election prevents an annuity to the member's spouse and child (other than a child beneficiary under a former spouse and child election). The spouse is notified of the member's election for the former spouse. A former spouse or former spouse and child election may be made:

A. When the member becomes eligible to participate. A member who has a former spouse and dependent child when becoming eligible to participate on or after March 1, 1986, may elect former spouse or former spouse and child coverage provided the child is the result of the member-former spouse marriage. The coverage is provided under the spouse category. A former spouse election effective before March 1, 1986 provides coverage under the insurable interest category and the election could not include child coverage. If member elects former spouse coverage at the maximum level under the spouse category, the member also may elect SSBP.

B. After the member becomes eligible to participate but before member meets age and service requirements. A member who elected spouse or spouse and child coverage may, before September 24, 1984, or within 1 year of the date of the decree of divorce, dissolution, or annulment, whichever is later, change that election to provide an annuity to a former spouse or to a former spouse and child. The former spouse is not eligible if he or she was the former spouse that the member had when the member became eligible to participate in the Plan. If the former spouse coverage was in effect before March 1, 1986, the annuity was provided under the insurable interest category and child coverage in conjunction with former spouse coverage was unavailable. A member who elected former spouse coverage before November 8, 1985, may provide annuity for a former spouse and child if that election was made before March 1, 1987. Also, a member who elected former spouse coverage between November 8, 1985 and February 28, 1986, could have provided an annuity for a former spouse and child if that election was made not later than November 13, 1987.

NOTE: An annuity for the former spouse first must be provided under the spouse category before child coverage may be added. A member who elects former spouse coverage at the maximum level under the spouse category may elect SSBP for the former spouse.

C. When the member meets age and service requirements. The former spouse election is considered under the SBP and SSBP program.

D. By the Secretary of the Military Department concerned upon the receipt of a request from the former spouse that an election be deemed for the former spouse. The provisions shown in section 4305 of this volume for deemed former spouse elections under SBP and SSBP apply to RCSBP.

540403. Natural Person With Insurable Interest. An election for a natural person with insurable interest may be made only when there is no eligible spouse or dependent child(ren). There are two exceptions: a person who is unmarried but who has a dependent child may provide coverage for that child under the insurable interest provision; and former spouse elections made between September 8, 1982, and February 28, 1986. A member elects gross retired pay as the base amount under an election for a !natural person with an insurable interest.

5405 CHANGES IN ELECTION AND COVERAGE

540501. Later-Acquired Spouse and/or Child. This election must be received within 1 year of the event.

A. If a member has no eligible beneficiary at the end of the 90-day period to elect, or on March 31, 1980, whichever is later, and the member declines to participate, the member later may elect for an eligible class of beneficiary.

B. If a member elects RCSBP spouse coverage and the spouse becomes an ineligible beneficiary through death or divorce, the member may resume spouse coverage upon remarriage.

C. If a member with spouse or spouse and child coverage loses the spouse beneficiary, the member may upon remarriage: resume coverage, increase the level of coverage up to and including full retired pay, or elect not to resume spouse coverage. A member who provides spouse coverage at the maximum level, but who is not a participant in the SSBP, may elect SSBP upon remarriage. The SSBP election is irrevocable and shall be made within one year of the remarriage.

1. The member may not add child coverage by virtue of this marriage alone if child coverage previously was bypassed.

2. The level of RCSBP coverage may not be reduced nor may child coverage be eliminated. The RC-SSBP level may be increased upon remarriage.

3. If the member elects not to resume spouse coverage or provides coverage at less than the maximum level, the spouse is notified.

D. If a member has former spouse or former spouse and child coverage, he or she may later elect RCSBP and SSBP coverage for the newly-acquired spouse and/or child.

E. If a member has insurable interest coverage, he or she may elect coverage for the newly-acquired spouse and/or child.

540502. Change From Spouse or Spouse and Child

A. A member may terminate his or her election and provide an annuity for a former spouse or former spouse and child provided the child is the result of the member-former spouse marriage. See paragraph 430702 and section 5405 of this volume. A member who elects to provide former spouse coverage at the maximum level may include Supplemental SBP coverage.

B. The former spouse may request that the Secretary of the Military Department concerned deem an election for the former spouse.

540503. Change to Former Spouse Election and Coverage

A. A member who has a former spouse and dependent child when becoming eligible to participate in the Plan on or after March 1, 1986, may elect former spouse or former spouse and child coverage, provided the child is the result of the member-former spouse marriage. If the member elected former spouse coverage between September 8, 1982, and February 28, 1986, that coverage is under the insurable interest category and the election does not include children. A member who elects former spouse coverage at the maximum level may elect Supplemental SBP coverage.

B. A member participating in the Plan with spouse or spouse and child coverage could change that election between September 24, 1983 and September 23, 1984, or within 1 year of the date of divorce, dissolution, or annulment, whichever is later, to provide an annuity to a former spouse. (NOTE: Elections made on or after March 1, 1986 or later may be for former spouse or former spouse and child.)

C. A member enters into a voluntary written agreement, incident to a proceeding of divorce, dissolution, or annulment, to elect former spouse coverage and the agreement has been incorporated in, or ratified or approved by, a court order or a member is required by a court order to make an RCSBP election, and the member fails or refuses to make the election, the Secretary concerned may deem an election.

1. The former spouse or the former spouse's attorney requests, in writing, that the Secretary concerned deem an election for former spouse coverage. The former spouse's request must be received before October 1, 1985 or within 1 year of the date of the court order involved, whichever is later.

2. Deemed elections for RC-SSBP coverage operate under the same rules for SBP except that no RC-SSBP elections may be required by court order. Deemed RC-SSBP elections may be made only in instances where there is a voluntary written agreement to elect made by the member and such agreement is properly incorporated in a court order or filed with the court of appropriate jurisdiction. An election may not be deemed for RC-SSBP before April 1, 1992.

D. A member who, before November 8, 1985, made a former spouse election could have changed that election between November 8, 1985, and November 7, 1986, to provide

coverage for former spouse and child, provided the child was the result of the member-former spouse marriage.

E. A member who elected former spouse coverage before November 8, 1985, could have, with the concurrence of the former spouse, changed that election from former spouse (insurable interest category) to former spouse (spouse category). That election had to be made between November 8, 1985, and November 7, 1986.

F. A member who, before November 8, 1985, elected former spouse coverage, could have changed the election to former spouse and child coverage not later than March 1, 1987. Any member who elected former spouse coverage between November 8, 1985, and February 28, 1986, had to change the election to former spouse and child coverage not later than November 13, 1987.

540504. Changed Retirement Eligibility. If a member elects RCSBP coverage and subsequently becomes eligible for retirement under another law, thereby losing eligibility under 10 U.S.C., Chapter 1223 (reference (c)), the RCSBP and RC-SSBP elections remain effective until the member actually retires. A member may then make a new election including a Supplemental SBP annuity election as any other retiring member.

540505. Open Enrollment Periods

A. Public Law 97-35 (reference (bq)), allowed members entitled to retired pay to enroll in SBP, increase a reduced level of coverage, or add spouse coverage to child coverage between October 1, 1981, and September 30, 1982. See section 4309 of this volume for restrictions.

B. Public Law 97-252 (reference (ei)), September 8, 1982, authorized an open enrollment period for Reserve Component members who, on August 13, 1981, would have been entitled to retired pay under 10 U.S.C., Chapter 1223 (reference (c)) but for the fact that they had not reached age 60 on August 13, 1981. Open enrollment extended from October 1, 1982 through September 30, 1983.

1. Members could have enrolled in RCSBP, increased a reduced level of coverage, or added spouse coverage to child coverage. Election information was acceptable in writing rather than on the approved form.

2. There was no authority for eligible members to change the annuity option from immediate to deferred.

3. Elections made by eligible members were effective when received by the Secretary concerned, but not earlier than October 1, 1982.

4. A member could have elected former spouse coverage during the open season. The member could have elected coverage for a former spouse which the member had

when becoming eligible to participate in the Plan between October 1, 1982 and September 30, 1983.

5. A member with suspended spouse coverage under RCSBP could have increased the level of coverage.

C. See section 4305 of this volume for open enrollment periods under Public Laws 98-94 (reference (aj)), 98-525 (reference (ej)), 99-145 (reference (fc)), and 99-661 (reference (ek)) involving elections for a former spouse. Members who elected RCSBP coverage between October 19, 1984, and November 8, 1985, could have elected to withdraw between November 8, 1985, and November 7, 1986, with a refund of any cost plus interest.

D. Certain members were eligible to withdraw from the Plan between March 3, 1988, and March 2, 1989. Under Public Law 100-180 (reference (fd)), a member with spouse or spouse and child coverage who remarried before March 1, 1986, could, with the spouse's concurrence, withdraw from the Plan. There was no refund of cost.

E. Public Laws 101-189 (reference (fb)) and 101-510 (reference (el)) provided an open season between April 1, 1992, and March 31, 1993. A member who was not currently participating in RCSBP could have elected RCSBP. A member who made an open season election for RCSBP coverage for spouse or former spouse at the maximum level could have elected RC-SSBP. A member could have added spouse coverage or increased the base amount of coverage during that open season. A member who already was providing spouse or former spouse coverage at the maximum level could have added Supplemental SBP coverage during that open season.

540506. The SBP Open-Season. The open-season restrictions in section 4309 of this volume apply to RCSBP open-season elections unless otherwise specified above.

CHAPTER 55

RESERVE COMPONENT SURVIVOR BENEFIT PLAN - BENEFICIARIES

5501 ELIGIBLE BENEFICIARIES

Eligible beneficiaries under the RCSBP include: spouse, spouse and child, child, former spouse, former spouse and child, or natural person with an insurable interest.

550101. Spouse (including the spouse of a common-law marriage). The spouse is an eligible beneficiary if:

A. Married to the member on the date that the member became eligible to participate in the Plan, and married to the member when the member died.

B. Married to the member after the date that the member became eligible to participate in the Plan (that is, married after the member completed the years of service required for retired pay), married to the member at least 1 year before the member's death, and married to the member when the member died. An election must be received within 1 year of the remarriage.

C. Married to the member after the date that the member became eligible to participate in the Plan and married to the member for less than 1 year before member's death, but is a parent of a living child from that marriage. Election must be received within 1 year of the remarriage.

D. Married to a member who:

1. Was entitled to participate in the RCSBP on or after October 1, 1978;

2. Was deceased on or after October 1, 1978;

3. Was unable to exercise an election option due to the necessary actions to implement RCSBP; and

4. Had not executed a statement of intent to participate in the RCSBP and provide a deferred annuity effective on the 60th anniversary of the member's birth or on the date following the date of death, whichever is later; or had declined to participate. In instances of eligible surviving spouse and children, the surviving spouse is the only eligible beneficiary.

5. Married to a member who is eligible to provide a Reserve Component annuity and who dies:

a. Before being notified of completion of the years of service required for eligibility of retired pay for non-Regular service retirement; or

b. During the 90-day period beginning on the date member receives notification of retirement eligibility, if member had not made an RCSBP election. The surviving spouse (or eligible child) of a member described above who died during the period of September 30, 1978, through October 1, 1985, had until October 1, 1988, to apply for the annuity. Such annuity is payable March 1, 1986, or the first day of the month after the application is made, whichever is later.

550102. Children (including children of a common-law marriage)

A. Children of a member who elected child coverage when he or she initially became eligible to participate in the Plan.

B. Children of a member who elected child coverage after initially becoming eligible to participate in the Plan. Election must be received within 1 year of acquiring such class of beneficiary.

C. Children of a member who died before being notified of retirement eligibility or during the 90-day period immediately following such notification.

D. Children of a member described in subparagraph 550101.D.4., above, if there is no eligible surviving spouse.

550103. Spouse and Children. Eligibility requirements are shown as in paragraphs 550101, and 550102, above. The spouse is the primary beneficiary with eligibility passing to the children if the spouse remarries before age 55 or dies.

550104. Former Spouse or Former Spouse and Children

A. The former spouse is an eligible beneficiary if he or she:

1. Is the member's former spouse when the member becomes eligible to participate in the Plan and is elected beneficiary by the member or is deemed as the beneficiary by the Secretary concerned upon request by the former spouse.

2. Was not the member's former spouse when the member became eligible to participate in the Plan and a prior election is changed to provide coverage for the former spouse. A former spouse acquired after a member became eligible to participate in the Plan is an eligible beneficiary if married to the member for at least 1 year or if the former spouse is a parent of a child born of the marriage.

B. If coverage is provided for the former spouse and children, the former spouse is the primary beneficiary with eligibility passing to the child(ren) if the former spouse remarries before age 55 or dies. Only the child(ren) who resulted from the marriage to the former spouse are eligible beneficiaries.

C. The former spouse for whom coverage is provided under the insurable interest category remains an eligible beneficiary following a remarriage, unless the remarriage is to the member who is providing the former spouse coverage.

550105. Natural Person With Insurable Interest. The natural person with an insurable interest is an eligible beneficiary if member elected:

A. A person who has a reasonable and lawful expectation of pecuniary benefit from the continued life of the member. This may include parents, stepparents, grandparents, grandchildren, aunts, uncles, sisters, brothers, half-sisters, half-brothers, dependent or non-dependent child or step-child, any other person more nearly related than cousin, or

B. Any individual having a reasonable and lawful basis, founded upon the relationship of parties to each other, either pecuniary or of blood or affinity, to expect some benefit or advantage from the continuance of the life of the retiree.

NOTE: Proof of financial benefit from the continuance of the life of the member is required for other than persons listed in subparagraph 550105.A, above. The legal staff of the supporting Military Service activity may coordinate on the eligibility requirements.

CHAPTER 56

RESERVE COMPONENT SURVIVOR BENEFIT PLAN - PREMIUM

5601 GENERAL

560101. RCSBP. The cost of providing RCSBP coverage under the immediate or deferred annuity option is not subsidized by the government but is shared by members and beneficiaries who potentially will benefit from the coverage. The cost to the retiree is in the form of an additional deduction from his or her retired pay beyond the standard SBP cost. The RCSBP, unlike SBP, requires a reduction in the survivor annuity. That deduction begins when the member meets the age and service requirements even though member may delay application for retirement, or, in the event of the member's death before age 60, when the survivor begins to receive an annuity which is reduced due to RCSBP coverage. The premium increases at the same time and by the same percentage that retired pay increases by cost-of-living adjustments.

560102. RC-SSBP. The premium for RC-SSBP coverage for spouse or former spouse is added to the RCSBP premium. The Supplemental SBP premium is expressed as a percentage of the base amount (full retired pay). Once the RC-SSBP deduction is established from retired pay, the premium shall be increased by cost-of-living adjustments at the same time and in the same manner as the RCSBP premium.

5602 FACTOR TABLES

560201. The original RCSBP factor tables, developed under contract, were applicable to members who elected RCSBP and who retired or died before January 1, 1980. Members age 59 years, 6 months or more, were considered age 60. Effective December 1, 1984, these pre-1980 factors were changed to the January 1, 1980 factors with a save-pay clause that limited the factor to the pre-1980 factor. The tables were separated by:

A. Annuity Option-Immediate or Deferred

B. Type of Beneficiary

C. Male or Female Member

D. Differences Between the Ages of the Member and the Beneficiary (In some instances)

E. Male or Female Beneficiary for Insurable Interest Person

560202. The Office of the DoD Actuary created new RCSBP factor tables in 1979 to reflect military specific death rates, to include remarriage and divorce rates and to incorporate dynamic actuarial assumptions. The new factors, which became effective January 1, 1980, affected members who elected RCSBP and who retired or died on or after January 1, 1980. The tables were

built on a "years younger or older than member" concept. The ages at the nearest birthday to date of election receipt were used. When ages expressed in years are the same, the table is determined by comparing months and days.

A. The child-only tables were later added and were effective on January 1, 1980.

B. Under the January 1, 1980 cost factor tables, ages 59 years, 6 months or more were rounded down to age 59 instead of age 60. The premium computed using age 60 is the same as the standard SBP premium. Separate tables for members age 59 years, 6 months or more (but less than 60) later were developed and became effective on January 1, 1980.

C. The RCSBP premium is the SBP premium for the same class(es) of beneficiary plus an actuarial change (add-on premium) for the RCSBP deferred or immediate annuity option.

560203. In December 1984, RCSBP factors were revised to show the SBP premium portion of the RCSBP premium as not related to gender.

560204. Effective March 1, 1986, the FY 1986 DoD Authorization Act (reference (fc)) eliminated the social security offset system, established a two-tier benefit system for annuitants, and significantly changed the initial calculation of the SBP premium. As a result, there are two sets of RCSBP factors: one set for the social security offset system (revised due to changes in economic assumptions) and one set for the two-tier benefit system. Neither set of factors includes the built-in SBP premiums. The calculated SBP premium plus the Reserve add-on premium equals the RCSBP premium. The two sets of RCSBP factors apply to existing and future RCSBP participants on and after July 1, 1986.

560205. On March 1, 1990, the threshold formula for computing the SBP premium was replaced with a flat-rate reduction formula of 6.5 percent of the base amount. Members who retire under 10 U.S.C., Chapter 1223 (reference (c)) (non-Regular service retirement) remain eligible for whichever cost formula is more advantageous to the member.

560206. Supplemental SBP coverage became effective on April 1, 1992. The premium for RC-SSBP is in addition to the member's RCSBP premium. The SSBP premium is expressed as a percentage of the base amount. The member elects SSBP coverage in increments of 5, 10, 15, or 20 percent of the base amount. SSBP premium factors applicable to each 5 percent increment are shown in Table 56-2 for members who elected an immediate annuity under RCSBP and Table 56-3 for members who elected a deferred annuity under RCSBP.

560207. The premium additions for open season election, Table 45-6, do not apply to the RCSBP. The premiums for RCSBP open season elections, however, will be computed in two parts. The first part is the premium for the RCSBP open season election. The second part of the premium is an additional charge for the previously-existing RCSBP coverage. This second part is defined as the RCSBP premium applicable to member's original election minus the RCSBP

premium applicable to that earlier election using the ages of the member and beneficiaries on their birthday anniversaries nearest the date the new election becomes effective. All premium rates for this computation are based on the current factor table.

5603 CALCULATION OF PREMIUM

560301. The RCSBP premium consists of an SBP premium and an RCSBP or reserve add-on premium.

A. SBP Premium. The initial, standard SBP cost formula, before Public Law 99-145, was 2.5 percent of the first $300 of the base amount, plus 10 percent of the base amount in excess of $300. The $300 in the formula that became effective on March 1, 1986, is referred to as the threshold, or low-cost amount. The threshold amount is subject to two possible indexing provisions including active duty increases and cost-of-living adjustments associated with the pay tables used to calculate that member's retired pay. Effective March 1, 1990, the formula for spouse or former spouse coverage changed to a flat-rate reduction formula of 6.5 percent of the base amount. An individual who entered a Uniformed Service before March 1, 1990, or a member who is entitled to retired pay Chapter 61 (disability), or chapter 1223 (non-Regular service retirement) under Title 10, United States Code (reference (c)) is entitled to use whichever formula is more favorable to the member.

B. Reserve Add-on Premium. The Reserve add-on premium depends on the type of beneficiary elected, the annuity option elected, and the applicable method of annuity computation. As the anticipated benefits under the social security offset system are higher, the cost factors and the associated premiums are higher. The social security offset system is still applicable to the survivors of members who, on October 1, 1985, had attained sufficient service so as to be eligible for retired pay under 10 U.S.C., Chapter 1223 (reference (c)), but for the fact of being under 60 years of age.

560302. The member elects a given dollar amount or a percentage of retired pay as the base amount. Any dollar election is converted to a percentage of gross retired pay as of the effective (date of election to guarantee full indexing in proportion to member's retired pay). If the given dollar amount exceeds 100 percent of the member's retired pay on the effective date of election, the base amount is 100 percent of the monthly retired pay. If the given dollar amount is less than 100 percent of gross retired pay but greater than $300 when computed against the retired pay, use the ratio against the gross retired pay entitlement at age 60, assuming member has met age and service requirements. Table 56-1 is a worksheet for use in conjunction with the RCSBP factor tables effective July 1, 1986.

Example:

Member's age at election =	52
Member's elected monthly base amount =	$300.00
Member's estimated current monthly retired pay =	$1000.00
Ratio =	300/1000 = .3
Eight years later:	
Member's monthly retired pay at age 60 =	$2000
Member's base amount at age 60 =	.3 x $2000 = $600.00

560303. Premium Examples. Examples follow for spouse or former spouse, spouse and child or former spouse and child, child, or insurable interest person. The premium for former spouse or former spouse and child is the same computation as the spouse or spouse and child premium if coverage for the former spouse is provided under the spouse category vice the insurable interest category.

A. Spouse Premium. Member lives to age 60. The threshold amount associated with the pay table used to compute member's pay is $321. The SBP premium portion of the RCSBP premium could be computed March 1, 1990 on the flat-rate reduction formula of 6.5 percent of the base amount for comparison. The SBP premium is based on whichever cost formula that produced the lesser cost. The member's election provides an immediate annuity option for spouse only.

Method:		Offset
Type:		Immediate annuity
Option:		Spouse only
Member's age nearest birthday at election:		52
Beneficiary's age nearest birthday at election:		49
Age difference:		3 years younger than member
Reserve factor:		.0400
Monthly base amount:		$600.00
Monthly SBP premium portion of RCSBP premium:		
(.025 x $321) + (.10 x $279) = $35.93		
OR		
(.065 x $600) =	39.00	
Lesser =		$35.93
Monthly Reserve add-on premium portion of RCSBP premium:		
(.0400 x $600) =		$24.00
Monthly RCSBP premium:		
($35.93 + $24) =		$59.93
Revised base amount to be used in survivor annuity:		
($600 - $24) =		$576.00

B. Spouse and Child Premium. Same facts as subparagraph 560303.A, above, except the member's election provides a deferred annuity option for spouse and child--both

beneficiaries are still eligible. Subparagraph 560303.B(1), below, covers the premium for spouse and child coverage when the spouse is no longer eligible; subparagraph B(2), below covers the premium for spouse and child coverage when the child is no longer eligible on the date that member meets age and service requirements.

Method:		Offset
Type:		Deferred annuity
Option:		Spouse and child
Member's age nearest birthday at election:		52
Beneficiaries' ages nearest birthday at election:		
Spouse		49
Child		8
Age difference:		3 years younger than member
Reserve factor:		.0344
Monthly base amount:		$600.00
Monthly SBP premium portion of RCSBP premium:		
(.025 x $321) + (.10 x $279) =	$35.93	
OR		
(.065 x $600) =	39.00	
Lesser =		$ 35.93
($600 x .0003) =		.18
		$ 36.11
Monthly Reserve add-on premium portion of RCSBP premium:		
(. 0344 x $600)		$ 20.64
Monthly RCSBP premium:		
($36.11 + $20.64)		$ 56.75
Revised base amount to be used in survivor annuity:		
($600 – $20.64)		$579.36

(1) Spouse and child premium. Same facts as B, above, except member's spouse is no longer eligible.

Method:	Offset
Type:	Deferred annuity
Option:	Spouse and child
Member's age nearest birthday at election:	52
Beneficiaries' ages nearest birthday at election:	
Spouse	N/A
Child	8
Age difference:	N/A
Reserve factor:	.0090
Monthly base amount:	$600.00
Monthly SBP premium portion of RCSBP premium:	
($600 x .0062) =	$ 3.72
Monthly Reserve add-on portion of RCSBP premium:	

($600 x .0090) =	$ 5.40
Monthly RCSBP premium:	
($3.72 + $5.40) =	$ 9.12
Revised base amount to be used in survivor annuity:	
($600 – $5.40) =	$594.60

(2) Spouse and child premium. Same facts as B, above, except member's child is no longer eligible.

Method:		Offset
Type:		Deferred annuity
Option:		Spouse and child
Member's age nearest birthday at election:		52
Beneficiaries' ages nearest birthday at election:		
Spouse		49
Child		8
Age difference:		3 years younger than member
Reserve factor:		.0344
Monthly base amount:		$600.00
Monthly SBP premium portion of RCSBP premium:		
(.025 x $321) + (.10 x $279) =	$35.93	
OR		
(.065 x $600) =	$39.00	
Lesser =		$ 35.93
Monthly Reserve add-on premium portion of RCSBP premium:		
(.0344 x $600) =		$ 20.64
Monthly RCSBP premium:		
($35.93 + $20.64) =		$ 56.57
Revised base amount to be used in survivor annuity:		
($600 – $20.64)=		$579.36

560304. The SSBP premiums for spouse or former spouse coverage are added to RCSBP premiums. The SSBP premium factors depend on the type of RCSBP annuity option elected by member, immediate or deferred. See Table 56-2 (Reserve Component Immediate Supplemental Spouse Annuity Premium Rates) and Table 56-3 (Reserve Component Deferred Supplemental Spouse Annuity Premium Rates). The member elects SSBP coverage in increments of 5, 10, 15, or 20 percent of the base amount. The SSBP premium factors shown on the tables apply to each 5 percent of the base amount member elects. The SSBP premium is computed by multiplying the SSBP premium factor from either the immediate or the deferred SSBP table, based respectively on the member's age on the birthday nearest the date the election first becomes effective, by 1, 2, 3, or 4.

★560305. An RCSBP participant who voluntarily terminates coverage for a natural person with an insurable interest (not a former spouse) will pay the Reserve add-on premium for the

lifetime of the member. However, if the member terminates the coverage before age 60, the add-on premium is pro-rated. Multiply the original (add-on) factor by the number of full months during which the member had coverage, dividing the result by the number of full months the member would have had coverage if coverage had not terminated before age 60. The result, rounded to 4 decimal places, shall serve as the member's pro-rated (add-on) factor.

Revised add-on factor	=	Original RCSBP factor	X	No. of Months member had pre-age 60 coverage	÷	No. of months member would have had pre-age 60 coverage

5604 INITIAL PREMIUM AND EFFECTIVE DATE

560401. If a member has eligible beneficiaries, RCSBP and any SSBP premium begins on the first day of the month after member meets the age and service requirements for 10 U.S.C., Chapter 1223 (reference (c)) retirement. If the member meets the age and service requirements on the first day of the month, the premium is effective that month. If the member specifies a retirement date which is after the date member meets age and service requirements, or if the member delays application for retirement, the premium is retroactive to the date mentioned in the previous sentence(s).

Exception: Child beneficiary--If the member elects child coverage and the child is no longer eligible, the Reserve add-on premium portion of the RCSBP premium, for pre-age 60 coverage, begins on the same date that cost begins for an eligible beneficiary.

560402. If a member who elected RCSBP dies before the age and service requirements are met, the Reserve add-on premium for the pre-age 60 coverage begins with the immediate or deferred annuity as an actuarial reduction of that annuity.

560403. In some instances, a member may change the type of coverage before premiums begin. Among the election changes, such as those included below, the initial premium is effective on the first day of the month after member meets age and service requirements (or, if member meets age and service requirements on the first day of the month, the premium is effective that month).

A. A member has no spouse beneficiary and acquires a spouse beneficiary effective before the member meets age and service requirements. The spouse may be covered under the SSBP program.

B. A member has child coverage and later acquires a spouse beneficiary before the date member meets age and service requirements. The spouse may be covered under the SSBP program.

C. A member has no child beneficiary and later elects child coverage within 1 year of acquiring a child which is before the member meets age and service requirements.

D. Coverage changes from former spouse or former spouse and child to spouse or spouse and child coverage effective before the member meets age and service requirements. Previous SSBP coverage now covers the spouse.

E. Member has no coverage or coverage is changed to former spouse under a deemed election by the Secretary concerned. The former spouse may be covered under SSBP.

F. Member has insurable interest coverage and acquires a spouse and/or child before the date member meets age and service requirements. The spouse may be covered under the SSBP.

5605 SUSPENSION, TERMINATION, REINSTATEMENT, AND CHANGE OF PREMIUM

560501. Suspension

A. Spouse

1. Spouse dies. The premium is suspended the first day of the month following the spouse's death.

2. Spouse and member divorce. The premium is suspended the first day of the month following the divorce.

B. Child. No premium suspension situations.

C. Former Spouse (spouse category). Former spouse remarries before age 55. The RCSBP premium is suspended on the first day of the month following the remarriage.

D. Natural Person with an Insurable Interest or Former Spouse (insurable interest category). No premium suspension situations.

560502. Termination

A. Spouse. If the member loses a spouse beneficiary, remarries, and elects not to resume spouse coverage, any premium terminates as of the first day of the month following the receipt of member's election.

B. Last Dependent Child:

1. Child dies before age 22 while still eligible. The RCSBP premium terminates on the first day of the month following the death of the last dependent child.

2. Child marries. The SBP premium portion of the RCSBP premium terminates on the first day of the month after the marriage of the last dependent child.

3. Child discontinues full-time school attendance. The SBP premium portion of the RCSBP premium terminates the first day of the month after the last dependent child discontinues school attendance. If the exact date is unknown, the SBP premium portion of the RCSBP premium is discontinued on the first day of the month after receipt of the notification from the member.

C. Former spouse (either category) or natural person with an insurable interest. The premium terminates the first day of the month following the death of the former spouse or natural person with an insurable interest.

★D. Natural Person With an Insurable Interest (not a former spouse). The member will pay the Reserve add-on premium for the lifetime of the member. The Reserve add-on premium is recomputed under paragraph 560305, above, when a member terminates coverage before age 60. Any SBP premium portion of the RCSBP premium terminates effective the first day of the month after member terminates coverage.

560503. Reinstatement

A. Spouse. If the member resumes spouse coverage upon remarriage and the member has met age and service requirements, the premium is effective on the first day of the month after the anniversary date or the birth of a child of that marriage, whichever is earlier. If the anniversary or birth date is the first day of the month, the premium is effective with that month. If the spouse is immediately eligible upon remarriage, the premium is effective the first day of the month after the remarriage. If remarriage occurred on the first day of the month, the premium is effective in the month of remarriage. If member previously elected SSBP coverage, SSBP is reinstated upon remarriage. The level of any previously elected SSBP coverage may not be reduced. The level of SSBP coverage may be increased or SSBP may be added.

B. Child

1. Child resumes school attendance. The SBP premium portion of the RCSBP premium is reinstated on the first day of the month after the child resumes school attendance.

2. Child's marriage is terminated by an annulment which renders the marriage void or invalid, or terminated by a judicial decree by a court of competent jurisdiction declaring the marriage void. The SBP premium portion of the RCSBP premium would be reinstated effective the date the SBP premium portion of the RCSBP premium was terminated by the marriage. The termination of the child's marriage by death of the child's spouse or by divorce does not serve as a basis for reinstatement of child coverage.

3. Member acquires another child following a period where all existing children are no longer eligible, the full RCSBP premium is reinstated on the first day of the month

following the date member acquires the child. The SBP premium portion of the RCSBP premium is recomputed using the age of the youngest child (child only coverage).

C. Former spouse (spouse category). If the former spouse's remarriage is terminated by death of the spouse, annulment, or divorce, RCSBP and SSBP premiums resume on the first day of the month after the marriage is so terminated.

D. Former spouse (insurable interest category) or natural person with an insurable interest. No premium reinstatement situations.

560504. Premium Changes

A. Spouse

1. If a member loses a spouse beneficiary, remarries, and elects to increase the level of coverage, the member pays the difference between any SBP premiums incurred and any SBP premiums that would have been incurred if the new level of participation had been elected originally, including interest. The difference in premiums is remitted before the spouse becomes an eligible beneficiary. The SSBP election is made within one year of the remarriage. SSBP premiums start as of the date the spouse becomes an eligible beneficiary or on the date age and service requirements are met, whichever is later. The SSBP premium is computed using member's age at the time of SSBP election.

2. If a member has spouse and child coverage, and loses the spouse beneficiary, the premium changes from a spouse RCSBP premium to a child RCSBP premium on the first day of the month after spouse eligibility is lost. Any SSBP premium is suspended on the date the RCSBP premium changes. The RCSBP eligible child premium equals SBP child premium plus a Reserve portion of premium. If the child is ineligible, only the Reserve add-on premium portion of the RCSBP premium is charged.

3. If coverage changes from former spouse or former spouse and child to spouse or spouse and child after member meets age and service requirements, the RCSBP premium is computed using member's age as 60 which is the same premium as SBP. The Supplemental SBP premium is associated with RC-SSBP tables.

4. RC-SSBP Tables 56-2 and 56-3 show factors for members over age 60 because a member over age 60 may have RCSBP without Supplemental SBP, divorce and later elect SBP former spouse coverage and elect Supplemental SBP. An RC-SSBP annuity is a percentage of the base amount less the Reserve add-on premium.

5. If member has child coverage and later acquires a spouse beneficiary after the member meets the age and service requirements, the RCSBP premium for the child is changed to an SBP premium for spouse and child. If the spouse later becomes ineligible, the RCSBP is charged for child coverage. If the child becomes ineligible, SBP spouse premium is charged.

B. Child. If child coverage is added to spouse coverage within 1 year of acquiring the child, the premium is recomputed on the first day of the month after member meets age and service requirements or on the first day of the month after member's child election is received by the Secretary concerned. An election effective before member meets age and service requirements is considered RCSBP.

C. Former Spouse

1. If the member has former spouse and child coverage and the former spouse dies or remarries, the premium changes as in subparagraph 560504.A.2., above.

2. If coverage changes from spouse or spouse and child to former spouse or former spouse and child, the change in premium is effective on the first day of the month after member meets the age and service requirements or the first day of the month after the election is received by the Secretary concerned, whichever is later. An election effective after the member meets age and service requirements is considered SBP.

3. The premium for a former spouse under a deemed election by the Secretary concerned is effective on the first day of the month after the later of:

a. The member's retirement date;

b. The first day member could have voluntarily made such an election; or

c. The date of the court order involved.

560505. Other Changes, Suspension, or Terminations of Premium

A. If a member is declared mentally incompetent, later adjudged competent and elects to change the RCSBP or RC-SSBP election, the premium changes the first day of the month following the receipt of the election.

★B. RC-SBP and RC-SSBP premiums increase at the same time and by the same percentage as retired pay cost-of-living adjustments. When the payment of a cost-of-living adjustment is delayed by law, the increase in premiums will be applied at the same time that payment of increased retired pay is payable.

C. If a member is recalled to active duty for more than 30 days, the premium is suspended effective the first day that member returns to active duty.

D. The premium is charged through the date of a member's death.

WORKSHEET USED TO CALCULATE MONTHLY RCSBP REDUCTION

1.	Method:	_____	Offset Method
		_____	Two-tier Method
2.	Type:	_____	Immediate
		_____	Deferred
3.	Option:	_____	Spouse/Former Spouse only
		_____	Spouse/Former Spouse and Child (both beneficiaries still eligible)
		_____	Insurable Interest
		_____	Child only
		_____	Spouse/Former Spouse and Child
		_____	(Spouse/Former Spouse no longer eligible)
4.	Member's age nearest birthday at election:		
5.	Beneficiary's age nearest birthday at election:		
6.	Age difference (4) - (5): (A negative number indicates beneficiary older than member)		
7.	Reserve factor:		
8.	Monthly base amount (gross retired pay for insurable interest option):		
9.	Monthly SBP premium portion of RCSBP premium: (note 1)		
10.	Monthly Reserve add-on premium portion of RCSBP premium: (note 2) (7) x (8) for all options except insurable interest: (7) x (8) - (9) for insurable interest options:		
11.	Monthly RCSBP premium (9) + (10):		
12.	Revised base amount to be used in survivor annuity: (8) - (10) for all options except insurable interest: (8) - (11) for insurable interest option:		

NOTES:
1. The SBP premium portion of the RCSBP should be treated the same as SBP only. The threshold used in the SBP calculation should be the one relating to the basic pay scale used in the calculation of the member's retired pay. See Table 49-1 for SBP threshold amount.
2. When calculating the Reserve add-on premium portion of the RCSBP premium, several things should be noted. Make sure you use the table that relates to the correct method, type, and option. Spouse or former spouse and child factors are the same as spouse or former spouse only factors when both spouse or former spouse and child are still eligible. If the spouse or former spouse becomes ineligible, the factor switches to child only even if the child is no longer eligible. The Reserve add-on premium for child never terminates.

Table 56-1. Worksheet Used To Calculate Monthly RCSBP Reduction

RESERVE-COMPONENT IMMEDIATE SUPPLEMENTAL SPOUSE ANNUITY PREMIUM RATES (EACH 5%)			
Age at Election	**Premium Rate**	**Age at Election**	**Premium Rate**
35	.0363	73	.0468
36	.0359	74	.0490
37	.0352	75	.0512
38	.0349	76	.0536
39	.0344	77	.0564
40	.0338	78	.0589
41	.0335	79	.0615
42	.0317	80	.0642
43	.0308	81	.0672
44	.0307	82	.0700
45	.0307	83	.0731
46	.0305	84	.0766
47	.0303	85	.0810
48	.0298	86	.0849
49	.0294	87	.0894
50	.0289	88	.0936
51	.0286	89	.0987
52	.0283	90	.1037
53	.0281	91	.1087
54	.0279	92	.1137
55	.0276	93	.1187
56	.0273	94	.1236
57	.0270	95	.1284
58	.0267	96	.1331
59	.0262	97	.1376
60	.0250	98	.1418
61	.0266	99	.1454
62	.0279	100	.1476
63	.0293	101	.1511
64	.0307	102	.1565
65	.0321	103	.1610
66	.0337	104	.1639
67	.0353	105	.1693
68	.0369	106	.1800
69	.0386	107	.2035
70	.0405	108	.2658
71	.0424	109	.5677
72	.0447		

Table 56-2. Reserve-Component Immediate Supplemental Spouse Annuity Premium Rates -Each 5%

RESERVE COMPONENT DEFERRED SUPPLEMENTAL SPOUSE ANNUITY PREMIUM RATES (EACH 5%)			
Age at Election	**Premium Rate**	**Age at Election**	**Premium Rate**
35	.0373	73	.0469
36	.0368	74	.0491
37	.0361	75	.0514
38	.0357	76	.0538
39	.0351	77	.0565
40	.0345	78	.0591
41	.0342	79	.0617
42	.0323	80	.0644
43	.0313	81	.0674
44	.0312	82	.0702
45	.0311	83	.0733
46	.0309	84	.0769
47	.0307	85	.0812
48	.0302	86	.0851
49	.0297	87	.0897
50	.0292	88	.0939
51	.0288	89	.0990
52	.0285	90	.1040
53	.0282	91	.1091
54	.0280	92	.1141
55	.0277	93	.1190
56	.0274	94	.1239
57	.0270	95	.1288
58	.0267	96	.1335
59	.0262	97	.1380
60	.0251	98	.1422
61	.0267	99	.1458
62	.0280	100	.1481
63	.0294	101	.1516
64	.0308	102	.1570
65	.0322	103	.1615
66	.0338	104	.1644
67	.0354	105	.1698
68	.0370	106	.1806
69	.0388	107	.2041
70	.0406	108	.2666
71	.0425	109	.5695
72	.0448		

Table 56-3. Reserve-Component Deferred Supplemental Spouse Annuity Premium Rates - Each 5%

CHAPTER 57

RESERVE COMPONENT SURVIVOR BENEFIT PLAN – ANNUITY AMOUNT AND OFFSETS

5701 ANNUITY AMOUNT

570101. General

A. The amount of RCSBP annuity payable to a surviving spouse or former spouse (spouse category) beneficiary is computed in the same manner as SBP except the base amount is reduced by the Reserve add-on premium portion of the RCSBP premium before applying the 35 or 55 percent multiplier. The SBP premium portion of the RCSBP premium is not subtracted from the base amount in determining the annuity amount. The RC-SSBP annuity is computed as the base amount reduced by the Reserve add-on premium portion of the RCSBP premium times the 5 to 20 percent multiplier elected by the member. The monthly annuity for a dependent child is computed on the base amount less the Reserve add-on premium, times 55 percent. The monthly annuity for a natural person with an insurable interest or a former spouse (insurable interest category) is computed on the base amount less the entire RCSBP premium, SBP premium and Reserve add-on premium, times 55 percent.

1. Immediate Annuity Option. If the member dies before age 60 with immediate annuity option, the initial annuity amount payable is computed on the basis of what the member's retired pay would have been on the date of member's death using the basic pay rates on that date.

2. Deferred Annuity Option. If the member dies before age 60 with the deferred annuity option, the initial annuity amount payable is computed on the basis of the retired pay the member would have received had that member lived to age 60 and become entitled to receive retired pay.

B. Public Law 99-145, Section 711 (reference (fc)), establishes a two-tier benefit system for annuitants and eliminates the social security offset system. Effective March 1, 1986, the spouse or former spouse (spouse category) beneficiary who is under age 62 receives a monthly annuity that is computed on the base amount, cost-of-living adjusted, less the Reserve add-on premium, times 55 percent. If the spouse or former spouse is age 62 or more when becoming entitled to the annuity, or the first day of the month after the spouse or former spouse reaches age 62, the monthly annuity is computed on the base amount, cost-of-living adjusted, less the Reserve add-on premium, times 35 percent. However, the eligible spouse or former spouse annuitant on October 1, 1985, or the eligible spouse or former spouse beneficiary of a member on October 1, 1985, who is qualified for that pay except that member has not applied for or been granted that pay, may receive annuity at the 55 percent rate less social security offset, if it is more favorable. There is no subsequent comparison.

C. Effective April 1, 1992, a member may provide the spouse or former spouse (spouse category) annuitant with RC-SSBP coverage. The Supplemental SBP annuity is an additional percentage of the annuity base amount less the Reserve add-on premium portion of the RCSBP premium elected by the member. The RC-SSBP annuity becomes payable when the annuity is reduced at age 62. Supplemental SBP annuity increases by cost-of-living adjustments similar to RCSBP.

570102. Eligible Annuitants and Amounts. Monthly RCSBP and RC-SSBP annuities, if not a multiple of $1, shall be rounded to the next lower multiple of $1. Annuities to which survivors were entitled on September 30, 1983, were rounded with the next cost-of-living adjustment. Then, and with each later cost-of-living adjustment, the annuity is rounded to the next lower multiple of $1. After rounding, RCSBP and RC-SSBP annuities are combined for payment.

A. Spouse or Former Spouse (Spouse Category). See Table 46-1. Generally, however, the RCSBP annuity is somewhat less than 55 or 35 percent, depending on the Reserve add-on premium which is deducted in determining the annuity amount. The RCSBP annuity for a spouse or former spouse is reduced by a Dependency and Indemnity Compensation (DIC) award payable on behalf of the same deceased retired member. The RC-SSBP annuity like the RCSBP annuity is somewhat less than the 5 to 20 percent elected by member. The RC-SSBP annuity is not reduced by DIC.

B. Children Only. If there is more than one eligible child, the annuity is paid in equal shares. The annuity for children is not subject to DIC offset.

C. Spouse and Child or Former Spouse and Child. The annuity is paid to the spouse or former spouse, as long as eligibility exists. If the surviving spouse or former spouse loses eligibility due to death or remarriage before age 55 (age 60, if remarriage is before November 14, 1986), the annuity is paid to the child annuitants. An election for former spouse and child includes the children that resulted from the member-former spouse marriage only. If the member elects coverage for the spouse and children and the spouse is not eligible under 10 U.S.C. 1447(3)(a) (reference (c)), the spouse qualifies as the eligible annuitant on the birthdate of a posthumous child of the marriage.

D. Former Spouse (Insurable Interest Category) or Natural Person With an Insurable Interest. The annuity is payable only to the former spouse or natural person with an insurable interest as designated by or on behalf of the member. The benefits may not be transferred to another person. The annuity is not reduced by DIC.

570103. Payment of Annuity. See paragraph 460103 of this volume. The provisions in subparagraph 460103.C for making annuity payments to representative payees also apply to the RC-SBP program.

5702 OFFSETS TO THE ANNUITY

570201. Offsets. See paragraphs 460201 through 460207 of this volume.

NOTE: The information in Chapters 47 through 50, and 52 of this volume, excluding the minimum income annuitant material, applies to the RCSBP annuitant.

★5703 TAXABILITY OF ANNUITY

570301. The provisions of Chapter 52 of this volume regarding the taxability of annuities also apply to annuities under RCSBP.

REFUND OF MONTHLY RCSBP PREMIUM (See Note)

All figures should be in month that premium calculation is desired. A change would occur in any month where the base amount, DIC, or cost changes. Additionally, the cost formula for the SBP portion on spouse or former spouse coverage changed effective March 1, 1990.

1. Month of premium calculation =
2. Actual RCSBP base amount =
3. Reserve actuarial factor =
4. Reserve add-on premium (2) x (3) =
5. Spouse annuity .55 (or .35) x ((2) - (4)) =
6. DIC amount =
7. Revised spouse annuity (5) - (6) =
8. Revised base amount (7) divided by .55 or (.35) =
9. Calculate N. =

For members with cost computed on the 6.5 percent flat-rate reduction formula, skip to (19).

Step 1. Month of retirement =

Step 2. Point in time premium calculation is Desired =

Step 3. List all applicable cost of living increases which the member received between (or included in) the month listed in steps 1 and 2 as a factor of 1.xxx where xxx is the cost of living increase. For example, the 4.4 percent cost of living increase of March 1981 would be listed as a factor of 1.044.

	FACTORS	
	FULL	SPECIAL
Beginning of SBP	1.0	
March 1981	1.044	
March 1982	1.087	
April 1983	1.039	1.033
December 1984	1.035	

Table 57-1. Refund of Monthly RCSBP Premium (See Note)

December 1986	1.013
December 1987	1.042
December 1988	1.04
December 1989	1.047
December 1990	1.054
December 1991	1.037
December 1992	1.03
December 1993	1.026
December 1994	1.028

Step 4. Multiply all factors in step 3 together. If no factors appear in step 3, use 1.0 here. =

Step 5. N = step 4 x the initial threshold amount. =

10. Revised base amount minus N = (8) - (9) =

11. .025 x the lesser of (8) or (9) =

12. .10 x (10) =

13. Revised RCSBP premium = (11) + (12)
If actual premium for the month is known, skip to (17) =

14. Base less Reserve add-on minus N =
(2) less (4) less (9)

15. .10 x (14) =

16. .025 x (9) =

17. Actual premium = (15) + (16) =

18. Monthly refund = Revised premium less actual premium (17) - (13) =

19. If member had premium computed using the 6.5 percent flat-rate reduction formula, the monthly refund = 6.5 x (2) - (4) less .065 x (8) =

Note: For computation of refund for periods before March 1981, refer to Military Service procedures.

Table 57-1. Refund of Monthly RCSBP Premium (See Note) (Continued)

CHAPTER 58

VICTIMS OF ABUSE-RETIREMENT-ELIGIBLE MEMBERS

5801 BACKGROUND

Public Law 102-484, section 653 (reference (fh)) authorizes various benefits for the spouses and former spouses of retirement-eligible members who lose eligibility for retired pay as a result of misconduct involving abuse of dependents. Generally, the spouses and former spouses are provided the same rights and benefits that they would have had if there had been no abuse and the member had retired under normal circumstances.

5802 DEFINITIONS

580201. The definitions in 10 U.S.C. 1408 (reference (c)), Former Spouse Payments From Retired Pay, which are found in Chapter 29 of this volume, apply to this chapter unless otherwise noted.

580202. Dependent Child. Dependent child means an unmarried legitimate child, including an adopted child or stepchild of the member or former member who is:

A. Under 18 years of age;

B. Incapable of self-support because of a mental or physical incapacity that existed before becoming 18 years of age and is dependent on the member or former member for over one-half of the child's support; or

C. Enrolled in a full-time course of study in an institution of higher education recognized by the Secretary of Defense for these purposes, under 23 years of age and dependent on the member or former member for over one-half of the child's support.

5803 ELIGIBILITY

580301. The DFAS will pay the eligible spouse or former spouse under the following conditions:

A. A court order stipulates (in the same manner applicable to division of property) the payment of an amount from the disposable retired pay of a member or former member to the spouse or former spouse. The court order must satisfy the requirements of 10 U.S.C. 1408(a)(2) (reference (c)). Generally, the court order must be a final decree of divorce, dissolution, annulment, or legal separation issued by a court, or a court-ordered, ratified, or approved property settlement incident to such a decree; and it must specifically provide for the payment of an amount, expressed in dollars or as a percentage of disposable retired pay, from the disposable retired pay of a member to the spouse or former spouse of that member.

B. A member or former member, while a member of the Armed Forces and after becoming eligible to be retired from the Armed Forces on the basis of years of service, has eligibility to receive retired pay terminated as a result of misconduct while a member involving abuse of the spouse or dependent child. The eligibility of the member to receive retired pay as determined by the Secretary concerned is considered terminated effective upon the approval of the court-martial sentence terminating retired pay eligibility; and

C. The spouse or former spouse

1. Was the victim of the abuse and was married to the member or former member at the time of that abuse; or

2. Is a natural or adopted parent of a dependent child of the member or former member who was the victim of the abuse; and

D. The spouse or former spouse to whom payments are to be made was married to the member for a period of 10 years or more during which the member performed at least 10 years of service creditable in determining the member's eligibility for retired pay.

E. If the punishment that results in the termination of eligibility to receive retired pay is later remitted, set aside, or mitigated to a punishment that does not result in termination of eligibility, benefits to the eligible dependent under this chapter that are based on the punishment so vacated, set aside, or mitigated shall cease. Such benefits cease effective on the first day of the first month after the month the Secretary of the Military Department concerned notifies the recipient, in writing, that benefits cease. The recipient may not be required to repay the benefits received before that effective date, excluding any erroneous payments.

5804 APPLICATION FOR PAYMENT

An eligible spouse or former spouse must apply for payment from the supporting DFAS Center, in the same manner as an application for former spouse payments from retired pay, set out in Chapter 29 of this volume.

5805 METHOD OF PAYMENT

580501. The Secretary of the Military Department concerned shall determine and certify the amount of the monthly retired pay that the member or former member would have been entitled to receive as of that date of certification (that is, including any cost-of-living increases to retired pay through the date of certification):

A. If the member or former member's eligibility for retired pay had not been terminated; and

B. If, in the case of a member or former member not in receipt of retired pay immediately before that termination of eligibility for retired pay, the member or former member had retired on the effective date of that termination of eligibility.

580502. When certifying retired pay of a member separated for misconduct involving abuse of a dependent, the Secretary concerned shall ignore reductions in grade and forfeitures of pay or retired pay resulting from the administrative separation or court-martial resulting from the misconduct.

580503. The amount certified by the Secretary concerned shall be deemed to be the disposable retired pay of the member for the purposes of this provision. The total amount payable under this provision may not exceed 50 percent of such disposable retired pay.

580504. A court order may provide that, whenever retired pay is increased under 10 U.S.C. 1401a (reference (c)) (or any other provision of law), the amount payable under the court order to the spouse or former spouse of a member or former member shall be increased at the same time and by the percent by which retired pay would have increased if the member or former member were receiving retired pay.

580505. Payments shall not be made more frequently than once a month.

580506. The effective date for computing retired pay shall be the date that the sentence terminating eligibility for retired pay is approved by the appropriate official.

580507. Payments terminate under the terms of the applicable court order, but not later than the date of the death of the member or former member or the date of death of the spouse or former spouse to whom payments are being made, whichever occurs first.

580508. Payments made to an eligible spouse on the basis of being the natural or adopted parent of a dependent child who was the victim of abuse shall not cease solely because the dependent child is no longer considered a dependent child; that is, payment requires only that the child was dependent at the time of the abuse, and not necessarily at the time of payment.

580509. If a former spouse who is receiving payments under these conditions marries again after the payments begin, his or her eligibility to receive further payments terminates on the date of the marriage. In the event of termination of that marriage by death, annulment or divorce, payments resume as of the first day of the month in which the marriage is terminated. The monthly amount shall be the amount that would have been paid if the continuity of the payments had not been interrupted by the marriage.

580510. Payments shall be made from funds in the Department of Defense Military Retirement Trust Fund.

580511. A spouse or former spouse, while receiving payments under this chapter, is entitled to medical, dental, commissary, exchange, and other benefits as though the member or former member were entitled to retired pay.

580512. A dependent child, who was a member of the household of the member or former member at the time of the misconduct, is entitled to medical, dental, commissary, exchange and other benefits as though the member or former member were entitled to retired pay.

580513. No payments under this chapter accrue for periods before October 23, 1992.

580514. Tax liability for payments under this chapter is the responsibility of the spouse or former spouse who receives the payments.

CHAPTER 59

★VICTIMS OF ABUSE - NON-RETIREMENT ELIGIBLE MEMBERS (Transitional Compensation)

5901 GENERAL

This chapter covers transitional compensation to abused dependents of non-retirement eligible members of the Armed Forces for up to 3 years. Chapter 58 of this volume identifies benefits for spouses and former spouses of retirement-eligible members who lose eligibility for retired pay as a result of misconduct involving abuse of dependents.

590101. Definitions

A. Dependent-Abuse Offense. A criminal offense defined by 10 U.S.C. 801-940 (reference (c)) or other criminal code applicable to the jurisdiction where the act of abuse is committed. Crimes that may qualify as "dependent-abuse offenses" are ones such as sexual assault, rape, sodomy, assault, battery, murder, and manslaughter. This is not an exhaustive or exclusive listing of dependent-abuse offenses.

B. Punitive or Other Adverse Action. An action in which a member of the Armed Forces on active duty more than 30 days is:

1. Convicted of a dependent-abuse offense and whose conviction results in separation from active duty under a court-martial sentence or forfeiture of all pay and allowances under a court-martial sentence; or

2. Administratively separated from active duty under applicable Military Service regulations if the basis for separation includes a dependent-abuse offense.

C. Cohabitation. The spouse or former spouse residing in the same household as the former member after punitive or other adverse action is executed.

D. Dependent Child. An unmarried child, including an adopted child or a stepchild, who is residing with the member at the time of the dependent-abuse which results in the separation of the former member and who is:

1. Under age 18;

2. Age 18 or older and incapable of self-support due to a mental or physical incapacity that existed before age 18 and who is (or, when a punitive or other adverse action was carried out on the member, was) dependent on the member for over one-half of the child's support; or

3. Age 18 or older, but less than age 23, enrolled in a full-time course of study in an institution of higher learning approved by the Secretary of Defense and who is (or, when a punitive or other adverse action was carried out on the member, was) dependent on the member for over one-half of the child's support.

E. Spouse or Former Spouse. The individual who:

1. Is married to the member or former member at the time of the commission of the dependent-abuse offense resulting in separation;

2. Does not cohabit with the member or former member after the punitive or other adverse action; and

3. Was not an active participant in the conduct constituting the dependent-abuse offense.

590102. Eligibility for Transitional Compensation Payment. The dependents of a member who separates on or after November 30, 1993, are eligible for transitional compensation payments. Payments begin on or after December 1, 1993, for qualified dependents. If a recipient is incapable of handling his or her own affairs, payments are made only to court-appointed guardian. In the case of a dependent child under 18 years of age, payments are made only to a court-appointed guardian or a natural parent (who is not a spouse of the member), if the natural parent legally has custody of the dependent child.

A. Spouse or Former Spouse. In the case of a separation from active duty under punitive or other adverse action, payments are made to the person who was the member's spouse at the time of the offense. The spouse or former spouse does not have to be the victim in order to receive transitional compensation. If the spouse or former spouse is ineligible for transitional compensation because of remarriage, cohabitation, or active participation in the abuse, payments are made to each dependent child who does not reside in the same household as the spouse, former spouse, or former member. If there is no eligible spouse for reasons other than those listed in the preceding sentence (e.g., the member was not married or the spouse died), compensation is paid to the dependent children of the member who do not reside in the household of the member.

B. Dependent Child. A dependent child's eligibility is determined as of the date on which the member is convicted of the dependent-abuse offense or the date on which the member is administratively separated. The dependent children receiving the transitional compensation payments cannot live in the same household as the former member or the remarried former spouse.

590103. Commencement and Duration of Payment

A. Payment of transitional compensation begins on the date that:

1. The court-martial sentence was approved by the person acting under 10 U.S.C. 860(c) (reference (c)) if the member has been convicted by a court-martial for a dependent-abuse offense and the court-martial sentence as approved includes a dismissal, dishonorable discharge, or bad conduct discharge; or

2. Separation action was initiated by the commander under regulations of the Secretary concerned, if administratively separated.

B. Payments are made for a period of 36 months. EXCEPTION: If, as of the starting date of payment, the unserved portion of the member's obligated active duty service is less than
36 months, the duration of payment is the greater of the unserved portion or 12 months. For enlisted members, the "obligated active duty service" is the time remaining on their term of enlistment. For officers, the "obligated active duty service" is indefinite unless the officer has a date of separation established, in which case it is the time remaining until the date of separation.

590104. Amount of Payment

A. A spouse or former spouse receives transitional compensation at the same rate as monthly Dependency and Indemnity Compensation (DIC) under 38 U.S.C. 1311(a)(1) (reference (ar)).

DIC Rate	Effective Date
$769	December 1, 1993
790	December 1, 1994
810	December 1, 1995
833	December 1, 1996

B. If the spouse or former spouse has custody of a dependent child or children of the member, transitional compensation is increased for each child by an amount equal to the monthly DIC amount payable for dependent children under 38 U.S.C. 1311(b) (reference (ar)).

DIC Rate	Effective Date
$150	October 1, 1993
200	October 1, 1994
205	December 1, 1995
211	December 1, 1996

C. If transitional compensation is payable only to dependent children, transitional compensation is paid in equal shares in an amount equal to the monthly DIC amount payable for dependent children under 38 U.S.C. 1313 (reference (ar)).

	DIC Child Rate Eff December 1, 1993	DIC Child Rate Eff December 1, 1994	DIC Child Rate Eff December 1, 1995
1 child	$327	$336	$334
2 children	471	484	496
3 children	610	627	643
Over 3	610 + $120 for each child over 3	627 + $123 for each child over 3	643 + $126 for each child over 3

	DIC Child Rate Eff December 1, 1996
1 child	$354
2 children	510
3 children	662
Over 3	$662 + $130 for each child over 3

D. Payments will be prorated for months when payments start or stop in the middle of a month.

E. When paying multiple children and the payment amount does not divide equally, the youngest child shall receive the odd cent(s).

F. Arrears of compensation, in the event of the death of a spouse or dependent child, will not be paid.

590105. Forfeiture Provisions

A. The transitional compensation payable to the spouse or former spouse is forfeited as a result of:

1. Cohabitation. A punitive or other adverse action has been executed and the former member resides in the same household as the spouse or former spouse or child who is receiving the compensation. Compensation terminates as of the date the former member begins residing in that household. Any compensation paid before the member resides in the household shall not be recouped. Once terminated for cohabitation, the payments do not resume.

2. Remarriage. The former spouse who is receiving the compensation remarries. Compensation terminates effective as of the date of the former spouse's remarriage. Payments do not resume if the remarriage is terminated. If the payments to the former spouse terminate due to remarriage and there is a dependent child who is not living in the same household as the former spouse or member, payments shall be made to the eligible dependent child.

3. Active Participation. If the victim was a dependent child, and the spouse has been found by competent authority designated by the Secretary concerned to have been an active participant in the conduct constituting the criminal offense, or to have actively aided or abetted the member in such conduct against that dependent child, the spouse may not be paid transitional compensation. Dependent children living with the spouse also will not receive payment.

B. Annual Certification. The spouse certifies annually to the DFAS-Denver Center that he or she has not remarried and has not been cohabiting with the offender. The form to be used is a Certificate of Eligibility (COE). The spouse must notify the DFAS-Denver Center within 30 days of the date of remarriage or the date the member begins residing in the same household as the spouse or former spouse or dependent child. Dependent children annually will certify that they are not cohabiting with the offender or ineligible spouse via the COE process. If the COE is not received within 60 days of date of COE, payments will be suspended until verification of eligibility is received.

590106. Effect of Military Pay Continuation. Transitional compensation is not payable when a member's court-martial sentence, which includes a dismissal, dishonorable discharge, or bad conduct discharge, is remitted, set aside, or mitigated to a lesser punishment that does not include such punishment; or, the administrative separation is disapproved. Any payment of transitional compensation that has started shall stop effective the first day of the month after the Secretary of the Military Department concerned notifies the recipient in writing that payment shall cease for such reason. The recipient is not required to repay transitional compensation received before the effective date of cessation, excluding erroneous payments.

590107. Multiple Benefits. A spouse or former spouse may not receive both payments of transitional compensation and payments under 10 U.S.C. 1408(h) (reference (c)) of benefits for spouses and former spouses of retirement-eligible members who lost eligibility for retired pay as a result of misconduct involving abuse of dependents. See Chapter 58 of this volume. The spouse or former spouse must elect which benefit he or she chooses to receive.

590108. Effective Date. Transitional compensation provisions apply to members who, on or after November 30, 1993, separate from active duty under a court-martial sentence resulting from a dependent-abuse offense; who separate from active duty for administrative reasons if the basis for separation includes a dependent-abuse offense; or who are sentenced to forfeiture of all pay and allowances by a court-martial which has convicted the member of a dependent-abuse offense.

A. Transitional compensation is payable to dependents who qualify on or after December 1, 1993, for periods on or after December 1, 1993.

B. If payments for the period December 1, 1993, through the expiration of member's active obligated service (ETS) represent less than 12 months, payments continue until the 12 month minimum period is met.

590109. Applications. An individual requests transitional compensation through a Military Service representative. The Military Service representative approves payment, provides the O&M fund cite, and forwards the application to the DFAS at:

DFAS-DE/FRB
6760 East Irvington Place
Denver, CO 80279-6000

Facsimile numbers: DSN 926-4667
COMM (303) 676-4667

APPENDIX A

Blocked Countries

Republic of Cuba

Democratic Kampuchea (Cambodia)

Democratic People's Republic of Korea (North Korea)

(31 CFR 211.1)

APPENDIX B

RSFPP COMPOUND INTEREST TABLE #1

Based on 3% per year - .247% per month
(Period November 1, 1953 - December 31, 1960)

Total Payments Due	Compound Interest Factor	Total Payments Due	Compound Interest Factor	Total Payments Due	Compound Interest Factor
1	1.00000	41	43.08872	81	89.53559
2	2.00247	42	44.19499	82	90.75641
3	3.00740	43	45.30399	83	91.98024
4	4.01482	44	46.41572	84	93.20708
5	5.02472	45	47.53019	85	94.43696
6	6.03712	46	48.64741	86	95.66986
7	7.05200	47	49.76739	87	96.90581
8	8.06940	48	50.89013	88	98.14481
9	9.08930	49	52.01564	89	99.38686
10	10.11171	50	53.14392	90	100.63197
11	11.13665	51	54.27499	91	101.88016
12	12.16412	52	55.40885	92	103.13142
13	13.19412	53	56.54550	93	104.38577
14	14.22666	54	57.68496	94	105.64322
15	15.26175	55	58.82722	95	106.90376
16	16.29939	56	59.97231	96	108.16741
17	17.33958	57	61.12022	97	109.43418
18	18.38235	58	62.27095	98	110.70407
19	19.42768	59	63.42453	99	111.97710
20	20.47560	60	64.58095	100	113.25327
21	21.52610	61	65.74023		
22	22.57918	62	66.90236		
23	23.63487	63	68.06736		
24	24.69316	64	69.23523		
25	25.75406	65	70.40598		
26	26.81758	66	71.57962		
27	27.88372	67	72.75616		
28	28.95249	68	73.93559		
29	30.02389	69	75.11794		
30	31.09794	70	76.30320		
31	32.17463	71	77.49138		
32	33.25398	72	78.68250		
33	34.33600	73	79.87655		
34	35.42068	74	81.07354		
35	36.50803	75	82.27349		
36	37.59807	76	83.47640		
37	38.69080	77	84.68228		
38	39.78622	78	85.89112		
39	40.88434	79	87.10295		
40	41.98518	80	88.31777		

APPENDIX C

RSFPP COMPOUND INTEREST TABLE #2

Based on 3.25% per year - .267% per month
(Period January 1, 1961 - December 31, 1965)

Total Payments Due	Compound Interest Factor	Total Payments Due	Compound Interest Factor	Total Payments Due	Compound Interest Factor
1	1.00000	36	37.73334	71	78.05822
2	2.00267	37	38.83404	72	79.26654
3	3.00801	38	39.93768	73	80.47808
4	4.01604	39	41.04427	74	81.69286
5	5.02676	40	42.15381	75	82.91089
6	6.04017	41	43.26631	76	84.13216
7	7.05629	42	44.38178	77	85.35669
8	8.07513	43	45.50022	78	86.58449
9	9.09668	44	46.62166	79	87.81557
10	10.12095	45	47.74608	80	89.04993
11	11.14797	46	48.87350	81	90.28759
12	12.17772	47	50.00394	82	91.52855
13	13.21022	48	51.13739	83	92.77282
14	14.24547	49	52.27386	84	94.02041
15	15.28349	50	53.41337	85	95.27133
16	16.32428	51	54.55592	86	96.52560
17	17.36785	52	55.70152	87	97.78320
18	18.41420	53	56.85018	88	99.04417
19	19.46334	54	58.00190	89	100.30850
20	20.51528	55	59.15670	90	101.57623
21	21.57004	56	60.31457	91	102.84729
22	22.62760	57	61.47554	92	104.12177
23	23.68799	58	62.63961	93	105.89965
24	24.75121	59	63.80678	94	106.68094
25	25.81727	60	64.97707	95	107.96565
26	26.88617	61	66.15048	96	109.25379
27	27.95792	62	67.32702	97	110.54537
28	29.03254	63	68.50671	98	111.84039
29	30.11002	64	69.68954	99	113.13887
30	31.19038	65	70.87552	100	114.44082
31	32.27362	66	72.06468		
32	33.35975	67	73.25700		
33	34.44878	68	74.45251		
34	35.54072	69	75.65121		
35	36.63557	70	76.85311		

APPENDIX D

RSFPP COMPOUND INTEREST TABLE #3
Based on 3.75% per year - .307% per month
(Period January 1, 1966 – December 31, 1969)

Total Payments Due	Compound Interest Factor	Total Payments Due	Compound Interest Factor	Total Payments Due	Compound Interest Factor
1	1.00000	36	38.00484	71	79.20420
2	2.00307	37	39.12162	72	80.44756
3	3.00923	38	40.24182	73	81.69474
4	4.01847	39	41.36546	74	82.94575
5	5.03082	40	42.49256	75	84.20060
6	6.04628	41	43.62312	76	85.45931
7	7.06485	42	44.75715	77	86.72189
8	8.08656	43	45.89467	78	87.98835
9	9.11141	44	47.03568	79	89.25869
10	10.13940	45	48.18020	80	90.53294
11	11.17056	46	49.32824	81	91.81111
12	12.20488	47	50.47980	82	93.09320
13	13.24238	48	51.63490	83	94.37924
14	14.28307	49	52.79355	84	95.66922
15	15.32695	50	53.95576	85	96.96317
16	16.37404	51	55.12154	86	98.26109
17	17.42435	52	56.29091	87	99.56300
18	18.47789	53	57.46386	88	100.86891
19	19.53466	54	58.64042	89	102.17883
20	20.59469	55	59.82060	90	103.49278
21	21.65796	56	61.00440	91	104.81077
22	22.72451	57	62.19184	92	106.13280
23	23.79433	58	63.38292	93	107.45890
24	24.86744	59	64.57767	94	108.78907
25	25.94385	60	65.77609	95	110.12333
26	27.02356	61	66.97818	96	111.46169
27	28.10659	62	68.18398	97	112.80416
28	29.19295	63	69.39347	98	114.15075
29	30.28264	64	70.60669	99	115.50149
30	31.37569	65	71.82363	100	116.85637
31	32.47209	66	73.04431		
32	33.57186	67	74.26874		
33	34.67501	68	75.49693		
34	35.78155	69	76.72890		
35	36.89149	70	77.96465		

APPENDIX E

RSFPP COMPOUND INTEREST TABLE #4

Based on 4.25% per year (compounded monthly) - .348% per month
(Period January 1, 1970 - February 28, 1975)

Total Payments Due	Compound Interest Factor	Total Payments Due	Compound Interest Factor	Total Payments Due	Compound Interest Factor
1	1.00000	36	38.27784	71	80.36723
2	2.00348	37	39.41084	72	81.64647
3	3.01045	38	40.54778	73	82.93015
4	4.02091	39	41.68867	74	84.21830
5	5.03489	40	42.83352	75	85.51092
6	6.05238	41	43.98235	76	86.80803
7	7.07342	42	45.13517	77	88.10965
8	8.09800	43	46.29200	78	89.41579
9	9.12614	44	47.45284	79	90.72647
10	10.15786	45	48.61772	80	92.04171
11	11.19315	46	49.78665	81	93.36151
12	12.23205	47	50.95964	82	94.68590
13	13.27456	48	52.13670	83	96.01489
14	14.32068	49	53.31786	84	97.34850
15	15.37044	50	54.50312	85	98.68674
16	16.42385	51	55.69249	86	100.02963
17	17.48092	52	56.88600	87	101.37719
18	18.54167	53	58.08365	88	102.72942
19	19.60609	54	59.28547	89	104.08637
20	20.67422	55	60.49146	90	105.44802
21	21.74606	56	61.70164	91	106.81440
22	22.82162	57	62.91603	92	108.18554
23	23.90092	58	64.13464	93	109.56143
24	24.98397	59	65.35748	94	110.94211
25	26.07078	60	66.58457	95	112.32758
26	27.16137	61	67.81592	96	113.71786
27	28.25574	62	69.05155	97	115.11298
28	29.35392	63	70.29148	98	116.51295
29	30.45592	64	71.53571	99	117.91778
30	31.56174	65	72.78426	100	119.32749
31	32.67141	66	74.03716		
32	33.78493	67	75.29440		
33	34.90232	68	76.55602		
34	36.02359	69	77.82202		
35	37.14876	70	79.09242		

APPENDIX F

RSFPP COMPOUND INTEREST TABLE #5

Based on 6% per year (compounded annually) - .487% per month
(Period March 1, 1975 - Current Date)

Total Payments Due	Compound Interest Factor	Total Payments Due	Compound Interest Factor	Total Payments Due	Compound Interest Factor
1	1.00000	36	39.24293	71	84.57023
2	2.00487	37	40.43395	72	85.98189
3	3.01464	38	41.63077	73	87.40041
4	4.02932	39	42.83341	74	88.82584
5	5.04893	40	44.04191	75	90.25821
6	6.07351	41	45.25629	76	91.69755
7	7.10308	42	46.47658	77	93.14390
8	8.13766	43	47.70282	78	94.59729
9	9.17728	44	48.93502	79	96.05775
10	10.22195	45	50.17322	80	97.52532
11	11.27171	46	51.41744	81	99.00004
12	12.32658	47	52.66772	82	100.48193
13	13.38659	48	53.92409	83	101.97104
14	14.45176	49	55.18658	84	103.46739
15	15.52210	50	56.45520	85	104.97103
16	16.59766	51	57.73001	86	106.48198
17	17.67846	52	59.01102	87	108.00030
18	18.76452	53	60.29826	88	109.52600
19	19.85586	54	61.59177	89	111.05913
20	20.95251	55	62.89158	90	112.59972
21	22.05450	56	64.19771	91	114.14781
22	23.16186	57	65.51020	92	115.70343
23	24.27461	58	66.82908	93	117.26663
24	25.39277	59	68.15438	94	118.83744
25	26.51638	60	69.48613	95	120.41589
26	27.64545	61	70.82436	96	122.00202
27	28.78002	62	72.16911	97	123.59588
28	29.92011	63	73.52040	98	125.19749
29	31.06576	64	74.87827	99	126.80690
30	32.21698	65	76.24275	100	128.42415
31	33.37380	66	77.61387		
32	34.53625	67	78.99166		
33	35.70436	68	80.37616		
34	36.87816	69	81.76740		
35	38.05767	70	83.16541		

APPENDIX G

COPY

MEMORANDUM OF UNDERSTANDING BETWEEN THE VETERANS ADMINISTRATION AND THE DEPARTMENT OF DEFENSE

RETIRED PAY AND SURVIVOR ANNUITIES

ARTICLE I

INTRODUCTION

1-1 Purpose. The Memorandum of Understanding (MOU) establishes administrative procedures and assigns responsibilities for the purpose of making timely, accurate, and complete payments of (or deductions from) military retired pay, survivor annuities and specified veterans' benefits. This guidance conforms with pertinent statutory authorities and Comptroller General decisions. The procedures improve coordination between the Veterans Administration (VA) and the Department of Defense (DoD), and minimize benefit overpayments. It supersedes the DoD/VA MOU of July 1969 with the change of September 1976 and the Memorandum of Record of March 11, 1974.

1-2 General. A retired member of the Armed Forces may receive VA compensation payments. To become eligible for VA payments, the member must waive retired pay, or retainer pay, in the amount payable by the VA. The individual's application for VA benefits on VA Form 21-526 or 21-526e constitutes an election of waiver in the absence of a written statement to the contrary. Or, the waiver may be accomplished by executing section I of VA Form 21-651. The Military Service shall accept the award action by the VA as certification. The VA shall provide the Military Service with documentation upon specific request. Legislative increases will be transmitted to the Military Service in the format contained in the attachment. A legislative increase refers to the rates of VA compensation, pension, or Dependency and Indemnity Compensation (DIC) specified in the periodic changes to 38 U.S.C. Chapters 11, 13, and 15.

ARTICLE II

RESPONSIBILITIES

2-1 Responsibilities of VA. The VA shall:

A. Transmit new and revised pay data in the attached format for retired personnel to the Military Services from the VA Data Processing Center (DPC) in Hines, Illinois, using a mutually agreed upon means. This data will be transmitted upon completion of each VA processing cycle, normally twice weekly.

B. Transmit the VA award change data to arrive at the Military Services no later than the 18th calendar day of the month in which the VA amount is to be entered as a reduction in the Military Service account. Accept the Military Service's effective date for VA transaction received by the Military Service after the 18th calendar day of the current month.

C. Ensure that all VA legislative rate transactions are furnished to the Military Service not later than 90 days following the date of the public law authorizing the legislative increase. This shall include those accounts reported by the Military Services to the VA Central Office (VACO) 45 days following the date of the public law authorizing the legislative increase.

D. Recoup any overpayments that result from a legislative increase, when the Military Service is notified of the rate change more than 90 days following the date of the public law authorizing the legislative increase.

E. Ensure that VA improved pension awards (authorized under Public Law 96-385; October 7, 1980) payable concurrently with retired pay are not included in the automated data exchange.

F. Take corrective action on all data input transactions originated by VA, that are rejected by the Military Services due to a validity test discrepancy.

G. Recoup overpayments resulting from VA initial, reopened, and increased awards paid prior to the actual reduction in the Military Service account, provided the Military Service made the reduction on a timely basis upon receipt of the VA award transaction.

H. Ensure the availability of resources to support the interchange of data.

I. Furnish the Military Services with replacement tapes within 48 hours after notification by the Military Services of defective tapes.

2-2 Responsibilities of DoD. The Military Services shall:

A. Process all data received from the VA DPC since the last retired pay file update.

B. Accept the VA effective date as the Military Service effective date of VA award or change provided the transaction is received on a timely basis, is identified as a valid legislative change, or constitutes a decrease in the VA award.

(1) If the effective date of a decreased VA award is earlier than the current activity month, the Military Service shall make the required adjustment.

(2) If the effective date of an initial award of VA benefits to a regular retired officer employed by the Federal Government is earlier than the current activity month, the Military Service will make the adjustment.

(3) If the effective date of an increased VA award that is not a legislative change is earlier than the current activity month, the Military Service shall effect the new amount in the current accounting month and notify the appropriate VA Regional Office (VARO) of the discrepancy. This same procedure will be followed when processing initial awards other than subsection 2-2B.(2), above.

C. Process initial, reopened and increased VA award transactions in the Military Service activity month in which the transaction is received. If the effective date is in a prior month, the Military Service will effect the change in the current activity month and notify the assigned VARO of the discrepancy.

D. Recoup on all transactions with valid effective dates received on or before the 18th calendar day of each month, but processed with a Military Service effective date of the following month.

E. Contact the assigned VARO for resolution of transactions which fail to pass the Military Services' edit and validation routines. The Military Services shall provide sufficient data to identify the transaction and explain why it was rejected.

F. Notify the VA field stations to update the VA records in all VA total waiver cases, when entitlement to retired or retainer pay is terminated or an inactive account (total waiver of retired or retainer pay) is reestablished because of an increase to a rate exceeding the VA compensation.

G. Furnish the assigned VARO with a certification of gross retired or retainer pay and effective dates for the previous two years upon receipt of a transaction that shows VA benefits exceed retired or retainer pay.

H. Ensure resources are available to support the data interchange.

I. Report to the VACO in VARO sequence those accounts not updated by the legislative increase not later than 45 days following the receipt of legislative increase data from the VA DPC.

J. Recoup any overpayments that may result from a legislative increase when notified by the VA within 90 days of the date of the public law authorizing the legislative increase.

K. Notify the VA point of contact within 24 hours of receipt of a defective tape from the VA.

ARTICLE III

PROCEDURES

3-1 VA Improved Pension Payable Concurrently With Retired or Retainer Pay under Public Law 96-385 of October 7, 1980.

A. The VA shall:

(1) Identify retiree accounts that no longer require a waiver of retired or retainer pay.

(2) Notify the Military Service of those retirees who elect to discontinue VA pension payments under prior law to receive an Improved Pension.

(3) Furnish the documentation required by the Military Service for adjusting or resuming retired or retainer pay.

B. The Military Service shall:

(1) Accept the VA effective date (not earlier than October 1, 1980) for payment of retired or retainer pay previously waived when the effective date of Improved Pension payment is a retroactive date.

(2) Adjust retired or retainer pay to reflect payment concurrently with VA Improved Pension.

(3) Furnish the requesting VARO a statement of gross retired or retainer pay rates required for determining the rate of Improved Pension payable.

3-2 Fiduciary Cases. When a retired member who waived retired pay in favor of VA compensation has become incompetent, the trustee or guardian may request withdrawal of a previously executed waiver and restoration of retired pay. The processing will be as follows:

A. When VA receives the restoration request first, it will terminate VA benefits and forward the request to the appropriate Military Service finance center with a cover letter furnishing the date of termination of VA benefits. The receiving Military Service will restore retired pay and return a copy of the letter to the VA, annotated with the amount of the restored pay and the effective date of the restoration. The effective date will be the first day of the month following the month of the termination of VA benefits.

B. When the Military Service finance center receives the restoration request first, it will forward the request to the assigned VARO with a cover letter indicating the monthly gross retired pay. Upon receipt by the VARO, the procedure above will be followed.

3-3 Guaranteed Minimum Income to Widows of Military Retirees.

A. On receipt of a minimum income annuity claim, the Military Service shall:

(1) Prepare a DD Form 1895, Request for Veterans Administration Pension and Annual Income Information, and forward an original and one copy with a copy of DD Form 1885, Survivor Benefit Plan - Minimum Income Claim, to the VARO servicing the widow's pension claim.

(2) Complete the upper right identification data block and lines B and C of the "Eligibility Determination" block, and indicate on line 3 of the DD Form 1895 the effective date of annuity payments, if entitlement is determined.

(3) Suspend the payment and promptly notify the assigned VARO of the death or remarriage of the annuitant, when prior VA notification has not been received.

(4) Initiate the payments. Or, when there is no entitlement, notify the claimant of the reason for ineligibility upon receipt of a complete and authenticated DD Form 1895 from the VA.

(5) Adjust, or discontinue, the Survivor Benefit Plan (SBP) annuity upon receipt of subsequent notification of the adjustment in the widow's annual income for VA purposes before SBP or upon receipt of a termination notice from the VA.

(6) Schedule reductions in future annuity payments and notify the annuitant when SBP overpayments are detected.

(7) Request authorization from the annuitant for collection from future VA pension payments, when DoD payments are not available for such offset.

B. The VARO shall:

(1) Confirm the claimant's entitlement to a VA pension, complete items 1 and 2, and lines D and E of the "Eligibility Determination" block, authenticate, and return the original DD Form 1895 to the appropriate Military Service finance center.

(2) Retain a copy of the DD Forms 1885 and 1895.

(3) Notify the appropriate Military Service on subsequent adjustments to the widow's annual income for VA purposes before SBP or termination of the widow's pension due to death, remarriage, or other reason. The notification shall include the effective date of the VA action, reason and type of action (i.e., pension termination, adjustment, etc.) and the adjusted VA payment.

(4) Effect the collection of SBP overpayments in monthly amount that the annuitant agrees to and forward the collections with identifying listings to the appropriate Military Services.

3-4 DIC Award to Surviving Spouse.

A. Upon death of the retiree who has an eligible spouse beneficiary, the Military Service shall:

(1) Notify the VARO of the retiree's death and furnish the amount of SBP annuity payable.

(2) Request the amount and the effective date of DIC award on behalf of the widow(er) only.

(3) Inform the retiree's annuitant that the SBP annuity will be paid in the full amount due. But, if DIC is awarded, the DIC payment shall be reduced by the amount needed to offset any intervening SBP overpayment. Obtain a statement signed by the annuitant agreeing with the conditions for SBP payment and forward it to VA.

(4) Pay the full SBP annuity amount. If DIC payments are made, pay only the amount by which the SBP entitlement exceeds the DIC award.

(5) Furnish the VARO with a statement of the amount (if any) to be recouped from DIC with the annuitant's signed authorization for withholding to satisfy an existing SBP overpayment created by the DIC and SBP overlap. If no recoupment is required, a negative statement will be furnished to the VARO.

(6) Enter the current, basic DIC award amount as a reduction to the SBP annuity.

B. The VA shall:

(1) Research files to associate SBP notices with pertinent files regarding the annuitant.

(2) Upon receipt of the SBP award, query the VA Beneficiary Identification and Records Locator Subsystem (BIRLS) to determine whether there is a current VA claim file. When no current file exists, a VA claim file will be established, containing sufficient information to alert the VARO to a DIC-SBP payment overlap should DIC be awarded later to the annuitant.

(3) Access SBP payment files on the award of DIC payments; and when an overlap exists, offset the initial DIC payment by the amount necessary to recoup any SBP overpayment.

(4) Contact the appropriate Military Service to request the amount of SBP payment to be withheld from the DIC award and furnish the DIC effective date and amount awarded.

(5) Forward a check in the amount of the recoupment with the information necessary for adjusting the SBP payments to the Military Service.

(6) Furnish the DIC rate changes, or late awards for basic DIC rates only, to the Military Service.

3-5 SBP Premium Payments by Retirees Receiving Emergency Officers Retired List (EORL) or Pension/ Compensation Payments.

A. The Military Services shall:

(1) Forward retiree requests for payments of SBP premiums by VA deductions from EORL or compensation payments to the servicing VARO. A retiree's request must provide for collection of the current SBP premium payable and future adjustments in the amount due to cost-of-living or other changes requiring a premium adjustment. Requests will not require retroactive reductions by the VA without prior agreement.

(2) Notify VA of any necessary adjustment to the premium amount.

B. The VA shall:

(1) Deduct premium the first of the month specified in the election.

(2) Process the requested deduction and forward monthly checks and listing (identifying retirees by name, social security number, and the amount of deduction) to the appropriate Military Service.

3-6 File Development and Maintenance.

A. DoD standard data elements and codes, as published in DoD Manual 5000.12-M, will be used, when available and applicable.

B. Comparable data edit and validation routines will be maintained by the VA and the Military Services.

ARTICLE IV

EFFECTIVE DATE, MODIFICATION, AND TERMINATION

4-1 Duration. The memorandum becomes effective on the date of the last signature. Either party may propose amendments to this MOU, but both must agree for amendments to take effect. Either party may terminate the MOU upon 30 days written notice to the other party.

/S/ Robert W. Helm
Robert W. Helm
Assistant Secretary of Defense
(Comptroller)

Jun 13, 1985

/S/ Harry W. Walters
ADMINISTRATOR OF VETERANS AFFAIRS

ATTACHMENT

DATA RECORD FORMAT

Field Descriptions	Positions
Blanks	1-3
Name of Person Entitled	4-7
Blanks	8-10
Veteran's SSN	11-19
Blank	20
Branch of Service	21
Veteran's SSN Verification Ind	22
File Number	23-31
Payee Number	32-33
Station Number	34-35
Transaction Code	36-37
Processing Month	38-39
Processing Cycle	40
Master Record Type	41
Blank	42
Amount (prior)	43-48
Effective Date (prior)	49-54
Amount 1	55-60
Effective Date 1	61-66
Reason Code 1	67-68
Blanks	69-86
Date of Death	87-92
Active Reservist Indicator	93
Special Law Code 06-08	94-95
Competency Code	96
Special Law 01	97-98
Withholding Indicator	99
Pay Grade	100-101
Payee's SSN	102-110
Payee's SSN Verification Ind	111
Veteran's Name	112-115
Blanks	116-120

APPENDIX H

AGE OF MAJORITY
BY STATE & UNITED STATES POSSESSIONS

Alabama	19	Ohio	18
Alaska	19	Oklahoma	18
Arizona	18	Oregon	18
Arkansas	18	Pennsylvania	21
California	18	Puerto Rico	21
Colorado	18	Rhode Island	18
(For Contracts)		South Carolina	18
Connecticut	18	South Dakota	18
Delaware	18	Tennessee	18
District of Columbia	18	Texas	18
Florida	18	Utah	18
Georgia	18	Vermont	18
Hawaii	18	Virginia	18
Idaho	18	Virgin Islands	18
Illinois	18	Washington	18
Indiana	18	West Virginia	18
Iowa	18	Wisconsin	18
Kansas	18	Wyoming	19
Kentucky	18		
Louisiana	18		
Maine	18		
Maryland	18		
Massachusetts	18		
Michigan	18		
Minnesota	18		
Mississippi	21		
Missouri	18		
Montana	18		
Nebraska	19		
Nevada	18		
New Hampshire	18		
New Jersey	18		
New Mexico	18		
New York	18		
North Carolina	18		
North Dakota	18		

APPENDIX I

COMPARABLE GRADES

Grade	Army	Navy	Marine Corps	Air Force
0-10	General	Admiral	General	General
0-9	Lieutenant General	Vice Admiral	Lieutenant General	Lieutenant General
0-8	Major General	Real Admiral	Major General	Major General
0-7	Brigadier General	Rear Admiral (LH)	Brigadier General	Brigadier General
0-6	Colonel	Captain	Colonel	Colonel
0-5	Lieutenant Colonel	Commander	Lieutenant Colonel	Lieutenant Colonel
0-4	Major	Lieutenant Commander	Major	Major
0-3	Captain	Lieutenant	Captain	Captain
0-2	1st Lieutenant	Lieutenant (JG)	1st Lieutenant	1st Lieutenant
0-1	2nd Lieutenant	Ensign	2nd Lieutenant	2nd Lieutenant

Grade	Army	Navy	Marine Corps	Air Force
E-9	Sergeant Major and Specialist Nine	Master Chief Petty Officer	Sergeant Major or Master Gunnery Sergeant	Chief Master Sergeant
E-8	First Sergeant or Master Sergeant and Specialist Eight	Senior Chief Petty Officer	Sergeant Major or Master Gunnery Sergeant	Senior Master Sergeant
E-7	Platoon Sergeant or Sergeant First Class and Specialist Seven	Chief Petty Officer	Gunnery Sergeant	Master Sergeant
E-6	Staff Sergeant and Specialist Six	Petty Officer, 1st Class	Staff Sergeant	Technical Sergeant
E-5	Sergeant and Specialist Five	Petty Officer, 2nd Class	Sergeant	Staff Sergeant
E-4	Corporal and Specialist Four	Petty Officer, 3rd Class	Corporal	Sergeant and Airman
E-3	Private First Class	Seaman	Lance Corporal	Airman First Class
E-2	Private	Seaman Apprentice	Private First Class	Airman
E-1	Private	Seaman Recruit	Private	Airman Basic

APPENDIX J

STATE TAX REPORTING

State	Mail Copy 1 of IRS TD 1099 or Automated Reports to:	State	Mail Copy 1 of IRS TD 1099 or Automated Reports to:
Alabama	State Department of Revenue Montgomery AL 36102	Illinois	Illinois Department of Revenue PO Box 3627 Springfield IL 62708
Alaska	Department of Taxation State of Alaska Juneau AK 99080	Indiana	State Gross Income Tax Division Indianapolis IN 46204
Arizona	State Tax Commission 1700 W. Washington Phoenix AZ 85007	Iowa	State Tax Commission Des Moines IA 50319
Arkansas	Income Tax Division Arkansas Revenue Dept State Revenue Building Little Rock AR 72201	Kansas	Kansas Director of Revenue Income Tax Division State Office Building Topeka KS 66612
California	Franchise Tax Board Sacramento CA 95814	Kentucky	State Department of Revenue Frankfort KY 40601
Colorado	State Department of Revenue Denver CO 80203	Louisiana	Collector of Revenue PO Box 201 Baton Rouge LA 70821
Connecticut	Dept of Revenue Services 92 Farmington Avenue Hartford CT 06105	Maine	Income Tax Division Maine Bureau of Taxation State House Augusta ME 04330
Delaware	State Tax Department Wilmington DE 19899	Maryland	Comptroller of the Treasury Income Tax Division Annapolis MD 21404
District of Columbia	Assessor District of Columbia Washington DC 20004	Massachusetts	State Department of Corporation and Taxation 100 Cambridge St Boston MA 02202
Georgia	State Department of Revenue Atlanta GA 30334	Michigan	Michigan Income Tax Treasury Building Lansing MI 48924
Hawaii	State Tax Commissioner Honolulu HI 96809	Minnesota	State Department of Taxation St Paul MN 55101
Idaho	Office of State Tax Collector Boise ID 83701	Mississippi	State Tax Commission Jackson MS 39205

APPENDIX J

STATE TAX REPORTING
(Continued)

State	Mail Copy 1 of IRS TD 1099 or Automated Reports to:	State	Mail Copy 1 of IRS TD 1099 or Automated Reports to:
Missouri	Department of Revenue Income Tax Department PO Box 629 Jefferson City MO 65101	Oregon	State Tax Commission Salem OR 97310
Montana	Department of Revenue State Capitol Building Helena MT 59601	Pennsylvania	Department of Revenue Personal Income Tax Bureau Harrisburg PA 17129
Nebraska	Nebraska Dept of Revenue Box 94818 Lincoln NE 68509	Rhode Island	Division of Taxation 269 Promenade Street Providence RI 02908
New Mexico	State of New Mexico Bureau of Revenue Santa Fe NM 87503	South Carolina	State Tax Commission Columbia SC 29202
New York	State Income Tax Bureau Albany NY 12227	Utah	State Tax Commission Salt Lake City UT 84114
North Carolina	State Department of Revenue Raleigh NC 27602	Vermont	Commissioner of Taxes Montpelier VT 05602
North Dakota	North Dakota State Tax Dept State Capitol Bismarck ND 58501	Virginia	State Department of Taxation Richmond VA 23215
Ohio	Department of Taxation 60 E. Gay Street Columbus OH 43215	West Virginia	State Tax Commission State of West Virginia Charleston WV 25305
Oklahoma	Oklahoma Tax Commission Oklahoma City OK 73194	Wisconsin	State Department of Taxation Madison WI 53702

Note: Information shown in this appendix was by the Government Accounting Systems Staff, Financial Management Service, Department of the Treasury.

APPENDIX K

REPORTS OF EXISTENCE

1. The requirement for reports of existence (ROE) frequently is questioned by retired members or management officials not familiar with the retired payroll system. The requirement is based on the fact that retired pay is payable only during the lifetime of the retired member and unless otherwise authorized by law or regulation. The check must be issued with the retired member as payee. As early as 1931, the General Accounting Office recognized that certain controls over the issuance and delivery of retired pay checks were necessary for protection of government funds.

2. Checks may be issued to a person or institution other than the retired member only under these conditions:

a. When the retiree has been declared mentally incompetent and a trustee, guardian, or fiduciary has been appointed to manage the financial affairs of the retiree.

b. Under Treasury Department regulations providing for the checks to be made payable to a financial institution, or for the issuance of composite checks and electronic fund transfer of payments where several members have designated the same financial institution for deposit of their retired pay checks.

Under subparagraph 2.a., above, a monthly ROE must be filed by the fiduciary. Under subparagraph 2.b., above, Treasury Department regulations place responsibility on the financial institution that funds deposited after the death of the member will be returned.

3. For checks mailed to retirees within the United States, the Comptroller General of the United States relies on the US Postal Service not to deliver checks after the death of the payee. The check envelope carries a notice to the Postmaster that if the addressee is deceased, the check must be returned to the sender. Also, "Retired pay payable only during the life of the payee," is printed on all retired pay checks under the object for which drawn. During the lifetime of the retired member, a further control against fraudulently endorsed and cashed checks is provided by the member's notifying the retired pay activity of non-receipt or a lost check. This control no longer applies after the death of the member. Without the precautions cited above, checks could continue to be cashed either fraudulently or in the mistaken belief of entitlement.

4. In addition to ROEs from fiduciaries, monthly reports are required from members whose checks are delivered through foreign postal systems. However, many members living in a foreign country receive these checks in person at United States military activities, embassies, or consulates, or report their existence to such activities monthly before deposit of their check into a foreign mail system.

5. This is a chronology of Comptroller General decisions showing the changes in control requirements:

a. **A-3531, Apr 6, 1931**. The Comptroller General established a policy to provide full protection to the government in payment of retired pay. In this letter, the Comptroller General required that this certification be signed by the proper administrative officer and attached to the retirement pay voucher, roll or schedule:

"I certify that each person to whom retirement pay is paid and not under guardianship or committee has reported over his bona-fide signature within the last 12 months his residence; that each person known to have given a power of attorney to endorse his checks for pay has reported on the last day or thereafter to which he is paid over his bona-fide signature: that reports as to the continued existence of each person paid who is under guardianship or in the custody of a committee, or whose estate is under control of a conservator has been received from the guardian, committee or conservator on or subsequent to the last day for which payment is made, and that each person residing in the foreign country or was traveling from his permanent residence as reported to this department has reported over his bona-fide signature on the last day or thereafter to which he is paid."

b. **A-3551, June 29, 1931**. The Comptroller General permitted Navy members living in China to send ROEs to the Navy Purchasing Office (NPO) in Shanghai, and checks were sent in bulk, to the NPO Shanghai for delivery to the members. However, the Comptroller General required that the ROEs should be forwarded to the Retired Pay Department each month by the NPO.

c. **A-3551, Dec 3, 1932**. The Comptroller General approved the application of the June 29, 1931 decision cited above to Fleet reservists and retired members living in the Philippine Islands to have their checks delivered via the Commandant of the 16th Naval District.

d. **A-3551, Dec 15, 1932**. The Comptroller General agreed that the procedure for bulk mailing of checks described in A-3551, June 29, 1931, could also be applied to Guam. This decision extended the concept that a third party could control ROEs. The checks were sent to the Governor of Guam rather than to a Navy activity.

e. **A-3551, Feb 10, 1933**. The Comptroller General agreed to extension of the procedure cited in the previous decisions to the Governor of American Samoa and to the Commandant of the 14th Naval District (Hawaii). However, permission to use the procedure using American consuls was denied. The decision stated in part:

"With respect to alleged hardships suffered by men residing in foreign countries generally, it would appear that the requirement of the initial certificate may have entailed a slight inconvenience due to its transmission to and receipt by the paying officer, and thereafter mailing of the check to the payee, but it would seem that if said requirement had been and is being properly complied with on the last day of each month, checks should be regularly received by the payee at monthly intervals. But irrespective of any inconvenience incident to the mailing of the certificate, the practice of mailing checks to third persons generally, including American consuls, for individuals residing abroad in their consular districts is unsound in that it increases possibility of loss and no substantial reason is apparent why the procedure should now be extended. These men receiving

substantial bounty from the Treasury of the United States and reasonable regulations for the purpose of guarding against losses to the government should not be further waived or relinquished for their individual benefit or convenience."

f. **A-3551, Aug 21, 1933**. The Comptroller General agreed to alteration of the paying officer's certificate of the monthly payroll. The revised certification follows with additions underlined and deletions bracketed:

"I certify that each person to whom retirement pay is paid and not under guardianship or committee has reported over his bona-fide signature within the last 12 months his residence; that each person known to have given power of attorney to endorse his checks for pay **or whose check is mailed to a bank** has reported on the last day or thereafter to which he is paid over bona-fide signature; that reports as to the continued existence of each person paid who is under guardianship, or in the custody of a committee or whose estate is under the control of a conservator (has) **have** been received from the guardian, committee, or conservator on or subsequent to the last day for which payment is made, and that each person residing **or traveling** in a foreign country (or who was traveling from his permanent residence as reported to this department) has reported over his bona-fide signature on the last day or thereafter to which he is paid."

g. **A-3551, Oct 24, 1946**. It was proposed that a procedure be authorized whereby a member's acknowledgment (ROE) of the receipt of a check would permit the release of the check for the next month (a 1-month-behind basis). The Comptroller General ruled:

"While it is fully appreciated that there may be cases where the delayed delivery of a retirement check may cause personal hardship, less effective measures than those above outlined would not, in the opinion of this office, fully protect the interests of the United States. Accordingly, permission for the adoption of the proposal. . . for mailing of retirement pay checks is withheld."

h. **A-3551, Mar 9, 1951**. The annual ROE for retired members having their checks mailed to a home address within the United States was eliminated. The Comptroller General approved a proposal to:

(1) Print "Retired Pay payable only during the life of the payee" under "object for which drawn" on the checks; and

(2) Print a notice on the envelopes being used that would direct postal employees not to forward the contents to addresses other than those shown and directing that delivery not be made where payee is deceased, but to return the letter to the issuing office. With further recognition that postal employees in the United States would respect such procedures, the Comptroller General eliminated the annual report requirement for accounts meeting the above requirements.

i. **A-3551, Feb 3, 1964**. The Comptroller General ruled that ROEs were not required if a payment is made payable to a member:

(1) Who is traveling outside the United States and the check is mailed to a bank or residence in the United States.

(2) Who lives in The Philippines and has checks mailed to a bank in the United States.

The Comptroller General also indicated ROEs would not be required if the check were made payable to a bank or financial institution:

"There is no objection to the issuance of retired pay checks payable to a bank for credit to the account of the retired officer of the Army who has made assignment thereof if the check carries an appropriate legend to the effect that the check is payable only during the life of the retired officer and that the check is not subject to deposit in a joint account in which the retired officer is named and the bank is appropriately notified that crediting the check to a joint account will be at its risk."

This same letter indicated that if allotments of retired pay are authorized by regulation, there is no objection to permitting an allotment of a member's retired pay in favor of a bank if the same check legend (payable only during the lifetime of the retired officer) and notice to the bank (not to be deposited to a joint account), mentioned above are observed.

(j.) **44 Comp Gen 208**. In response to a request that reports be obtained on a "1-month-behind" basis (previously proposed in 1946), the Comptroller General agreed that technological improvements in methods of payment, record keeping and communications made such procedure acceptable. The system should work:

"A report would be enclosed with each check with instructions to complete and return it. Thus, reports of existence would still be required on a monthly basis, but there would be an after-the-fact verification of the member's existence, which would eliminate the delay in release of checks, reduce handling costs, simplify procedures, and the maximum overpayment which could result would be 1 month's retired pay."

(k.) **53 Comp Gen 75**. The Comptroller General authorized that composite retired pay checks in favor of a financial institution could be made where a group of retired members had all designated the same financial institution as an address for their retired pay checks. This authorization was tentative and subject to the issuance of Treasury regulations which require the financial institution to return to the retired pay activity any deposits made to retired members after date of death.

(l.) **B-206129, June 28, 1982**. The Comptroller General agreed the furnishing of ROEs by military retirees and survivor annuitants whose checks are mailed to a foreign address and delivered through foreign postal channels may be changed to semiannual reporting from the current "1-month-behind" reporting requirement.

APPENDIX L

DEPENDENCY AND INDEMNITY COMPENSATION RATES
JANUARY 1, 1972 – OCTOBER 1, 1976

PAY GRADE	PL 92-197 December 15, 1971 Eff January 1, 1972	PL 93-295 May 31, 1974 Eff May 1, 1974	PL 94-71 August 5, 1975 Eff August 1, 1975	PL 94-433 September 30, 1976 Eff October 1, 1976
E1	$184	$215	$241	$260
E2	189	221	248	268
E3	195	228	255	275
E4	206	241	270	292
E5	212	248	278	300
E6	217	254	284	307
E7	227	266	298	322
E8	240	281	315	340
E9	251	294	329	355
Sgt Major of the Army	270	316	354	382
Sr Enl Adv of the Navy	270	316	354	382
Ch MSgt of the Air Force	270	316	354	382
Sgt Major of the Marines	270	316	354	382
W-1	232	271	304	328
W-2	241	282	316	341
W-3	249	291	326	352
W-4	262	307	344	372
O-1	232	271	304	328
O-2	240	281	315	340
O-3	257	301	337	364
O-4	272	318	356	384
O-5	299	350	392	423
O-6	337	394	441	476
O-7	365	427	478	516
O-8	399	467	523	565
O-9	429	502	562	607
O-10	469	549	615	664
Chm Joint Chiefs of Staff	503	589	660	712
Chief of Staff – Army	503	589	660	712
Chief of Naval Operations	503	589	660	712
Chief of Staff – Air Force	503	589	660	712
Commandant – Marine Corps	503	589	660	712

APPENDIX L

DEPENDENCY AND INDEMNITY COMPENSATION RATES OCTOBER 1, 1977 - OCTOBER 1, 1980

PAY GRADE	PL 95-117 October 3, 1977 Eff October 1, 1977	PL 95-479 October 18, 1978 Eff October 1, 1978	PL 96-128 November 28, 1979 Eff October 1, 1979	PL 96-385 May 7, 1980 Eff October 1, 1980
E1	$277	$297	$326	$373
E2	286	307	337	385
E3	293	314	345	394
E4	311	334	367	419
E5	320	343	377	431
E6	327	351	386	441
E7	343	368	404	462
E8	362	388	426	487
E9	378	406	446	510
Sgt Major of the Army	407	437	480	549
Sr Enl Adv of the Navy	407	437	480	549
Ch MSgt of the Air Force	407	437	480	549
Sgt Major of Marines	407	437	480	549
W-1	350	376	413	472
W-2	364	391	430	491
W-3	375	402	442	505
W-4	397	426	468	535
O-1	350	376	413	472
O-2	362	388	426	487
O-3	386	416	457	522
O-4	409	439	482	551
O-5	451	484	532	608
O-6	507	544	598	684
O-7	550	590	648	741
O-8	602	646	710	812
O-9	647	694	763	872
O-10	708	760	835	954
Chm Joint Chiefs of Staff	759	814	895	1,023
Chief of Staff – Army	759	814	895	1,023
Chief of Naval Operations	759	814	895	1,023
Chief of Staff – Air Force	759	814	895	1,023
Commandant – Marine Corps	759	814	895	1,023

APPENDIX L

DEPENDENCY AND INDEMNITY COMPENSATION RATES OCTOBER 1, 1981 - DECEMBER 1, 1984

PAY GRADE	PL 97-66 October 17, 1981 Eff October 1, 1981	PL 97-306 October 14, 1982 Eff October 1, 1982	PL 98-223 March 2, 1984 Eff April 1, 1984	PL 98-543 October 24, 1984 Eff December 1, 1984
E1	$415	$445	$461	$476
E2	428	459	475	490
E3	438	470	486	502
E4	466	500	518	535
E5	479	514	532	549
E6	490	526	544	561
E7	514	552	571	589
E8	542	582	602	621
E9	567	608	629	649
Sgt Major of the Army	610	655	678	700
Sr Enl Adv of the Navy	610	655	678	700
Ch MSgt of the Air Force	610	655	678	700
Sgt Major of the Marines	610	655	678	700
W-1	525	563	583	602
W-2	546	586	607	626
W-3	562	603	624	644
W-4	595	639	661	682
O-1	525	563	583	602
O-2	542	582	602	621
O-3	580	622	644	665
O-4	613	658	681	703
O-5	676	726	751	775
O-6	761	817	846	873
O-7	824	884	915	944
O-8	903	969	1,003	1,035
O-9	970	1,041	1,077	1,111
O-10	1,161	1,139	1,179	1,217
Chm Joint Chiefs of Staff	1,138	1,222	1,265	1,305
Chief of Staff – Army	1,138	1,222	1,265	1,305
Chief of Naval Operations	1,138	1,222	1,265	1,305
Chief of Staff – Air Force	1,138	1,222	1,265	1,305
Commandant – Marine Corps	1,138	1,222	1,265	1,305

APPENDIX L

DEPENDENCY AND INDEMNITY COMPENSATION RATES DECEMBER 1, 1985 - JANUARY 1, 1991

PAY GRADE	PL 99-238 Eff December 1, 1985	PL 99-576 Eff December 1, 1986	PL 100-227 Eff December 1, 1987	PL 100-687 Eff December 1, 1988	PL 100-237 Eff December 1, 1989	PL 102-3 Eff 1 January 1991
E1	$491	$498	$518	$539	$564	$594
E2	505	513	534	555	581	612
E3	518	526	548	570	597	629
E4	552	560	583	606	634	668
E5	566	574	598	622	651	686
E6	578	587	611	636	666	701
E7	607	616	641	667	698	735
E8	640	650	677	704	737	776
E9	669	679	707	735	770	811
Sgt Major of the Army	722	733	763	794	831	875
Sr Enl Adv of the Navy	722	733	763	794	831	875
Ch MSgt of the AF	722	733	763	794	831	875
Sgt Major of the Marines	722	733	763	794	831	875
MCPO of the Coast Guard			763	794	831	875
W-1	621	630	656	682	714	752
W-2	645	655	682	709	742	782
W-3	664	674	702	730	764	805
W-4	703	714	743	773	809	852
O-1	621	630	656	682	714	752
O-2	640	650	677	704	737	776
O-3	686	696	725	754	789	831
O-4	725	736	766	797	834	879
O-5	799	811	845	879	920	969
O-6	900	914	952	991	1,038	1,094
O-7	973	988	1,029	1,071	1,121	1,181
O-8	1,067	1,083	1,128	1,174	1,229	1,295
O-9	1,145	1,162	1,210	1,259	1,318	1,389
O-10	1,255	1,274	1,327	1,381	1,446	1,524
Chm Joint Chiefs of Staff	1,345	1,365	1,422	1,480	1,550	1,633
Chief of Staff – Army						
Chief of Naval Operations	1,345	1,365	1,422	1,480	1,550	1,633
Chief of Staff - Air Force	1,345	1,365	1,422	1,480	1,550	1,633
Commandant – Marine Corps	1,345	1,365	1,422	1,480	1,550	1,633
Commandant – Coast Guard			1,422	1,480	1,550	1,663

APPENDIX L

DEPENDENCY AND INDEMNITY COMPENSATION RATES DECEMBER 1, 1991 - DECEMBER 1, 1994

PAY GRADE	PL 102-152 Eff December 1, 1991	PL 102-510 Eff December 1, 1992 (Note 1)	PL 103-140 Eff December 1, 1993 (Note 1)	PL 103-418 Eff December 1, 1994 (Note 1)
E1	$616	$634		
E2	635	654		
E3	652	672		
E4	693	714		
E5	711	732		
E6	727	749		
E7	762	785	794	816
E8	805	829	838	861
E9	841	866	875	899
Sgt Major of the Army	907	934	943	969
Sr Enl Adv of the Navy	907	934	943	969
Ch MSgt of the AF	907	934	943	969
Sgt Major of the Marine Corps	907	934	943	969
MCPO of the Coast Guard	907	934	943	969
W-1	780	803	812	834
W-2	811	835	844	867
W-3	835	860	869	893
W-4	884	911	920	945
O-1	780	803	812	834
O-2	805	829	838	861
O-3	862	888	897	922
O-4	912	939	948	974
O-5	1,005	1,035	1,044	1,073
O-6	1,134	1,168	1,177	1,209
O-7	1,225	1,262	1,271	1,306
O-8	1,343	1,383	1,392	1,430
O-9	1,440	1,483	1,492	1,533
O-10	1,580	1,627	1,636	1,681
Chm Joint Chiefs of Staff	1,693	1,744	1,753	1,802
Chief of Staff - Army	1,693	1,744	1,753	1,802
Chief of Naval Ops - Navy	1,693	1,744	1,753	1,802
Chief of Staff - Air Force	1,693	1,744	1,753	1,802
Commandant - Marine Corps	1,693	1,744	1,753	1,802
Commandant – Coast Guard	1,693	1,744	1,753	1,802

APPENDIX L

DEPENDENCY AND INDEMNITY COMPENSATION RATES DECEMBER 1, 1995 - DECEMBER 1, 1996

PAY GRADES	PL 104-57 Eff December 1, 1995 (Note 1)	★PL 104-263 Eff December 1, 1996 (Note 1)
E-1	(blank)	(blank)
E-2	"	"
E-3	"	"
E-4	"	"
E-5	"	"
E-6	"	"
E-7	837	861
E-8	883	909
E-9	922	949
Sgt Major of the Army	994	1023
Sr Enl Adv of the Navy	994	1023
CH MSgt of the Air Force	994	1023
Sgt Major of the Marine Corps	994	1023
MCPO of the Coast Guard	994	1023
W-1	855	880
W-2	889	915
W-3	916	943
W-4	969	997
O-1	855	880
O-2	883	909
O-3	945	972
O-4	999	1028
O-5	1,100	1132
O-6	1,240	1276
O-7	1,339	1378
O-8	1,467	1510
O-9	1,572	1618
O-10	1,724	1774
CHM Joint Chiefs of Staff	1,848	1902
Chief of Staff - Army	1,848	1902
Chief of Naval Ops	1,848	1902
Chief of Staff - Air Force	1,848	1902
Commandant - Marine Corps	1,848	1902
Commandant - Coast Guard		

Note:

1. DIC is payable at a flat rate as increased by cost-of-living adjustments, when a veteran dies on or after January 1, 1993. An additional amount may be payable if the veteran was receiving a service-connected disability compensation (or would have but for the receipt of retired or retainer pay) for at least 8 years immediately preceding death. If a veteran dies before January 1, 1993, DIC is payable based on the pay grade of the veteran; however, effective January 1, 1993, DIC is payable at the flat rate of $750 (including $165, if applicable) if it is more favorable than the DIC amount based on veteran's pay grade.

Flat Rate	Additional	Effective Date
$769	$169	December 1, 1993
$790	$173	December 1, 1994
★$810	$177	December 1, 1995
★$833	$182	December 1, 1996

Dependency And Indemnity Compensation Rates
(continued)

APPENDIX M

TOTAL EARNINGS TABLE

Year of Retirement	Maximum Pay Covered By Social Security	Year of Retirement	Maximum Pay Covered By Social Security
1957	$4,200	1982	$32,400
1958	4,200	1983	35,700
1959	4,800	1984	37,800
1960	4,800	1985	39,600
1961	4,800	1986	42,000
1962	4,800	1987	43,800
1963	4,800	1988	45,000
1964	4,800	1989	48,000
1965	4,800	1990	51,300
1966	6,600	1991	53,400
1967	6,600	1992	55,500
1968	7,800	1993	57,600
1969	7,800	1994	60,600
1970	7,800	1995	61,200
1971	7,800	1996	62,700
1972	9,000	1997	★65,400
1973	10,800	1998	
1974	13,200		
1975	14,100		
1976	15,300		
1977	16,500		
1978	17,700		
1979	22,900		
1980	25,900		
1981	29,700		

If member made less than these amounts, add up to $1,200 per year free credits ($300 per quarter or $100 per month for quarter in which member retires) to bring up to maximum.

APPENDIX N

SOCIAL SECURITY PIA TABLES

Average Monthly Wage		Primary Insurance Amount					
At least	But not more than	Sep 72	Mar 74	Jun 74	Jun 75	Jun 76	Jun 77
$	$76	$84.50	$90.50	$93.80	$101.40	$107.90	$114.30
77	78	85.80	91.90	95.30	103.00	109.60	116.10
79	80	87.80	94.00	97.50	105.30	112.10	118.80
81	81	89.40	95.70	99.30	107.30	114.20	121.00
82	83	91.00	97.40	101.10	109.20	116.20	123.10
84	85	92.90	99.50	103.20	111.50	118.70	125.80
86	87	94.60	101.30	105.10	113.60	120.90	128.10
88	89	96.20	103.00	106.80	115.40	122.80	130.10
90	90	98.10	105.00	108.90	117.70	125.30	132.70
91	92	99.80	106.80	110.80	119.70	127.40	135.00
93	94	101.40	108.50	112.60	121.70	129.50	137.20
95	96	103.00	110.30	114.40	123.60	131.60	139.40
97	97	104.90	112.30	116.50	125.90	134.00	142.00
98	99	106.70	114.20	118.50	128.00	136.20	144.30
100	101	108.80	116.50	120.80	130.50	138.90	147.10
102	102	110.30	118.10	122.50	132.30	140.80	149.20
103	104	112.10	120.00	124.50	134.50	143.20	151.70
105	106	114.20	122.20	126.80	137.00	145.80	154.50
107	107	116.00	124.20	128.80	139.20	148.20	157.00
108	109	117.90	126.20	130.90	141.40	150.50	159.40
110	113	119.70	128.10	132.90	143.60	152.80	161.90
114	118	121.40	129.90	134.80	145.60	155.00	164.20
119	122	123.30	132.00	136.90	147.90	157.40	166.70
123	127	125.10	133.90	138.90	150.10	159.80	169.30
128	132	127.10	136.00	141.10	152.40	162.20	171.80
133	136	128.80	137.90	143.00	154.50	164.40	174.10
137	141	130.50	139.70	144.90	156.50	166.60	176.50
142	146	132.50	141.80	147.10	158.90	169.10	179.10
147	150	134.30	143.80	149.10	161.10	171.50	181.70
151	155	136.00	145.60	151.00	163.10	173.60	183.90
156	160	138.00	147.70	153.20	165.50	176.10	186.50
161	164	139.70	149.50	155.10	167.60	178.40	189.00
165	169	141.60	151.60	157.20	169.80	180.70	191.40
170	174	143.40	153.50	159.20	172.00	183.10	194.00
175	178	145.20	155.40	161.20	174.10	185.30	196.30
179	183	147.20	157.60	163.40	176.50	187.80	198.90

APPENDIX N

SOCIAL SECURITY PIA TABLES (Continued)

Average Monthly Wage		Primary Insurance Amount					
At least	But not more than	Sep 72	Mar 74	Jun 74	Jun 75	Jun 76	Jun 77
$ 184	$ 188	$ 148.80	$ 159.30	$ 165.20	$ 178.50	$ 190.00	$ 201.30
189	193	150.90	161.50	167.50	180.90	192.50	203.90
194	197	152.70	163.40	169.50	183.10	194.90	206.40
198	202	154.40	165.30	171.40	185.20	197.10	208.80
203	207	156.40	167.40	173.70	187.60	199.70	211.50
208	211	158.20	169.30	175.70	189.80	202.00	214.00
212	216	159.80	171.00	177.40	191.60	203.90	216.00
217	221	161.80	173.20	179.60	194.00	205.50	218.70
222	225	163.60	175.10	181.60	196.20	208.80	221.20
226	230	165.50	177.10	183.80	198.60	211.40	223.90
231	235	167.30	179.10	185.80	200.70	213.60	226.30
236	239	169.40	181.30	188.10	203.20	216.30	229.10
240	244	171.00	183.00	189.90	205.10	218.30	231.20
245	249	172.70	184.80	191.70	207.10	220.40	233.50
250	253	174.80	187.10	194.10	209.70	223.20	236.40
254	258	176.60	189.00	196.10	211.80	225.40	238.70
259	263	178.10	190.60	197.10	213.60	227.30	240.80
264	267	180.20	192.90	200.10	216.20	230.10	243.70
268	272	182.00	194.80	202.10	218.30	232.30	246.10
273	277	183.90	196.80	204.20	220.60	234.80	248.70
278	281	185.70	198.70	206.20	222.70	237.00	251.00
282	286	187.50	200.70	208.20	224.90	239.30	253.50
287	291	189.50	202.80	210.40	227.30	241.90	256.20
292	295	191.10	204.50	212.20	229.20	243.90	258.30
296	300	193.10	206.70	214.40	231.60	246.50	261.10
301	305	194.90	208.60	216.40	233.80	248.80	263.50
306	309	196.60	210.40	218.30	235.80	250.90	265.80
310	314	198.60	212.60	220.50	238.20	253.50	268.50
315	319	200.30	214.40	222.40	240.20	255.60	270.70
320	323	202.00	216.20	224.30	242.30	257.90	273.20
324	328	204.00	218.30	226.50	244.70	260.40	275.80
329	333	205.80	220.30	228.50	246.80	262.60	278.10
334	337	207.90	222.50	230.80	249.30	265.30	281.00
338	342	209.40	224.10	232.50	251.10	267.20	283.00
343	347	211.20	226.00	234.50	253.30	269.60	285.60
348	351	213.30	228.30	236.80	255.80	272.20	288.30

APPENDIX N

SOCIAL SECURITY PIA TABLES
(Continued)

Average Monthly Wage		Primary Insurance Amount					
At least	But not more than	Sep 72	Mar 74	Jun 74	Jun 75	Jun 76	Jun 77
$ 352	$ 356	$ 215.00	$ 230.10	$ 238.70	$ 257.80	$ 274.30	$ 290.50
357	361	217.00	232.20	240.90	260.20	276.90	293.30
362	365	218.70	234.10	242.80	262.30	279.10	295.60
366	370	220.40	235.90	244.70	264.30	281.30	297.90
371	375	222.40	238.00	246.90	266.70	283.80	300.60
376	379	224.20	239.90	248.90	268.90	286.20	303.10
380	384	226.20	242.10	251.10	271.20	288.60	305.70
385	389	227.80	243.80	252.90	273.20	290.70	307.90
390	393	229.60	245.70	254.90	275.30	293.00	310.30
394	398	231.60	247.90	257.10	277.70	295.50	313.00
399	403	233.30	249.70	259.00	279.80	297.80	315.40
404	407	235.40	251.90	261.30	282.30	300.40	318.20
408	412	236.90	253.50	263.00	284.10	302.30	320.20
413	417	238.00	255.40	264.90	286.10	304.50	322.50
418	421	240.30	257.20	266.80	288.20	306.70	324.80
422	426	242.20	259.20	268.90	290.50	309.10	327.40
427	431	243.80	260.90	270.70	292.40	311.20	329.60
432	436	245.40	262.60	272.40	294.20	313.10	331.60
437	440	247.20	264.80	274.70	296.70	315.70	334.40
441	445	248.90	266.40	276.30	298.50	317.70	336.50
446	450	250.60	268.20	278.20	300.50	319.80	338.70
451	454	252.50	270.20	280.30	302.80	322.20	341.30
455	459	254.10	271.90	282.10	304.70	324.30	343.50
460	464	255.80	273.80	284.00	306.80	326.50	345.80
465	468	257.40	275.50	285.80	308.70	328.50	347.90
469	473	259.40	277.60	288.00	311.10	331.10	350.70
474	478	260.90	279.20	289.60	312.80	332.90	352.60
479	482	262.60	281.00	291.50	314.90	335.10	354.90
483	487	264.50	283.10	293.60	317.10	337.40	357.40
488	492	266.10	284.80	295.40	319.10	339.60	359.70
493	496	267.80	286.60	297.30	321.10	341.70	361.90
497	501	269.70	288.60	299.40	323.40	344.10	364.50
502	506	271.20	290.20	301.10	325.20	346.10	366.60
507	510	272.90	292.10	303.00	327.30	348.30	368.90
511	515	274.60	293.90	304.90	329.30	350.40	371.10
516	520	276.40	295.80	306.90	331.50	352.80	373.70

APPENDIX N

SOCIAL SECURITY PIA TABLES
(Continued)

Average Monthly Wage		Primary Insurance Amount					
At least	But not more than	Sep 72	Mar 74	Jun 74	Jun 75	Jun 76	Jun 77
$ 521	$ 524	$ 278.10	$ 297.60	$ 308.70	$ 333.40	$ 354.80	$ 375.80
525	529	279.80	299.40	310.60	335.50	357.00	378.10
530	534	281.70	301.50	312.70	337.80	359.50	380.80
535	538	283.20	303.10	314.40	339.60	361.40	382.80
539	543	284.90	304.90	316.30	341.70	363.60	385.10
544	548	286.80	306.90	318.40	343.90	366.00	387.60
549	553	288.40	308.60	320.20	345.90	368.10	389.90
554	556	290.10	310.50	322.10	347.90	370.20	392.10
557	560	291.50	312.00	323.60	349.50	371.90	393.90
561	563	293.10	313.70	325.40	351.50	374.00	396.10
564	567	294.60	315.30	327.10	353.30	376.00	398.20
568	570	296.20	317.00	328.80	355.20	378.00	400.40
571	574	297.60	318.50	330.40	356.90	379.80	402.30
575	577	299.20	320.20	332.20	358.80	381.80	404.40
578	581	300.60	321.70	333.70	360.40	383.50	406.20
582	584	302.20	323.40	335.50	362.40	385.60	408.40
585	588	303.60	324.90	337.00	364.00	387.30	410.20
589	591	305.30	326.70	338.90	366.10	389.60	412.60
592	595	306.80	328.30	340.60	367.90	391.50	414.60
596	598	308.30	329.90	342.30	369.70	393.40	416.70
599	602	309.80	331.50	343.90	371.50	395.30	418.70
603	605	311.30	333.10	345.60	373.30	397.20	420.70
606	609	312.80	334.70	347.30	375.10	399.20	422.80
610	612	314.40	336.50	349.00	377.00	401.20	424.90
613	616	315.90	338.10	350.70	378.80	403.10	426.90
617	620	317.40	339.70	352.40	380.60	405.00	428.90
621	623	318.90	341.30	354.00	382.40	406.90	431.00
624	627	320.40	342.90	355.70	384.20	408.80	433.00
628	630	321.90	344.50	357.40	386.00	410.80	435.10
631	634	323.40	346.10	359.00	387.80	412.70	437.10
635	637	325.00	347.80	360.80	389.70	414.70	439.20
638	641	326.60	349.50	362.60	391.70	416.80	441.40
642	644	328.00	351.00	364.10	393.30	418.50	443.20
645	648	329.60	352.70	365.90	395.20	420.50	445.40
649	652	331.00	354.20	367.50	396.90	422.40	447.40
653	656	332.00	355.30	368.60	398.10	423.60	448.60

APPENDIX N

SOCIAL SECURITY PIA TABLES
(Continued)

Average Monthly Wage		Primary Insurance Amount					
At least	But not more than	Sep 72	Mar 74	Jun 74	Jun 75	Jun 76	Jun 77
$ 657	$ 660	$ 332.90	$ 356.30	$ 369.60	$ 399.20	$ 424.80	$ 449.90
661	665	334.10	357.50	370.90	400.60	426.30	451.50
666	670	335.30	358.80	372.20	402.00	427.80	453.10
671	675	336.50	360.10	373.60	403.50	429.40	454.80
676	680	337.70	361.40	374.90	404.90	430.90	456.40
681	685	338.90	362.70	376.20	406.30	432.40	458.00
686	690	340.10	364.00	377.60	407.90	434.10	459.80
691	695	341.30	365.20	378.90	409.30	435.50	461.20
699	700	342.50	366.50	380.20	410.70	437.00	462.80
701	705	343.70	367.80	381.60	412.20	438.60	464.50
706	710	344.90	369.10	382.90	413.60	440.10	466.10
711	715	346.10	370.40	384.20	415.00	441.60	467.70
716	720	347.30	371.70	385.60	416.50	443.20	469.40
721	725	348.50	372.90	386.90	417.90	444.70	471.00
726	730	349.70	374.20	388.20	419.30	446.20	472.60
731	735	350.90	375.50	389.50	420.70	447.70	474.20
736	740	352.10	376.80	390.90	422.20	449.30	475.90
741	745	353.30	378.10	392.20	423.60	450.80	477.40
746	750	354.50	379.40	393.50	425.00	452.20	478.90
751	755	355.50	380.40	394.70	426.30	453.60	480.40
756	760	356.50	381.50	395.80	427.50	454.90	481.80
761	765	357.50	382.60	396.90	428.70	456.20	483.20
766	770	358.50	383.60	398.00	429.90	457.50	484.50
771	775	359.50	384.70	399.10	431.10	458.70	485.80
776	780	360.50	385.80	400.20	432.30	460.00	487.20
781	785	361.50	386.90	401.30	433.50	461.30	488.60
786	790	362.50	387.90	402.40	434.60	462.50	489.80
791	795	363.50	389.00	403.50	435.80	463.70	491.10
796	800	364.50	390.10	404.60	437.00	465.00	492.50
801	805	365.50	391.10	405.80	438.30	466.40	494.00
806	810	366.50	392.20	406.90	439.50	467.70	495.30
811	815	367.50	393.30	408.00	440.70	469.00	496.70
816	820	368.50	394.30	409.10	441.90	470.20	498.00
821	825	369.50	395.40	410.20	443.10	471.50	499.40
826	830	370.50	396.50	411.30	444.30	472.80	500.70
831	835	371.50	397.60	412.40	445.40	474.00	502.00

APPENDIX N

SOCIAL SECURITY PIA TABLES
(Continued)

Average Monthly Wage		Primary Insurance Amount					
At least	But not more than	Sep 72	Mar 74	Jun 74	Jun 75	Jun 76	Jun 77
$ 836	$ 840	$ 372.50	$ 398.60	$ 413.50	$ 446.60	$ 475.20	$ 503.30
841	845	373.50	399.70	414.60	447.80	476.50	504.70
846	850	374.50	400.80	415.70	449.00	477.80	506.00
851	855	375.50	401.80	416.90	450.30	479.20	507.50
856	860	376.50	402.90	418.00	451.50	480.40	508.80
861	865	377.50	404.00	419.10	452.70	481.70	510.20
866	870	378.50	405.00	420.20	453.90	483.00	511.50
871	875	379.50	406.10	421.30	455.10	484.30	512.90
876	880	380.50	407.20	422.40	456.20	485.40	514.10
881	885	381.50	408.30	423.50	457.40	486.70	515.50
886	890	382.50	409.30	424.60	458.60	488.00	516.80
891	895	383.50	410.40	425.70	459.80	489.30	518.20
896	900	384.50	411.50	426.80	461.00	490.60	519.60
901	905	385.50	412.50	428.00	462.30	491.90	521.00
906	910	386.50	413.60	429.10	463.50	493.20	522.30
911	915	387.50	414.70	430.20	464.70	494.50	523.70
916	920	388.50	415.70	431.30	465.90	495.80	525.10
921	925	389.50	416.80	432.40	467.00	496.90	526.30
926	930	390.50	417.90	433.50	468.20	498.20	527.60
931	935	391.50	419.00	434.60	469.40	499.50	529.00
936	940	392.50	420.00	435.70	470.60	500.80	530.40
941	945	393.50	421.10	436.80	471.80	502.00	531.70
946	950	394.50	422.20	437.00	473.00	503.30	533.00
951	955	395.50	423.20	439.10	474.30	504.70	534.50
956	960	396.50	424.30	440.20	475.50	506.00	535.90
961	965	397.50	425.40	441.30	476.70	507.30	537.30
966	970	398.50	426.40	442.40	477.80	508.40	538.40
971	975	399.50	427.50	443.50	479.00	509.70	539.80
976	980	400.50	428.60	444.60	480.20	511.00	541.20
981	985	401.50	429.70	445.70	481.40	512.30	542.60
986	990	402.50	430.70	446.80	482.60	513.50	543.80
991	995	403.50	431.80	447.90	483.80	514.80	545.20
996	1000	404.50	432.90	449.00	485.00	516.10	546.60
1001	1005		433.90	450.00	486.00	517.20	547.80
1006	1010		434.90	451.00	487.10	518.30	548.90
1011	1015		435.90	452.00	488.20	519.50	550.20

APPENDIX N

SOCIAL SECURITY PIA TABLES
(Continued)

Average Monthly Wage		Primary Insurance Amount					
At least	But not more than	Sep 72	Mar 74	Jun 74	Jun 75	Jun 76	Jun 77
$ 1016	$ 1020	$	$ 436.90	$ 453.00	$ 489.30	$ 520.70	$ 551.50
1021	1025		437.90	454.00	490.40	521.80	552.60
1026	1030		438.90	455.00	491.40	522.90	553.80
1031	1035		439.90	456.00	492.50	524.10	555.10
1036	1040		440.90	457.00	493.60	525.20	556.20
1041	1045		441.90	458.00	494.70	526.40	557.50
1046	1050		442.90	459.00	495.80	527.60	558.80
1051	1055		443.90	460.00	496.90	528.60	559.80
1056	1060		444.90	461.00	497.90	529.80	561.10
1061	1065		445.90	462.00	499.00	531.00	562.40
1066	1070		446.90	463.00	500.10	532.20	563.60
1071	1075		447.90	464.00	501.20	533.30	564.80
1076	1080		448.90	465.00	502.20	534.40	566.00
1081	1085		449.90	466.00	503.30	535.60	567.30
1086	1090		450.90	467.00	504.40	536.70	568.40
1091	1095		451.90	468.00	505.50	537.90	569.70
1096	1100		452.90	469.00	506.60	539.10	571.00

Notes:
1. Use $76.00 to compute Social Security Income for PIA less than the minimum amount.
2. Mother's Benefit (Any Age): 75 percent of PIA (with only one dependent child).
3. Widow or Widower's Benefit (without dependent children).
   a. Age 62 - 82.9% of PIA.
   b. Between 62 and 65: 100% of PIA less 19/40 of 1% for each month the widow or widower is under age 65.
   c. Age 65 and over: 100% of PIA.

APPENDIX O

OFFSET FACTORS

Age of Spouse on Date Annuity Commences (years)	Age of Spouse on Date Annuity Commences (months)	No Mos Under 65	Percentage Factor of 100% PIA	Increase The Present Offset of 82.5% by
65		0	0	.212121
64 yrs	11 mos	1	.995250	.206364
	10 mos	2	.9905	.200606
	9 mos	3	.98575	.194848
	8 mos	4	.9810	.189091
	7 mos	5	.97625	.183333
	6 mos	6	.9715	.177576
	5 mos	7	.96675	.171818
	4 mos	8	.962	.166061
	3 mos	9	.95725	.160303
	2 mos	10	.9525	.154545
	1 mo	11	.94775	.148788
64 yrs		12	.943	.143030
63 yrs	11 mos	13	.93825	.137273
	10 mos	14	.9335	.131515
	9 mos	15	.92875	.125758
	8 mos	16	.924	.120000
	7 mos	17	.91925	.114242
	6 mos	18	.9145	.108485
	5 mos	19	.90975	.102727
	4 mos	20	.905	.096970
	3 mos	21	.90025	.091212
	2 mos	22	.8955	.085455
	1 mo	23	.89075	.079697
63 yrs		24	.886	.073939
62 yrs	11 mos	25	.88125	.068182
	10 mos	26	.8765	.062424
	9 mos	27	.87175	.056667
	8 mos	28	.867	.050909
	7 mos	29	.86225	.045152
	6 mos	30	.8575	.039394
	5 mos	31	.85275	.033636
	4 mos	32	.848	.027879
	3 mos	33	.84325	.022121
	2 mos	34	.8385	.016364
	1 mo	35	.83375	.010606
62 yrs		36	.829	.004848

RESERVED

APPENDIX Q

(COPY)

SOCIAL SECURITY ADMINISTRATION AND DEPARTMENT OF DEFENSE

Memorandum of Understanding on the Survivor Benefit Plan

(Public Law 92-425)

GENERAL

This Memorandum of Understanding establishes the procedures to be used by the Military Services and the Social Security Administration to obtain social security covered military earnings for use in adjudicating survivor annuities payable by the Department of Defense pursuant to Public Law 92-425, September 21, 1972.

ANNUITY REDUCTION

Conditions under which a survivor annuity payable by the Department of Defense shall be reduced are set forth in Title 10, United States Code, Chapter 73, Section 1451.

PROCEDURES

1. The Military Services shall request from the Social Security Administration, social security earnings that are attributable to active military service on an "as needed basis" only. The agreement covering the type of services and the estimated cost of furnishing these services are contained in the attached Social Security Form SSA-1034, Agreement Covering Reimbursable Services. DD Form 1947, Request for Social Security Covered Military Earnings Information, shall be used for this purpose. The member's name, social security number, job number, period for which data are needed, and the employer identification number(s) shall be completed by the requesting military Finance Center. Entries on the DD Form 1947 may be typed or handwritten.

2. The Social Security Administration shall use Form OAR-1009 and/or Form OAR-1009a, Earnings Record Transcription, to record social security covered military earnings that are attributable to military service. Data furnished should relate to the period of request as shown on DD Form 1947. When data are not of record for the period or a portion thereof, the symbol "N/R" (no record) shall be entered. Entries on the Form OAR-1009, and Form OAR-1009a may be typed or handwritten. The Social Security Administration shall validate the DD Form 1947, Form OAR-1009, and Form OAR-1009a, by entry of their stamp. The requested information is attached, Social Security Administration per (identification of Social Security Administration employee). The Form OAR-1009 or Form OAR-1009a will be attached to DD Form 1947 and mailed to the preindicated service. The Social Security Administration will accept a maximum of 200 search requests per month for all Services on a 4-6 weeks processing schedule. A maximum of an additional 200 requests will be handled on an available time basis. Since no priority can be assigned to these additional requests, at least 8-12 weeks will be allowed for processing.

3. The "Remarks" block of DD Form 1947 may be used by the Military Services or the Social Security Administration. Any information or comments which may be useful in the data exchange may be entered in this block.

SIGNED

DATE Sep 17, 1975

/S/J. B. Cardwell
Social Security Administration

DATE Jan 30, 1976

/S/Joseph P. Welsch
Department of Defense

MILITARY EMPLOYER IDENTIFICATION NUMBERS
(ACTIVE)

	SERVICE	EIN	EFFECTIVE DATE
	Air Force	84-0464669	1957-1958
		84-9990000	1959 to date
	Army	35-0930434	1957-1958
		35-9990000	1959 to date
	Navy	34-0812882	1957-1958
		34-9990000	1959 to date
	Marine Corps	53-0235327	1957-1958
		53-9990000	1959 to date
	Coast Guard	52-0233902	1957-1958
		52-9980000	1959 to date

APPENDIX R

ANNUAL INCOME RATES FOR MINIMUM INCOME ANNUITIES UNDER SURVIVOR BENEFIT PLAN (SBP)

MINIMUM INCOME ANNUITY CHANGES

MAXIMUM MONTHLY ANNUITY PAYABLE	MINIMUM ANNUAL INCOME	EFFECTIVE FROM
$116.67	1,400	21 Sep 1972
175.00	2,100	1 Oct 1976
195.00	2,340	1 Oct 1978
214.67	2,576	1 Jun 1979
245.83	2,950	1 Jun 1980
273.75	3,285	1 Jun 1981
294.25	3,531	1 Jun 1982
304.67	3,656	1 Dec 1983
315.50	3,786	1 Dec 1984
325.42	3,905	1 Dec 1985
329.75	3,957	1 Dec 1986
343.75	4,125	1 Dec 1987
357.67	4,292	1 Dec 1988
374.67	4,496	1 Dec 1989
395.08	4,741	1 Dec 1990
409.83	4,918	1 Dec 1991
422.25	5,067	1 Dec 1992
433.33	5,200	1 Dec 1993
445.83	5,347	1 Dec 1994
457.33	5,488	1 Dec 1995
★470.75	5,649	1 Dec 1996

APPENDIX S

SOCIAL SECURITY OFFSET to SURVIVOR BENEFIT PLAN
(Eligibility Year Before 1979)

Worksheet for calculating social security offset for members whose eligibility year is before 1979 and whose offset year is 1979 or later.

Definitions:

1. **Member** is the retired military person.

2. **Starting Year** is 1957 or the year the member joined the Service, whichever is later.

3. **Ending Year** is the year the member turned or would have turned age 65.

4. **Eligibility Year** is the year in which the member turned age 62 or the year the member died, whichever is earlier.

5. Not applicable.

6. **Elapsed Years**:

a. For a male who turned or would have turned **age 62 in 1975 or later** and **all female members**, is equal to the number of years obtained by subtracting (the later of 1951 or the year the member turned age 22) from (the year the member turned or would have turned age 62).

b. For a **male member** who turned or would have turned **age 62** in **1973 or 1974**, is equal to 24.

c. For a **male member** who turned or would have turned **age 62 before 1973**, is equal to the number of years obtained by subtracting 1951 from the year the member turned or would have turned age 65.

7. **Offset Year** is the year the offset goes into effect.

8. **Free Wage Credits** are gratuitous wage credits that must be included in calculating the SBP offset. For years 1957 through 1977, credit $300 for each calendar quarter in which he or she received **any** basic pay for active duty or active duty for training. For 1978 and later, credit increments of $100 up to a maximum of $1,200 per calendar year. The $100 increments are granted for each $300 of reported wages as follows: (1) No credit for wages less than $300. (2) One credit ($100) if wages are between $300 and $600. (3) Two credits ($200) if wages are between $600 and $900. (4) And so on up to a maximum of $1,200 per calendar year.

Step 1

Calculate: Eligibility Year =
Starting Year =
Ending Year =
Elapsed Years =
Offset Year =

(If Eligibility Year is 1979 or later, this worksheet should not be used.)

Step 2

List every year from the starting year to the ending year in Column (A).
NOTE: See definitions of 'starting' and 'ending.'

Step 3

Record member's active duty pay in column (B).
Record zero for all remaining years through the 'ending year.'

Step 4

Calculate and record free wage credits in column (C).

Step 5

Add columns (B) and (C) and record in column (D). Round to nearest dollar (round $.50 up).

Step 6

List maximum FICA wages in column (E). See Appendix M for maximum FICA wages.

Step 7

Record in column (F) the lesser of column (D) or column (E).

Step 8

Not applicable.

Step 9

Not applicable.

Step 10

(a) Compute n = elapsed years minus five
(b) Cross out all but highest n values in column (F)
(c) Total remaining n values
If n is zero or less, the Social Security Offset is zero.

Step 11

(a) Months = (n) X 12 = _____
(b) Member's AME = $\frac{\text{Step 10(c)}}{\text{Step 11(a)}}$ = _____ (round **down** to nearest dollar)

Step 12

Determine the member's AME PIA from the attached table I.

(a) If the AME from Step 11(b) is **less than** the minimum average monthly wage listed in table I ($76), then:

Member's **AME PIA** = Step 11(b) / $76 (table I minimum AME) X $121.80 (table **I PIA** for minimum AME)

= _____

(Round **up** to the nearest dime)

(b) Otherwise, read the member's AME PIA directly from:

table I = _____

Step 13

List Social Security CPI's from June 1979 up to and including offset year. (If CPI is 9.9% list it as 1.099.) If the time of offset is before the Social Security CPI release date then assume that the CPI in the offset year is zero. Multiply these values together to obtain one value. Round to 3 decimals.

Step 14

Member's AME PIA = Step 12 times Step 13 = _____

(round **up** to nearest dime)

Step 15

If widow and one child:

Social Security offset = Step 14 times .75 = _____

(round **up** to nearest dime)

Step 16

Social Security offset = Step 14 times factor defined below = $ _____.

(round value down to nearest dollar)

FACTOR SELECTION

(1) If the widow **does not** provide evidence from the Social Security Administration that the decedent was in receipt of **nondisability** Social Security benefits prior to age 65, select the spouse age-related reduction factor from the following chart and use in formula.

SPOUSE AGE-RELATED REDUCTION FACTOR

Spouse Age	Factor for Offset	Spouse Age	Factor for Offset	Spouse Age	Factor for Offset
65 & over	1.00000	64 yrs, 0 mo	.94300	63 yrs 0 mo	.88600
64 yrs, 11 mos	99525	63 yrs, 11 mos	.93825	62 yrs, 11 mos	.88125
64 yrs, 10 mos	.99050	63 yrs, 10 mos	.93350	62 yrs, 10 mos	.87650
64 yrs, 9 mos	.98575	63 yrs, 9 mos	.92875	62 yrs, 9 mos	.87175
64 yrs, 8 mos	.98100	63 yrs, 8 mos	.92400	62 yrs, 8 mos	.86700
64 yrs, 7 mos	.97625	63 yrs, 7 mos	.91925	62 yrs, 7 mos	.86225
64 yrs, 6 mos	.97150	63 yrs, 6 mos	.91450	62 yrs, 6 mos	.85750
64 yrs, 5 mos	.96675	63 yrs, 5 mos	.90975	62 yrs, 5 mos	.85275
64 yrs, 4 mos	.96200	63 yrs, 4 mos	.90500	62 yrs, 4 mos	.84800
64 yrs, 3 mos	.95725	63 yrs, 3 mos	.90025	62 yrs, 3 mos	.84325
64 yrs, 2 mos	.95250	63 yrs, 2 mos	.89550	62 yrs, 2 mos	.83850
64 yrs, 1 mo	.94775	63 yrs, 1 mo	.89075	62 yrs, 1 mo	.83375
				62 yrs, 0 mo	.82900

(2) If the widow provides evidence from the Social Security Administration (SSA) that the decedent was in receipt of **non-disability** Social Security benefits prior to age 65, calculate the decedent's reduction factor using one of the following methods and information supplied by SSA:

(a) divide the actual benefit payable (DMBA) by the death PIA. If decedent lived to age 65 or older, this data must be for a month subsequent to the January following the date of death.

(b) if data is not available for (a), determine the number of months (M) for which the decedent received a reduced benefit prior to age 65. Calculate, to five digits, the factor using the following formula:

factor = (1.0) minus ($^{M}/180$)
example: 3 months early = (1.0) - ($^{3}/180$) = .98333

(c) insert answer from (a) or (b) here.

(d) insert the greater of .825 or (c) here.

(e) insert factor obtained in Step 16(1) above here.

(f) insert lesser of (d) or (e) here and use in formula.

Step 17

(a) Net monthly SBP annuity before Social Security offset but after all other reductions = _____
(b) .4 times Step 17(a) = _____
(round **down** to nearest dime)
(c) Total from either Step 15 or Step 16 = _____
(d) Social Security offset equals lesser of Step 17(c) or Step 17 (b) = _____

SOCIAL SECURITY OFFSET CALCULATION SHEET

(A) Year (Starting to Ending)	(B) Member's Active Duty Pay	(C) Free Wage Credit	(D) Member's Total Pay Credit (B)+(C)	(E) Maximum FICA Wage	(F) FICA Wage = Lesser of (D) or (E)
1.					
2.					
3.					
4.					
5.					
6.					
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49.					
50.					

TABLE I

PRIMARY INSURANCE AMOUNTS FOR EACH AVERAGE MONTHLY WAGE

Average Monthly Wage	Dec 1978 PIA	Average Monthly Wage	Dec 1978 PIA	Average Monthly Wage	Dec 1978 PIA
Up to $76	$121.80	$179-183	$211.90	$343-347	$304.20
77-78	123.70	184-188	214.40	348-351	307.10
79-80	126.60	189-193	217.20	352-356	309.40
81-81	128.90	194-197	219.90	357-361	312.40
82-83	131.20	198-202	222.40	362-365	314.90
84-85	134.00	203-207	225.30	366-370	317.30
86-87	136.50	208-211	228.00	371-375	320.20
88-89	138.60	212-216	230.10	376-379	322.90
90-90	141.40	217-221	233.00	380-384	325.60
91-92	143.80	222-225	235.60	385-389	328.00
93-94	146.20	226-230	238.50	390-393	330.50
95-96	148.50	231-235	241.10	394-398	333.40
97-97	151.30	236-239	244.00	399-403	336.00
98-99	153.70	240-244	246.30	404-407	338.90
100-101	156.70	245-249	248.70	408-412	341.10
102-102	158.90	250-253	251.80	413-417	343.50
103-104	161.60	254-258	254.30	418-421	346.00
105-106	164.60	259-263	256.50	422-426	348.70
107-107	167.30	264-267	259.60	427-431	351.10
108-109	169.80	268-272	262.10	432-436	353.20
110-113	172.50	273-277	264.90	437-440	356.20
114-118	174.90	278-281	267.40	441-445	358.40
119-122	177.60	282-286	270.00	446-450	360.80
123-127	180.40	287-291	272.90	451-454	363.50
128-132	183.00	292-295	275.10	455-459	365.90
133-136	185.50	296-300	278.10	460-464	368.30
137-141	188.00	301-305	280.70	465-468	370.60
142-146	190.80	306-309	283.10	469-473	373.50
147-150	193.60	310-314	286.00	474-478	375.60
151-155	195.90	315-319	288.30	479-482	378.00
156-160	198.70	320-323	291.00	483-487	380.70
161-164	201.30	324-328	293.80	488-492	383.10
165-169	203.90	329-333	296.20	493-496	385.50
170-174	206.70	334-337	299.30	497-501	388.20
175-178	209.10	338-342	301.40	502-506	390.50

TABLE I
(Continued)

PRIMARY INSURANCE AMOUNTS FOR EACH AVERAGE MONTHLY WAGE

Average Monthly Wage	Dec 1978 PIA	Average Monthly Wage	Dec 1978 PIA	Average Monthly Wage	Dec 1978 PIA
$507-510	$392.90	$642-644	$472.10	$811-815	$529.00
511-515	395.30	645-648	474.40	816-820	530.40
516-520	398.00	649-652	476.50	821-825	531.90
521-524	400.30	653-656	477.80	826-830	533.30
525-529	402.70	657-660	479.20	831-835	534.70
530-534	405.60	661-665	480.90	836-840	536.10
535-538	407.70	666-670	482.60	841-845	537.60
539-543	410.20	671-675	484.40	846-850	538.90
544-548	412.80	676-680	486.10	851-855	540.50
549-553	415.30	681-685	487.80	856-860	541.90
554-556	417.60	686-690	489.70	861-865	543.40
557-560	419.60	691-695	491.20	866-870	544.80
561-563	421.90	696-700	492.90	871-875	546.60
564-567	424.10	701-705	494.70	876-880	547.60
568-570	426.50	706-710	496.40	881-885	549.10
571-574	428.50	711-715	498.20	886-890	550.40
575-577	430.70	716-720	500.00	891-895	551.90
578-581	432.70	721-725	501.70	896-900	553.40
582-584	435.00	726-730	503.40	901-905	554.90
585-588	436.90	731-735	505.10	906-910	556.30
589-591	439.50	736-740	506.90	911-915	557.80
592-595	441.60	741-745	508.50	916-920	559.30
596-598	443.80	746-750	510.10	921-925	560.60
599-602	446.00	751-755	511.70	926-930	561.90
603-605	448.10	756-760	513.20	931-935	563.40
606-609	450.30	761-765	514.70	936-940	564.90
610-612	452.60	766-770	516.00	941-945	566.30
613-616	454.70	771-775	517.40	946-950	567.70
617-620	456.80	776-780	518.90	951-955	569.30
621-623	459.10	781-785	520.40	956-960	570.80
624-627	461.20	786-790	521.70	961-965	572.30
628-630	463.40	791-795	523.10	966-970	573.40
631-634	465.60	796-800	524.60	971-975	574.90
635-637	467.80	801-805	526.20	976-980	576.40
638-641	470.10	806-810	527.50	981-985	577.90

TABLE I
(Continued)

PRIMARY INSURANCE AMOUNTS FOR EACH AVERAGE MONTHLY WAGE

Average Monthly Wage	Dec 1978 PIA	Average Monthly Wage	Dec 1978 PIA	Average Monthly Wage	Dec 1978 PIA
$ 986-990	$579.20	$1,161-1,165	$624.90	$1,336-1,340	$666.20
991-995	580.70	1,166-1,170	626.20	1,341-1,345	667.40
996-1,000	582.20	1,171-1,175	627.50	1,346-1,350	668.40
1,001-1,005	583.50	1,176-1,180	628.70	1,351-1,355	669.60
1,006-1,010	584.60	1,181-1,185	629.97	1,356-1,360	670.70
1,011-1,015	586.00	1,186-1,190	631.20	1,361-1,365	671.90
1,016-1,020	587.40	1,191-1,195	632.30	1,366-1,370	672.90
1,021-1,025	588.60	1,196-1,200	633.50	1,371-1,375	674.10
1,026-1,030	589.80	1,201-1,205	634.70	1,376-1,380	675.20
1,031-1,035	591.20	1,206-1,210	636.00	1,381-1,385	676.20
1,036-1,040	592.40	1,211-1,215	637.10	1,386-1,390	677.30
1,041-1,045	592.80	1,216-1,220	638.20	1,391-1,395	678.30
1,046-1,050	595.20	1,221-1,225	639.50	1,396-1,400	679.40
1,051-1,055	596.20	1,226-1,230	640.80	1,401-1,405	680.50
1,056-1,060	597.60	1,231-1,235	641.90	1,406-1,410	681.50
1,061-1,065	599.00	1,236-1,240	643.10	1,411-1,415	682.60
1,066-1,070	600.30	1,241-1,245	644.40	1,416-1,420	683.70
1,071-1,075	601.60	1,246-1,250	645.50	1,421-1,425	684.70
1,076-1,080	602.80	1,251-1,255	646.70	1,426-1,430	685.80
1,081-1,085	604.20	1,256-1,260	647.90	1,431-1,435	686.90
1,086-1,090	605.40	1,261-1,265	649.20	1,436-1,440	687.90
1,091-1,095	606.80	1,266-1,270	650.30	1,441-1,445	689.00
1,096-1,100	608.20	1,271-1,275	651.50	1,446-1,450	690.10
1,101-1,105	609.20	1,276-1,280	652.70	1,451-1,455	691.10
1,106-1,110	610.60	1,281-1,285	653.70	1,456-1,460	692.20
1,111-1,115	612.00	1,286-1,290	654.90	1,461-1,465	693.30
1,116-1,120	613.20	1,291-1,295	656.10	1,466-1,470	694.30
1,121-1,125	614.60	1,296-1,300	657.20	1,471-1,475	695.40
1,126-1,130	615.80	1,301-1,305	658.30	1,476-1,480	696.40
1,131-1,135	617.10	1,306-1,310	659.40	1,481-1,485	697.40
1,136-1,140	618.40	1,311-1,315	660.60	1,486-1,490	698.40
1,141-1,145	619.80	1,316-1,320	661.70	1,491-1,495	699.40
1,146-1,150	621.10	1,321-1,325	662.80	1,496-1,500	700.40
1,151-1,155	622.20	1,326-1,330	664.00	1,501-1,505	701.40
1,156-1,160	623.60	1,331-1,335	665.00	1,506-1,510	702.40

TABLE I
(Continued)

PRIMARY INSURANCE AMOUNTS FOR EACH AVERAGE MONTHLY WAGE

Average Monthly Wage	Dec 1978 PIA	Average Monthly Wage	Dec 1978 PIA	Average Monthly Wage	Dec 1978 PIA
$1,511-1,515	$703.40	$1,686-1,690	$738.40	$1,861-1,865	$773.40
1,516-1,520	704.40	1,691-1,695	739.40	1,866-1,870	774.40
1,521-1,525	705.40	1,696-1,700	740.40	1,871-1,875	775.40
1,526-1,530	706.40	1,701-1,705	741.40	1,876-1,880	776.40
1,531-1,535	707.40	1,706-1,710	742.40	1,881-1,885	777.40
1,536-1,540	708.40	1,711-1,715	743.40	1,886-1,890	778.40
1,541-1,545	709.40	1,716-1,720	744.40	1,891-1,895	779.40
1,546-1,550	710.40	1,721-1,725	745.40	1,896-1,900	780.40
1,551-1,555	711.40	1,726-1,730	746.40	1,901-1,905	781.40
1,556-1,560	712.40	1,731-1,735	747.40	1,906-1,910	782.40
1,561-1,565	713.40	1,736-1,740	748.40		
1,566-1,570	714.40	1,741-1,745	749.40		
1,571-1,575	715.40	1,746-1,750	750.40		
1,576-1,580	716.40	1,751-1,755	751.40		
1,581-1,585	717.40	1,756-1,760	752.40		
1,586-1,590	718.40	1,761-1,765	753.40		
1,591-1,595	719.40	1,766-1,770	754.40		
1,596-1,600	720.40	1,771-1,775	755.40		
1,601-1,605	721.40	1,776-1,780	756.40		
1,606-1,610	722.40	1,781-1,785	757.40		
1,611-1,615	723.40	1,786-1,790	758.40		
1,616-1,620	724.40	1,791-1,795	759.40		
1,621-1,625	725.40	1,796-1,800	760.40		
1,626-1,630	726.40	1,801-1,805	761.40		
1,631-1,635	727.40	1,806-1,810	762.40		
1,636-1,640	728.40	1,811-1,815	763.40		
1,641-1,645	729.40	1,816-1,820	764.40		
1,646-1,650	730.40	1,821-1,825	765.40		
1,651-1,655	731.40	1,826-1,830	766.40		
1,656-1,660	732.40	1,831-1,835	767.40		
1,661-1,665	733.40	1,836-1,840	768.40		
1,666-1,670	734.40	1,841-1,845	769.40		
1,671-1,675	735.40	1,846-1,850	770.40		
1,676-1,680	736.40	1,851-1,855	771.40		
1,681-1,685	737.40	1,856-1,860	772.40		

APPENDIX T

SOCIAL SECURITY OFFSET to SURVIVOR BENEFIT PLAN

(Eligibility Year 1979 or Later)

Work sheet for calculating social security offset for members whose eligibility year is after 1978.

Definitions:

1. **Member** is the retired military person.

2. **Starting Year** is 1957 or the year the member joined the Military Service, whichever is later.

3. **Ending Year** is the year the member turned or would have turned age 65.

4. **Eligibility Year** is the year in which the member turned age 62 or the year the member died, whichever is earlier.

5. **Indexing Year** is equal to the eligibility year minus two.

6. **Elapsed Years** is equal to the number of years obtained by subtracting (the later of 1951 or the year the member turned age 22) from (the year the member turned or would have turned age 62). If the member was born in 1929 or later, this will equal 40.

7. **Offset Year** is the year the offset goes into effect.

8. **Free Wage Credits** are gratuitous wage credits that must be included in calculating the SBP offset. For years 1957 through 1977, credit $300 for each calendar quarter in which he or she received **any basic** pay for active duty or active duty for training. For 1978 and later, credit increments of $100 up to a maximum of $1,200 per calendar year. The $100 increments are granted for each $300 of reported wages as follows:

   a. No Credit for wages less than $300.

   b. One credit ($100) if wages are between $300 and $600.

   c. Two credits ($200) if wages are between $600 and $900.

   d. And so on up to a maximum of $1,200 per calendar year.

9. **Indexing Factors** are derived by dividing the average wage of the indexing year by the average wage in the specific year. For all years greater than and including the indexing year, the indexing factors equal one.

10. **Bend Points** are the Social Security bend points associated with the eligibility year.

Step 1
Calculate: Eligibility Year =
Starting Year =
Ending Year =
Elapsed Years =
Offset Year =

(If Eligibility Year is 1978 or earlier, this worksheet should not be used.)

Step 2
List every year from the starting year to the ending year in Column (A).
NOTE: See definitions of 'starting' and 'ending.'

Step 3
Record member's active duty pay in column (B).
Record zero for all remaining years through the 'ending year.'

Step 4
Calculate and record free wage credits in column (C).

Step 5
Add columns (B) and (C) and record in column (D). Round to nearest dollar (round $.50 up).

Step 6
List maximum FICA wages in column (E). See Appendix M for maximum FICA wages.

Step 7
Record in column (F) the lesser of column (D) or column (E).

Step 8
Calculate and record the indexing factors in column (G).

Step 9
Multiply column (F) by column (G) and record in column (H).

Step 10

(a) Compute n = elapsed years minus five
(b) Cross out all but highest n values in column (H)
(c) Total remaining n values. If n is zero or less, the Social Security Offset is zero.

Step 11

(a) Months = (n) X 12 =
(b) Member's AIME = Step 10(c) / Step 11(a) =
(round **down** to nearest dollar)

Step 12

Place bend point one in following formula where 'A' appears and bend point two in formula where 'B' appears.

.90 times A of AIME = $_____
.32 times AIME over A through B $_____
.15 times AIME over B = $_____
(round down to the nearest dime) Total = $_____

Step 13

List Social Security CPI's from eligibility year up to and including offset year. (If CPI is 9.9% list it as 1.099.) If the eligibility year equals the offset year, only one CPI will be listed. If the time of offset is before the Social Security CPI release date then assume that the CPI in the offset year is zero. Multiply these values together to obtain one value. Round to 3 decimals.

Step 14

(a) Member's AIME PIA = Step 12 times Step 13 = $_____
(round down to the nearest dime)

Step 15

If widow and one child:
Social Security offset = Step 14 times .75 = _____
(round down to nearest dollar)

Step 16

Social Security offset = Step 14 factor defined below = $_____
(round value down to nearest dollar)

FACTOR SELECTION

(1) If the widow **does not** provide evidence from the Social Security Administration (SSA) that the decedent was in receipt of **nondisability** Social Security benefits prior to age 65, select the spouse age-related reduction factor from the following chart and use in formula.

SPOUSE AGE-RELATED REDUCTION FACTOR

Spouse Age	Factor for Offset	Spouse Age	Factor for Offset	Spouse Age	Factor for Offset
65 & over	1.00000	64 yrs, 0 mo	.94300	63 yrs, 0 mo	.88600
64 yrs, 11 mos	.99525	63 yrs, 11 mos	.93825	62 yrs, 11 mos	.88125
64 yrs, 10 mos	.99050	63 yrs, 10 mos	.93350	62 yrs, 10 mos	.87650
64 yrs, 9 mos	.98575	63 yrs, 9 mos	.92875	62 yrs, 9 mos	.87175
64 yrs, 8 mos	.98100	63 yrs, 8 mos	.92400	62 yrs, 8 mos	.86700
64 yrs, 7 mos	.97625	63 yrs, 7 mos	.91925	62 yrs, 7 mos	.86225
64 yrs, 6 mos	.97150	63 yrs, 6 mos	.91450	62 yrs, 6 mos	.85750
64 yrs, 5 mos	.96675	63 yrs, 5 mos	.90975	62 yrs, 5 mos	.85275
64 yrs, 4 mos	.96200	63 yrs, 4 mos	.90500	62 yrs, 4 mos	.84800
64 yrs, 3 mos	.95725	63 yrs, 3 mos	.90025	62 yrs, 3 mos	.84325
64 yrs, 2 mos	.95250	63 yrs, 2 mos	.89550	62 yrs, 2 mos	.83850
64 yrs, 1 mo	.94775	63 yrs, 1 mos	.89075	62 yrs, 1 mo	.83375
				62 yrs, 0 mo	.82900

(2) If the widow **does** provide evidence from the SSA that the decedent was in receipt of **non-disability** Social Security benefits prior to age 65, calculate the decedent's reduction factor using one of the following methods and information supplied by SSA:

(a) divide the actual benefit payable (DMBA) by the death PIA. If decedent lived to age 65 or older, this data must be for a month subsequent to the January following the date of death.

(b) if data is not available for (a), determine the number of months (M) for which the decedent received a reduced benefit prior to age 65. Calculate, to five digits, the factor using the following formula:

factor = (1.0) minus ($^{M}/_{180}$)
example: 3 months early = (1.0) minus ($^{3}/_{180}$) = .98333

(c) insert answer from (a) or (b) here.
(d) insert the greater of .825 or (c) here.
(e) insert factor obtained in Step 16(1) above here.
(f) insert lesser of (d) or (e) here and use in formula.

Step 17

(a) Net monthly SBP annuity before Social Security offset but after all other reductions = _____

(b) .4 times Step 17(a) = _____
(round **down** to nearest dime)

(c) Total from either Step 15 or Step 16 = _____

(d) Social Security offset equals lesser of Step 17(c) or Step 17 (b) = _____

SOCIAL SECURITY OFFSET CALCULATION SHEET

(A) Year (Starting to Ending)	(B) Member's Active Duty Pay	(C) Free Wage Credit	(D) Member's Total Pay Credit (B) + (C)	(E) Maximum FICA Wage	(F) FICA Wage – Lesser of (D) or (E)	(G) Indexing Factor	(H) Member's Indexed Annual Military Earnings
1.							
2.							
3.							
4.							
5.							
6.							
7.							
8.							
9.							
10.							
11.							
12.							
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33.							
34.							
35.							

APPENDIX U

AVERAGED MONTHLY CONSUMER PRICE INDEX (CPI-W)

For use in calculation of retired pay catch up at age 62 under 10 U.S.C. 1410. Sample calculations follow the quarterly CPI figures.

3rd Qtr 2nd Qtr	FY86 CY86	4th Qtr 3rd Qtr	FY86 CY86	1st Qtr 4th Qtr	FY87 CY86	2nd Qtr 1st Qtr	FY87 CY87
Apr 86	320.4	Jul 86	322.9	Oct 86	325.0	Jan 87	327.7
May 86	321.4	Aug 86	323.4	Nov 86	325.4	Feb 87	329.0
Jun 86	323.0	Sep 86	324.9	Dec 86	325.7	Mar 87	330.5
AVG CPI	321.6	AVG CPI	323.7	AVG CPI	325.4	AVG CPI	329.1

3rd Qtr 2nd Qtr	FY87 CY87	4th Qtr 3rd Qtr	FY87 CY87	1st Qtr 4th Qtr	FY88 CY87	2nd Qtr 1st Qtr	FY88 CY88
Apr 87	332.3	Jul 87	112.7	Oct 87	114.1	Jan 88	114.5
May 87	333.4	Aug 87	113.3	Nov 87	114.3	Feb 88	114.7
Jun 87	334.9	Sep 87	113.8	Dec 87	114.2	Mar 88	115.1
AVG CPI	333.5	AVG CPI	113.3	AVG CPI	114.2	AVG CPI	114.8

3rd Qtr 2nd Qtr	FY88 CY88	4th Qtr 3rd Qtr	FY88 CY88	1st Qtr 4th Qtr	FY89 CY88	2nd Qtr 1st Qtr	FY89 CY89
Apr 88	115.7	Jul 88	117.2	Oct 88	118.9	Jan 89	119.7
May 88	116.2	Aug 88	117.7	Nov 88	119.0	Feb 89	120.2
Jun 88	116.7	Sep 88	118.5	Dec 88	119.2	Mar 89	120.8
AVG CPI	116.2	AVG CPI	117.8	AVG CPI	119.0	AVG CPI	120.2

3rd Qtr 2nd Qtr	FY89 CY89	4th Qtr 3rd Qtr	FY89 CY89	1st Qtr 4th Qtr	FY90 CY89	2nd Qtr 1st Qtr	FY90 CY90
Apr 89	121.8	Jul 89	123.2	Oct 89	124.2	Jan 90	125.9
May 89	122.5	Aug 89	123.2	Nov 89	124.2	Feb 90	126.4
Jun 89	122.8	Sep 89	123.6	Dec 89	124.6	Mar 90	127.1
AVG CPI	122.4	AVG CPI	123.3	AVG CPI	124.4	AVG CPI	126.5

3rd Qtr 2nd Qtr	FY90 CY90	4th Qtr 3rd Qtr	FY90 CY90	1st Qtr 4th Qtr	FY91 CY90	2nd Qtr 1st Qtr	FY91 CY91
Apr 90	127.3	Jul 90	128.7	Oct 90	131.9	Jan 91	132.8
May 90	127.5	Aug 90	129.9	Nov 90	132.2	Feb 91	132.8
Jun 90	128.3	Sep 90	131.1	Dec 90	132.2	Mar 91	133.0
AVG CPI	127.7	AVG CPI	129.9	AVG CPI	132.1	AVG CPI	132.9

APPENDIX U

AVERAGED MONTHLY CONSUMER PRICE INDEX (CPI-W) (Continued)

3rd Qtr 2nd Qtr	FY91 CY91	4th Qtr 3rd Qtr	FY91 CY91	1st Qtr 4th Qtr	FY92 CY91	2nd Qtr 1st Qtr	FY92 CY92
Apr 91	133.3	Jul 91	134.3	Oct 91	135.4	Jan 92	136.0
May 91	133.8	Aug 91	134.6	Nov 91	135.8	Feb 92	136.4
Jun 91	134.1	Sep 91	135.2	Dec 91	135.9	Mar 92	137.0
AVG CPI	133.7	AVG CPI	134.7	AVG CPI	135.7	AVG CPI	136.5
3rd Qtr 2nd Qtr	**FY92 CY92**	**4th Qtr 3rd Qtr**	**FY92 CY92**	**1st Qtr 4th Qtr**	**FY93 CY92**	**2nd Qtr 1st Qtr**	**FY93 CY93**
Apr 92	137.3	Jul 92	138.4	Oct 92	139.6	Jan 93	140.3
May 92	137.6	Aug 92	138.8	Nov 92	139.8	Feb 93	140.7
Jun 92	138.1	Sep 92	139.1	Dec 92	139.8	Mar 93	141.1
AVG CPI	137.7	AVG CPI	138.8	AVG CPI	139.7	AVG CPI	140.7
3rd Qtr 2nd Qtr	**FY93 CY93**	**4th Qtr 3rd Qtr**	**FY93 CY93**	**1st Qtr 4th Qtr**	**FY94 CY93**	**2nd Qtr 1st Qtr**	**FY94 CY94**
Apr 93	141.6	Jul 93	142.1	Oct 93	143.3	Jan 94	143.6
May 93	141.9	Aug 93	142.4	Nov 93	143.4	Feb 94	144.0
Jun 93	142.0	Sep 93	142.6	Dec 93	143.3	Mar 94	144.4
AVG CPI	141.8	AVG CPI	142.4	AVG CPI	143.3	AVG CPI	144.0
3rd Qtr 2nd Qtr	**FY94 CY94**	**4th Qtr 3rd Qtr**	**FY94 CY94**	**1st Qtr 4th Qtr**	**FY95 CY94**	**2nd Qtr 1st Qtr**	**FY95 CY95**
Apr 94	144.7	Jul 94	145.8	Oct 94	147.0	Jan 95	147.8
May 94	144.9	Aug 94	146.5	Nov 94	147.3	Feb 95	148.3
Jun 94	145.4	Sep 94	146.9	Dec 94	147.2	Mar 95	148.7
AVG CPI	145.0	AVG CPI	146.4	AVG CPI	147.2	AVG CPI	148.3
3rd Qtr 2nd Qtr	**FY95 CY95**	**4th Qtr 3rd Qtr**	**FY95 CY95**	**★1st Qtr 4th Qtr**	**FY96 CY95**	**★2nd Qtr 1st Qtr**	**FY 96 CY 96**
Apr 95	149.3	Jul 95	149.9	Oct 95	151.0	Jan 96	151.7
May 95	149.6	Aug 95	150.2	Nov 95	150.9	Feb 96	152.2
Jun 95	149.9	Sep 95	150.6	Dec 95	150.9	Mar 96	152.9
AVG CPI	149.6	AVG CPI	150.2	AVG CPI	150.9	AVG CPI	152.3

APPENDIX U

AVERAGED MONTHLY CONSUMER PRICE INDEX (CPI-W)
(Continued)

★3rd Qtr 2nd Qtr	FY 96 CY 96	★4th Qtr 3rd Qtr	FY 96 CY 96
Apr 96	153.6	Jul 96	154.3
May 96	154.0	Aug 96	154.5
Jun 96	154.1	Sep 96	155.1
AVG CPI	153.9	AVG CPI	154.6

SAMPLE CALCULATION OF RETIRED PAY CATCH UP AT AGE 62

1. Date of Initial Entry into Armed Services ..... August 1, 1986
2. Date of Birth ..... November 15, 1966
3. Date of 62nd Birthday ..... November 15, 2028
4. Effective Date of Catch Up ..... December 1, 2028
5. Date of Retirement ..... August 1, 1987
6. Calendar Quarter Immediately Before Retirement ..... April-June 1987
7. CPI for (6) 341.2
8. Most Recent Base Quarter Ending More Than 31 Days Before 62nd Birthday ..... July-September 2028
9. CPI for (8) 2553.1
10. Ratio of Indexes to the Nearest 1/10 of 1% (9) + (7) 7.483
11. Initial Unreduced Monthly Gross Retired Pay at Retirement $1,000.00
12. New Gross Monthly Retired Pay ..... (11) X (10) $7,483.00
13. Initial Monthly SBP Base Amount at Retirement $1,000.00
14. New Monthly SBP Base Amount ..... (13) X (10) $7,483.00
15. Initial Monthly SBP Cost at Retirement ..... $ 76.83
16. New Monthly SBP Cost ..... (15) X (10) ..... $ 574.92

SAMPLE CALCULATION OF RETIRED PAY CATCH UP AT AGE 62

1. Date of Initial Entry into Armed Services ..... August 1, 1986
2. Date of Birth ..... October 31, 1966
3. Date of 62nd Birthday ..... October 31, 2028
4. Effective Date of Catch Up ..... November 1, 2028
5. Date of Retirement ..... August 1, 1987
6. Calendar Quarter Immediately Before Retirement ..... April-June 1987
7. CPI for (6) 341.2
8. Most Recent Base Quarter Ending More Than 31 Days Before 62nd Birthday ..... July-September 2028
9. CPI for (8) 2431.5
10. Ratio of Indexes to the Nearest 1/10 of 1% (9) + (7) 7.126
11. Initial Unreduced Monthly Gross Retired Pay at Retirement $1,000.00
12. New Gross Monthly Retired Pay ..... (11) X (10) $7,126.00
13. Initial Monthly SBP Base Amount at Retirement $1,000.00
14. New Monthly SBP Base Amount (13) X (10) $7,126.00
15. Initial Monthly SBP Cost at Retirement ..... $ 76.83
16. New Monthly SBP Cost ..... (15) X (10) ..... $ 547.49

SAMPLE CALCULATION OF RETIRED PAY CATCH UP AT AGE 62

1. Date of Initial Entry into Armed Services ..... August 1, 1986
2. Date of Birth ..... October 31, 1966
3. Date of 62nd Birthday..... October 31, 2028
4. Effective Date of Catch Up..... November 1, 2028
5. Date of Retirement..... January 1, 2007
6. Calendar Quarter Immediately Before Retirement ..... October-December 2006
7. CPI for (6)..... 882.7
8. Most Recent Base Quarter Ending More Than 31 Days Before 62nd Birthday..... July-September 2028
9. CPI for (8)..... 2431.5
10. Ratio of Indexes to the Nearest 1/10 of 1% (9) + (7) 2.755
11. Initial Unreduced Monthly Gross Retired Pay at Retirement..... $3,300.00
12. New Gross Monthly Retired Pay..... (11) X (10)..... $9,174.00
13. Initial Monthly SBP Base Amount at Retirement..... $3,300.00
14. New Monthly SBP Base Amount ..... (13) X (10)..... $9,174.00
15. Initial Monthly SBP Cost at Retirement ..... $ 255.87
16. New Monthly SBP Cost..... (15) X (10)..... $ 704.92

SAMPLE CALCULATION OF RETIRED PAY CATCH UP AT AGE 62

1. Date of Initial Entry into Armed Services ..... August 1, 1986
2. Date of Birth ..... February 12, 1967
3. Date of 62nd Birthday ..... February 12, 2029
4. Effective Date of Catch Up ..... March 1, 2029
5. Date of Retirement ..... May 1, 2009
6. Calendar Quarter Immediately Before Retirement ..... Jan-Mar 2009
7. CPI for (6) 949.7
8. Most Recent Base Quarter Ending More Than 31 Days Before 62nd Birthday ..... Oct-Dec 2028
9. CPI for (8) 2553.1
10. Ratio of Indexes to the Nearest 1/10 of 1% (9) + (7) 2.688
11. Initial Unreduced Monthly Gross Retired Pay at Retirement ..... $ 3,755.00
12. New Gross Monthly Retired Pay .....(11) X (10)..... 2.688
13. Initial Monthly SBP Base Amount at Retirement ..... $ 3,755.00
14. New Monthly SBP Base Amount.....(13) X (10)..... $10,093.00
15. Initial Monthly SBP Cost at Retirement..... $ 288.53
16. New Monthly SBP Cost.....(15) X (10)..... $ 775.57

APPENDIX V

INTERAGENCY AGREEMENT BETWEEN THE DEPARTMENT OF VETERANS AFFAIRS AND THE DEPARTMENT OF DEFENSE MILITARY RETIRED PAY

I. INTRODUCTION

A. Purpose: This Interagency Agreement establishes responsibilities for the purpose of allowing the Department of Veterans Affairs (VA) to collect, by administrative offset from veterans benefit compensation, amounts owed by retired military personnel to the Department of Defense (DoD) for participation in the Retired Serviceman's Family Protection Plan (RSFPP) or the Survivor Benefit Plan (SBP).

B. General: Public Law 99-576, October 28, 1986, as amended, 38 U.S.C. 3101, permits collection of amounts owed DoD for costs of participating in RSFPP or SBP from VA compensation or pension in accordance with the procedures prescribed in 31 U.S.C. 3716.

II. RESPONSIBILITIES

A. Department of Defense:

1. The Deputy Comptroller (Management Systems)/Director Financial Services Policy shall be responsible for executing this Interagency Agreement.

2. The Military Services shall:

(a) Determine the amount of indebtedness for each member.

(b) Ensure any collection action is conducted in accordance with the procedures prescribed in 31 U.S.C. 3711-3720, as amended, and DoD regulations for administrative offset.

(c) Answer all inquiries from the retiree regarding the indebtedness.

(d) Certify to VA that due process procedures, in accordance with 31 U.S.C. 3716, have been completed for each member and that each member has been notified that his or her VA compensation or pension is to be withheld.

(e) Certify to VA that the military service (a) has attempted to collect the debt; (b) has been unable to collect the debt; and (c) has determined that the debt is not

collectable from amounts payable by the military to the veteran or that the veteran is not receiving any payment from the military service.

(f) Request VA to offset the total debt amount from the veteran's compensation or pension.

(g) Credit any payment collected to the DoD Military Retirement Fund under Chapter 74 of Title 10 in accordance with 38 U.S.C., Section 3101(c)(4).

(h) Refund any amounts overcollected directly to the member.

B. Department of Veterans Affairs:

1. The Chief, Benefits Payment Policy Division, Financial Management Service (047F2), Department of Affairs shall be responsible for:

(a) Computing the maximum amount to be collected from the veteran's compensation or pension.

(b) Complying with the provisions of 38 CFR, 1, 912a and initiating collection action against the veteran's compensation or pension, and return the funds collected to the appropriate military service for crediting to the Military Retirement Fund.

III. TERMS OF IMPLEMENTATION

A. Effective Date: This agreement will become effective upon the signature of both parties.

B. Amendment or Cancellation: This agreement may be revised or amended by the signature approval of the signatories hereto or by their successors. Cancellation may be made upon 60 days written notice to either party or their successors, to the other.

ACCEPTED	ACCEPTED
DEPARTMENT OF DEFENSE	DEPARTMENT OF VETERANS AFFAIRS
BY: Signed Sean O'Keefe DoD Comptroller	BY: Signed H. Robert Saldfvar Deputy Assistant Secretary for Acquisition and Materiel Management
DATE: Aug 6, 1990	DATE: 6-21-90

APPENDIX W

LETTER-INTERNAL REVENUE SERVICE TAX LEVY

The IRS has sent us the attached Notice of Levy on Wages, Salary, and Other Income (IRS Form 668–W). Under current rules, this is a one-time levy against your retired pay to collect delinquent federal taxes. Please read the IRS Form 668-W carefully as it may be advisable to discuss it with your attorney or other tax adviser.

If you have been awarded the Medal of Honor, you are exempt from levy, and you should, as soon as possible, send us a copy of the citation awarding you the Medal of Honor to prevent the levy of your retired pay.

Current tax law protects a part of your retired pay from levy. You should complete the attached form and return it to us within five working days to claim your partial exemption. If we do not receive the completed form, we will compute your exemption for you, using the exemption for a married person filing separately with no other exemptions. Please note that the exemptions you claimed for tax withholding purposes are NOT the same and we will not use them to compute your exemption from levy.

We will deduct the levy from your (month/year) retired pay check. This is a one-time levy under current IRS rules; we will advise you if the IRS requests levy of any further retired pay checks. So long as future levies are for the same tax debt, you will not need to provide us further exemption information. We will use the information we have on file from this levy to compute future payments to the IRS.

If you have any questions concerning the levy itself, please contact the IRS office which issued it.

APPENDIX X

BIBLIOGRAPHY

Paragraph	Citation
Chapter 01-Initial Entitlements-Retirements	
0101-Service Creditable for Retirement Purposes	
010101	Public Law 101-510, Section 523, Nov 5, 1990 Public Law 103-160, Section 561, Nov 30, 1993
010102	10 U.S.C. 3925, 3683, 8925, 8683, 1043
★010102F	MS Comp Gen B-195448, Apr 3, 1980
010103	10 U.S.C. 3926, 8926, 6321, 6323, 1043
010104	Section 511, CCA of 1949 Public Law 81-351, Oct 12, 1949 10 U.S.C. 1293, 1305, 6321, 6322, 1043
010105	10 U.S.C. 8927, 8286, 8294 10 U.S.C. 3927, 3286, 3294, 532
010106	10 U.S.C. 6387, 6388
010107	10 U.S.C. 1208, 1043, 12732, 12733
★010107B3	Public Law 104-201, Section 531, 543, Sep 23, 1996
★010108	10 U.S.C. 12731, 12732, 12733, 1043
★010108A2	Public Law 104-201, Section 531, Sep 23, 1996
★010108A2e	Public Law 104-201, Section 543, Sep 23, 1996
★010108B3	Public Law 103-337, Section 636, Oct 5, 1994
010108C2	10 U.S.C. 12738 58 Comp Gen 390

010108E	Public Law 103-160, Section 561, Nov 30, 1993
010109A4	10 U.S.C. 972

0102-Service Creditable for Basic Pay

010201	37 U.S.C. 205
010201B	27 Comp Gen 530
010201C	37 U.S.C. 205(a)(5) 24 Comp Gen 829 25 Comp Gen 680
010201D	37 U.S.C. 205(a)(6)
010201E & F	37 U.S.C. 205(a)(9)
010201G	10 U.S.C. 1038
010201H	62 Stat 1082
010201I	10 U.S.C. 507
010201J	37 U.S.C. 205(d)
010201K	37 Comp Gen 838
010201L	Public Law 86-197, Aug 25, 1959
010201M	Public Law 77-230, Section 3, Aug 21, 1941
010201O	1 Comp Gen 668
010201P	45 Comp Gen 149
010201Q	42 Comp Gen 296
010201R	37 U.S.C. 205(e) 10 U.S.C. 2106(c), 2107(g) 45 Comp Gen 103
010201T	Public Law 93-545, Dec 26, 1974 36 Comp Gen 146 37 Comp Gen 237
010201U	37 U.S.C. 205 OASD (MI&L) Memo, Dec 24, 1984
010202A	37 U.S.C. 205(a)(7)
010202B	37 U.S.C. 205(a)(8)
010202B4	Public Law 96-513, Dec 12, 1980
010202C4	10 U.S.C. 2126
010203A	1 Comp Gen 511 1 Comp Gen 668 3 Comp Gen 61
010203B	22 Comp Gen 987
010203C	25 Comp Gen 718

010203F	37 U.S.C. 205(e) 45 Comp Gen 103
010203G	22 Comp Gen 907 23 Comp Gen 755
010204A	38 Comp Gen 352 38 Comp Gen 553
010205A	38 Comp Gen 68
010205A3	37 U.S.C. 203(d)
010205B	37 U.S.C. 203(d)
010205B2	38 Comp Gen 68
010205B3	38 Comp Gen 497
010206A1	38 Comp Gen 824
010206A2	37 Comp Gen 455

0103-Service Creditable for Percentage Purposes

010301A	10 U.S.C. 3914, 3917, 3925, 6326, 8914, 8917, 8925
010301B	10 U.S.C. 1405, 12733, 12732(1), (2)(B) and (C), 3911, 8911, 6321, 6322, 6323, 3918, 8918, 3924, 8924, 3920, 8920 37 U.S.C 205(a)(7) and (8) MS Comp Gen B-195855, Apr 1, 1980
010301B2b	54 Comp Gen 675
★010301B4c	Public Law 104-201, Section 531, 543, Sep 23, 1996
010301C	10 U.S.C. 1405
010301D1	10 U.S.C. 3927, 8927, 1405
010301D2	10 U.S.C. 6387, 6388, 1405
010301E	10 U.S.C. 1208
010301F	10 U.S.C. 12733
010301G1	Public Law 80-810, June 29, 1948 10 U.S.C. 1405
010301G2	Act June 16, 1942, Section 15(d) Public Law 77-607 as amended
010301G3	Public Law 79-474, June 29, 1946
010301G4	Public Law 81-351,

		Section 511, Oct 12, 1949
0104-Uniform Retirement Date Act Application		
	010401B	5 U.S.C. 8301 Public Law 96-342, Sep 8, 1980
	010402A2b	44 Comp Gen 373, 584 40 Comp Gen 80
	010402B1	43 Comp Gen 742
	010402B2a	48 Comp Gen 239 53 Comp Gen 135
	010402B2b	44 Comp Gen 373, 584 56 Comp Gen 98 MS Comp Gen B-168303, Jan 14, 1970
	010402E	10 U.S.C. 12739
0105-Rank and Pay Grade		
	010501A	10 U.S.C. 3961, 8961
	★010501B	10 U.S.C. 1370 (a)(2) Public Law 96-513, Section 629, Dec 12, 1980
	★010501C	10 U.S.C. 1370(b) 40 Comp Gen 240
	★010501D	10 U.S.C. 1370(c)
	★010501E	10 U.S.C. 1370(d)
	★010501F	10 U.S.C. 1372 40 Comp Gen 240
	★010501F3	Public Law 104-201, Section 577, Sep 23, 1996
	★010501F4	Public Law 104-201, Section 577, Sep 23, 1996
	010502A	10 U.S.C. 1370(c)
	★010502A1-4	10 U.S.C. 1406(i)
	★010502A5	10 U.S.C. 601
	★010502A7	10 U.S.C. 601
	010502A8	10 U.S.C. 3962, 8962
	★010502A9	10 U.S.C. 1406(i)
	010502A10	10 U.S.C. 5133
	★010502A11	10 U.S.C. 601
	010502C3	10 U.S.C. 3963, 8963
	010502D2	49 Comp Gen 618
	010502E	10 U.S.C. 3963, 8963
	010502F	10 U.S.C. 6325, 6321, 6322

	010502G	10 U.S.C. 601, 602, 603, 6325
	010502H	10 U.S.C. 6325, 6321, 6322, 6323
	010502I	10 U.S.C. 6151
	010502K	10 U.S.C. 3963(a), 8963(a)
	010502L	Public Law 96-342, Sep 8, 1980
	010503	10 U.S.C. 3961, 8961, 3962, 8962, 3963, 8963, 3964, 8964 10 U.S.C. 6151, 6321, 6322, 6323, 6325 1964, 167 Ct. Cl. 80 1962, 148 Ct. Cl. 411 1967, 179 Ct. Cl. 425 10 U.S.C. 1371 and 1401, Formula 2
0106-Noncitizens		
	010601	Section 36, Act of Feb 2, 1901, 31 Stat 757 Act of May 16, 1908
	010601A	Section 11, Act of June 16, 1942, 56 Stat 365 Section 507(a), Act of Oct 12, 1949, 63 Stat 828
	010601B	Act of Feb 2, 1901, 31 Stat 575 Section 22a, Act of June 4, 1920, 41 Stat 770
	010602	E.O. Apr 5, 1901 and June 25, 1901
	010603A & B	Act of Oct 12, 1949, 63 Stat 828
	010603C3	CCA 1949, Section 507(a) 63 Stat 828 Military Pay Act of 1958, 72 Stat 122 General Order #22,

		June 22, 1965
0107-Heroism Pay		
	010701A	10 U.S.C. 8991 10 U.S.C. 6330 10 U.S.C. 3991 14 U.S.C. 357
	010701B	55 Comp Gen 701 43 Comp Gen 805 56 Comp Gen 740 MS Comp Gen B-259559, June 6, 1995
	010703A	10 U.S.C. 3992 10 U.S.C. 8992
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460102C	60 Comp Gen 240 Public Law 99-661, Section 643, Nov 14, 1986
460102D	DoDD 1332.27, paragraphs 301a(3) and 401b, Jan 4, 1974
460103	DoDD 1332.27, paragraphs 301a, 501j, Jan 4, 1974 Public Law 98-525, Oct 19, 1984 10 U.S.C. 1450(b) Public Law 102-190, Section 654, Dec 5, 1991 10 U.S.C. 1457
460103A5	66 Comp Gen 260 61 Comp Gen 245
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460103C	10 U.S.C. 1455(b)

4602-Offsets to the Annuity

460201	10 U.S.C. 1450(c) 10 U.S.C. 1451(e) Public Law 99-145, Nov 8, 1985 Public Law 100-456, Section 652, Sep 29, 1988 DoDD 1332.27, paragraph 401a, Jan 4, 1974
460202	38 U.S.C. 1311 38 U.S.C. 5110(d) (1) 38 U.S.C. 5111(a) 10 U.S.C. 1450(c) 61 Comp Gen 298 63 Comp Gen 536 10 U.S.C. 1451 (c) MS Comp Gen B-192223, Dec 19, 1978
460202A	10 U.S.C. 1450(e) 10 U.S.C. 1450(k) 10 U.S.C. 1457(c) (3) 61 Comp Gen 287
460202B	10 U.S.C. 1457 MS Comp Gen B-192223, Dec 19, 1978 10 U.S.C. 1457(c) (3)
460202C	Minutes of 7-8 Dec 1982, DoD Joint RSFPP/SBP Board Meeting, Item 82-7
460202D1	10 U.S.C. 1450(k) 54 Comp Gen 838 Public Law 99-145, Section 717, Nov 8, 1985
460202D2	10 U.S.C. 1450(k) OASD/FM&P (MM&PP) Memo of Jan 3, 1986
460202E	56 Comp Gen 482
460203	Memo of Understanding between SSA and DoD, Jan 30, 1976 OSD Memorandum, Oct 5, 1973, Apr 30, 1984 Public Law 101-188, Nov 29, 1989

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460203A	Public Law 100-456, Section 652, Sep 29, 1988
★460203B	42 U.S.C. 415(a)(4)(B)(i)
★460203B3	42 U.S.C. 415(a)(4)(B)(i)
460203C	10 U.S.C. 1458(b)
460204	10 U.S.C. 1451(e) 62 Comp Gen 471 OSD Memorandum, Apr 30, 1984 Public Law 100-456, Section 652, Sep 29, 1988
460204A	57 Comp Gen 339 64 Comp Gen 203
460204B	OSD Memorandum, Dec 7, 1973
460204C	10 U.S.C. 1451(d)
460205A	Public Law 100-456, Section 652, Sep 29, 1988
460206	Public Law 100-456, Section 652, Sep 29,1988
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Rule 2	10 U.S.C. 1448(a) Public Law 94-496, Oct 14, 1976 DoDD 1332.27, paragraph 102g, Jan 4, 1974 OASD/FM&P (MM&PP) Memo, Jan 3, 1986
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	Note 8	Public Law 99-661, Section 642, Nov 14, 1986
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480102C3	62 Comp Gen 193
480102C4	10 U.S.C. 1447(5)
480102C5	DoDD 1332.27,

		paragraph 301a(2), Jan 4, 1974
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	480102D	52 Comp Gen 973
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	480201 thru 480203	10 U.S.C. 1450(b)
	480204	62 Comp Gen 302
	480205	MS Comp Gen B-221945, Aug 4, 1986
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		10 U.S.C. 1457(d)
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	500102C1	10 U.S.C. 1447(5)
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510801C	OASD Memo, Mar 11, 1974 54 Comp Gen 493

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5201	ASD Memo, Dec 8, 1990

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★520302	Public Law 104-188, Sec. 1402(a), Aug 20, 1996

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530201	10 U.S.C. 1447(2) OASD/FM & P (MM&PP) Memorandum, Mar 21, 1986
530202	53 Comp Gen 521 MPAC SBP Item #14

5303-Eligible Participants

530301	Public Law 95-397, Sep 30, 1978

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	530302	Public Law 96-107, Section 816, Nov 9, 1979
	530303	10 U.S.C. 1448(a)
	530304	Public Law 97-35, Section 212, Aug 13, 1981
	530305	Public Law 97-252, Section 1119, Sep 8, 1982

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		Public Law 96-107, Nov 9, 1979
	540102	10 U.S.C. 1448(a)
	540103	Public Law 97-35, Section 212, Aug 13, 1981
	540104	Public Law 97-252, Section 1119, Sep 8, 1982
	540105	Public Law 99-145, Section 716, Nov 8, 1985
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5402-Election Data

	540201B	OASD/FM & P (MM&PP) Memorandum, Mar 21, 1986
	540201C	OASD/MRA&L (MPP)

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540201D	10 U.S.C. 1448
540201F Note	35 Comp Gen 397
540201G	Public Law 99-145, Section 721, Nov 8, 1985 DoD Joint RSFPP/SBP Board Item 86-5

5403-Irrevocable Elections and Discontinued Participation

540301A	Public Law 96-107, Section 816, Nov 9, 1979
540301B	Public Law 96-402, Section 4, Oct 9, 1980
540301C	10 U.S.C. 1449
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5404-Election Coverage

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540403	10 U.S.C. 1448(b) Public Law 97-252, Sep 8, 1982 Public Law 98-94, Sep 24, 1983

5405-Changes in Election and Coverage

540501	10 U.S.C. 1448(a)(5) DoD Joint RSFPP/SBP Board Item 79-18 Public Law 99-145, Section 715, Nov 8, 1985
540502	10 U.S.C. 1448
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540504	61 Comp Gen 441

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550101	MS Comp Gen B-195349, Jan 10, 1980 OASD/MRA&L (MPP) Memorandum, Mar 21, 1979, Jan 22, 1980 Public Law 99-145, Section 713, Nov 8, 1985 MS Comp Gen B-201128, Mar 6, 1981 MS Comp Gen B-229248, Dec 19, 1989
550102	10 U.S.C. 1448 Public Law 99-145, Section 713, Nov 8, 1985 Public Law 99-661, Nov 14, 1986
550104	10 U.S.C. 1448, 1450

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560202	DoD Joint RSFPP/SBP Board Item 79-17
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560204	OASD/FM&P (MM&PP) Memorandum, Mar 21, 1986, May 21, 1986
560205	Public Law 101-189, Nov 29, 1989
560206	Public Law 102-190,

		Dec 5, 1991 10 U.S.C. 1457 OASD/FM&P (MM&PP) Memorandum, Feb 19, 1992
	560207	OASD/FM&P (MM&PP) Memorandum, Feb 19, 1992

5603-Calculation of Premium

560301	10 U.S.C. 1452, 1451 Public Law 101-189, Nov 29, 1989
560302	OASD/FM&P (MM&PP) Memorandum, Mar 21, 1986
560303	Public Law 101-189, Nov 29, 1989
★560305	10 U.S.C. 1448(b)(1)(B) OASD/FM&P (MPP) Memo, Mar 17, 1995

5604-Initial Premium and Effective Date

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★560502D	OASD/FM&P (MPP) Memo, Mar 17, 1995
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	62 Comp Gen 553
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	OASD/MI&L (MP&FM) Memorandum, Mar 21, 1985
560505	DoDD 1332.27, Jan 4, 1974 Section 703
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★560505B	10 U.S.C. 1452(h)

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570101B	Public Law 100-456, Section 652, Sep 29, 1988
570102	10 U.S.C. 1451(g)
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570102C	60 Comp Gen 240
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