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Title 38, Parts 6, 7, 8, 8a and 9

Insurance

Veterans Benefits Administration

Supplement No. 27

Covering period of *Federal Register* issues
through August 1, 2014

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GENERAL INSTRUCTIONS

Custom Federal Regulations Service™

Supplemental Materials for *Book D*

**Code of Federal Regulations
Title 38, Part 6, 7, 8, 8a and 9**

Insurance

Veterans Benefits Administration

Supplement No. 27

5 August 2014

Covering the period of Federal Register issues
through August 1, 2014

When **Book D** was originally prepared, it was current through final regulations published in the *Federal Register* of 28 April 1992. These supplemental materials are designed to keep your regulations up to date. You should file the attached pages immediately, and record the fact that you did so on the *Supplement Filing Record* which begins on page D-8 of Book D, *Adjudication*.

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1. Always file your supplemental materials immediately upon receipt.
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4. If as a result of a failure to file, or an undelivered supplement, you have more than one supplement to file at a time, be certain to file them in chronological order, lower number first.
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FILING INSTRUCTIONS

**Book D, Supplement No. 27
August 5, 2014**

<i>Remove these <u>old pages</u></i>	<i>Add these <u>new pages</u></i>	<i>Section(s) <u>Affected</u></i>
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9.2-1 to 9.2-2	9.2-1 to 9.2-2	§9.2
9.5-1 to 9.6-1	9.5-1 to 9.6-1	§9.5
9.13-1 to 9.14-5	9.13-1 to 9.14-5	§9.14
9.20-1 to 9.20-2	9.20-1 to 9.20-2	§9.20
9.20-11 to 9.20-12	9.20-11 to 9.20-12	§9.20

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HIGHLIGHTS

Book D, Supplement No. 27 August 5, 2014

Note: Where substantive changes are made in the text of regulations, the paragraphs of *Highlights* sections are cited at the end of the relevant section of text. Thus, if you are reading §3.263, you will see a note at the end of that section which reads: “Supplement *Highlights* references—6(2).” This means that paragraph 2 of the *Highlights* section in Supplement No. 6 contains information about the changes made in §3.263. By keeping and filing the *Highlights* sections, you will have a reference source explaining all substantive changes in the text of the regulations.

Supplement frequency: This Book D (*Insurance*) was originally supplemented twice a year, in April and October. Beginning 1 August 1995, supplements will be issued *every month* during which a final rule addition or modification is made to the parts of Title 38 covered by this book. Supplements will be numbered consecutively as issued.

Modifications in this supplement include the following:

1. On 31 July 2014, the VA published a final rule, effective that same day, to amend the VA insurance regulations concerning Servicemembers' Group Life Insurance (SGLI) to reflect the statutory provisions of the Veterans' Benefits Act of 2010, which became law on October 13, 2010, and resulted in the need for amendments to change the SGLI Disability Extension period from 1 year to 2 years in duration; provide SGLI Traumatic Injury Protection (TSGLI) retroactive coverage effective from October 7, 2001, for all qualifying injuries regardless of the geographic location and military operation in which the injuries were incurred; and remove the SGLI and Veterans' Group Life Insurance (VGLI) Accelerated Benefits Option (ABO) discount rate. This rule also clarifies that “initial premium” refers to “initial Veterans' Group Life Insurance premium,” updates the current address of the Office of Servicemembers' Group Life Insurance (OSGLI), managed by Prudential Insurance Company of America, to reflect where the ABO application is mailed for processing, and corrects the OSGLI phone number. Finally, this rule removes the ABO application form from the regulation, and it corrects and clarifies language concerning the VGLI application period that was inadvertently incorrectly modified in a prior amendment of the regulations.

Changes:

- In §9.2, revised paragraph (b)(2),
- In §9.5, revised paragraph (d),
- In §9.14, revised paragraphs (e) and (f), and
- In §9.20, revised paragraphs (b) and (d).

§9.2 Effective date; Applications.

(a) The effective date of Servicemembers' Group Life Insurance will be in accordance with provisions set forth in 38 U.S.C. 1967.

(b) The effective date of Veterans' Group Life Insurance will be as follows:

(1) For members whose Servicemembers' Group Life Insurance coverage ceases under 38 U.S.C. 1968 (a)(1)(A) and 38 U.S.C. 1968(a)(4), the effective date shall be the 121st day after termination of duty. An application and the initial premium must be received by the administrative office within 120 days following termination of duty or separation or release from such assignment.

(2) For members whose Servicemembers' Group Life Insurance coverage was extended because of total disability, the effective date shall be the day following the end of the 2-year period of extended coverage or the day following the end of the total disability, whichever is the earlier date, but in no event before the 121st day following termination of duty. An application and the initial Veterans' Group Life Insurance premium must be received by the administrative office within 1 year following termination of SGLI coverage.

(3) For members who qualify for coverage under 38 U.S.C. 1967(b), the effective date shall be the 121st day after termination of duty. An application, the initial premium, and proof of disability must be received by the administrative office within 120 days following termination of duty.

(4) For members of the Individual Ready Reserve or the Inactive National Guard, the effective date shall be the date an application and the initial premium are received by the administrative office. The application and initial premium must be received by the administrative office within 120 days of becoming a member of either organization. (Authority: 38 U.S.C. 1977(e))

(c) If either an application or the initial premium has not been received by the administrative office within the time limits set forth above, Servicemembers' Group Life Insurance or Veterans' Group Life Insurance coverage may still be granted if an application, the initial premium, and evidence of insurability are received by the administrative office within 1 year and 120 days following termination of duty.

(d) The effective date for Servicemembers' Group Life Insurance or Veterans' Group Life Insurance in any case not otherwise covered under this section or under 38 U.S.C. 1967(a) shall be the date an application and the initial premium are received by the administrative office.

(e) For purposes of this section, an application, an initial premium, and any evidence necessary to effect Servicemembers' Group Life Insurance or Veterans' Group Life Insurance coverage will be considered to have been received by the administrative office if:

(1) They are properly addressed to the administrative office, and

(2) The proper postage is affixed, and

(3) They are legibly postmarked within the time limit required for receipt by the administrative office.

[40 FR 4135, Jan. 28, 1975, as amended at 48 FR 8070, Feb. 25, 1983; 53 FR 17698, May 18, 1988; 61 FR 20135, May 6, 1996; 62 FR 35970, July 3, 1997; 79 FR 44299, July 31, 2014]

Supplement *Highlights* references: 8(1), 10(1), 27(1).

§9.5 Payment of proceeds.

Proceeds shall be paid in accordance with provisions set forth in 38 U.S.C. 1970 and the following provisions:

(a) If proceeds are to be paid in installments, the first installment will be payable as of the date of death. The amount of each installment will be computed so as to include interest on the unpaid balance at the then effective rate.

(b) If, following the death of an insured member who has designated both principal and contingent beneficiaries and elected to have payment made in 36 equal monthly installments, the principal beneficiary dies before all 36 installments have been paid, the remaining installments will be paid as they fall due to the contingent beneficiary. At the death of such a contingent beneficiary, and in other instances of a beneficiary's death, where there is no contingent beneficiary, the value of any unpaid installments, discounted to the date of his or her death at the same rate used for inclusion of interest in the computation of installments will be paid, without further accrual of interest, in one sum to the estate of the beneficiary or contingent beneficiary last receiving payment.

(c) In instances where payment in installments is made at the election of the beneficiary, upon his or her request, the value of such installments as remain unpaid will be discounted to the date of payment at the same rate used for inclusion of interest in the computation of installments and paid to him or her in one sum.

(d) If a member whose coverage is extended due to total disability converts the group insurance to an individual policy which is effective before he or she ceases to be totally disabled or before the end of 2 years following termination of duty, whichever is earlier, and dies while group insurance would be in effect, except for such conversion, the group insurance will be payable, provided the individual policy is surrendered for a return of premiums and without further claim. When there is no such surrender, any amount of group insurance in excess of the amount of the individual policy will be payable. (Authority: 38 U.S.C. 501)

(e) (1) The proceeds payable because of the death of an individual insured under Servicemembers' Group Life Insurance or Veterans' Group Life Insurance ("decendent") shall not be payable to any person described in paragraph (e)(2) of this section. A Servicemembers' Group Life Insurance Traumatic Injury Protection benefit payable under § 9.20(j)(3) shall not be payable to any person described in paragraph (e)(2) of this section.

(2) The persons described in this paragraph are:

(i) A person who is convicted of intentionally and wrongfully killing the decedent or determined in a civil proceeding to have intentionally and wrongfully killed the decedent;

(ii) A person who is convicted of assisting or aiding, or determined in a civil proceeding to have assisted or aided, a person described in paragraph (e)(2)(i) of this section; and

(iii) A member of the family of a person described in paragraph (e)(2)(i) or (e)(2)(ii) of this section who is not related to the decedent by blood, legal adoption, or marriage.

(3) The Servicemembers' Group Life Insurance or Veterans' Group Life Insurance proceeds or Servicemembers' Group Life Insurance Traumatic Injury Protection benefit not payable under paragraph (e)(1) of this section to any person described in paragraph (e)(2) of this section is not payable to such persons even though the criminal conviction or civil determination is pending appeal.

(4) (i) Servicemembers' Group Life Insurance or Veterans' Group Life Insurance proceeds or a Servicemembers' Group Life Insurance Traumatic Injury Protection benefit not payable under paragraphs (e)(1) and (e)(2) of this section shall be payable to the first person or persons listed in paragraphs (e)(4)(i)(A) through (F) of this section who are surviving on the date of the decedent's death in the following order of precedence:

(A) To the next eligible beneficiary designated by the decedent in a writing received by the appropriate office of the applicable uniformed service before the decedent's death in the uniformed services in the case of Servicemembers' Group Life Insurance proceeds or a Servicemembers' Group Life Insurance Traumatic Injury Protection benefit, or in a writing received by the administrative office defined in § 9.1(b) of this part before the decedent's death in the case of Veterans' Group Life Insurance proceeds;

(B) To the decedent's widow or widower;

(C) To the decedent's child or children, in equal shares, and descendants of deceased children by representation;

(D) To the decedent's parents, in equal shares, or to the survivor of them;

(E) To the duly appointed executor or administrator of the decedent's estate;

(F) To other next of kin of the decedent as determined by the insurer (defined in § 9.1(c) of this part) under the laws of the domicile of the decedent at the time of the decedent's death.

(ii) Payment of Servicemembers' Group Life Insurance or Veterans' Group Life Insurance proceeds or a Servicemembers' Group Life Insurance Traumatic Injury Protection benefit to any person under paragraph (e)(4)(i) of this section shall bar recovery of those proceeds or that benefit by any other person.

(f) If a stillborn child is otherwise eligible to be insured by the Servicemembers' Group Life Insurance coverage of more than one member, the child shall be insured by the coverage of the child's insured biological mother. (Authority: 38 U.S.C. 501(a), 1965(10), 1967(a)(4)(B))

[40 FR 4135, Jan. 28, 1975, as amended at 50 FR 12252, Mar. 28, 1985; redesignated and amended at 61 FR 20135, 20136, May 6, 1996; 77 FR 60306, Oct. 3, 2012; 77 FR 70376, Nov. 26, 2012; 79 FR 44299, July 31, 2014]

Supplement *Highlights* references: 8(1), 24(1), 26(1), 27(1).

§9.6 Assignments.

Servicemembers' Group Life Insurance, Veterans' Group Life Insurance and benefits thereunder are not assignable.

[40 FR 4135, Jan. 28, 1975; redesignated at 61 FR 20135, May 6, 1996; 62 FR 35970, July 3, 1997]

Supplement *Highlights* reference: 8(1)

§9.13 Actions on the policy.

The Assistant Director for Insurance will furnish the name and address of the insuring company upon written request of a member of the uniformed services or his or her beneficiary. Actions at law or in equity to recover on the policy, in which there is not alleged any breach of any obligation undertaken by the United States, should be brought against the insurer.

[40 FR 4135, Jan. 28, 1975; redesignated and amended at 61 FR 20135, 20136, May 6, 1996]

Supplement *Highlights* reference: 8(1)

§9.14 Accelerated Benefits.

(a) *What is an Accelerated Benefit?* An Accelerated Benefit is a payment of a portion of your Servicemembers' Group Life Insurance or Veterans' Group Life Insurance to you before you die.

(b) *Who is eligible to receive an Accelerated Benefit?* You are eligible to receive an Accelerated Benefit if you have a valid written medical prognosis from a physician of 9 months or less to live, and otherwise comply with the provisions of this section.

(c) *Who can apply for an Accelerated Benefit?* Only you, the insured member, can apply for an Accelerated Benefit. No one can apply on your behalf.

(d) *How much can you request as an Accelerated Benefit?*

(1) You can request as an Accelerated Benefit an amount up to a maximum of 50% of the face value of your insurance coverage.

(2) Your request for an Accelerated Benefit must be \$5,000 or a multiple of \$5000 (for example, \$10,000, \$15,000).

(e) *How much can you receive as an Accelerated Benefit?* You can receive as an Accelerated Benefit the amount you request up to a maximum of 50% of the face value of your insurance coverage.

(f) *How do you apply for an Accelerated Benefit?*

(1) You can obtain an application form by writing the Office of Servicemembers' Group Life Insurance, 80 Livingston Avenue, Roseland, New Jersey 07068-1733; calling the Office of Servicemembers' Group Life Insurance toll-free at 1-800-419-1473; or downloading the form from the Internet at www.insurance.va.gov. You must submit the completed application form to the Office of Servicemembers' Group Life Insurance, 80 Livingston Avenue, Roseland, New Jersey 07068-1733.

(2) As stated on the application form, you will be required to complete part of the application form and your physician will be required to complete part of the application form. If you are an active duty servicemember, your branch of service will also be required to complete part of the form.

To Be Completed by Physician

Attending Physician's Certification

Patient's name: _____

Patient's Social Security Number: _____

Diagnosis: _____

ICD-9-CM Disease Code *: _____

Description of present medical condition (please attach results of x-rays, E.K.G. or other tests): _____

Is the patient capable of handling his/her own affairs? _____ Yes _____ No _____

The patient applied for an accelerated benefit under his/her government life insurance coverage. To qualify, the patient must have a life expectancy of nine (9) months or less.

Does your patient meet this requirement? _____ Yes _____ No _____

Attending Physician's name (please print): _____

State in which you are licensed to practice: _____

Specialty: _____

Mailing address: _____

Telephone number: _____

Fax Number: _____

Signature: _____

Date: _____

*ICD-9-CM is an acronym for International Classification of Diseases, 9th revision, Clinical Modification.

To Be Completed by Personnel Office of Servicemember's Unit

(Complete this form only if the applicant for Accelerated Benefits is covered under SGLI.)

Branch of Service Statement

Servicemember's name: _____

Social Security Number: _____

Branch of Service: _____

Amount of SGLI coverage: \$ _____

Monthly premium amount: \$ _____

Name of person completing this form: _____

Telephone Number: _____

Fax Number: _____

Title of person completing this form: _____

Duty Station and address: _____

Signature of person completing this form: _____

Date: _____

Notice: It is fraudulent to complete these forms with information you know to be false or to omit important facts. Criminal and/or civil penalties can result from such acts.

(g) *Who decides whether or not an Accelerated Benefit will be paid to you?* The Office of Servicemembers' Group Life Insurance will review your application and determine whether you meet the requirements of this section for receiving an Accelerated Benefit.

(1) They will approve your application if the requirements of this section are met.

(2) If the Office of Servicemembers' Group Life Insurance determines that your application form does not fully and legibly provide the information requested by the application form, they will contact you and request that you or your physician submit the missing information to them. They will not take action on your application until the information is provided.

(h) *How will an Accelerated Benefit be paid to you?* An Accelerated Benefit will be paid to you in a lump sum.

(i) *What happens if you change your mind about an application you filed for Accelerated Benefits?*

(1) An election to receive the Accelerated Benefit is made at the time you have cashed or deposited the Accelerated Benefit. After that time, you cannot cancel your request for an Accelerated Benefit. Until that time, you may cancel your request for benefits by informing the Office of Servicemembers' Group Life Insurance in writing that you are canceling your request and by returning the check if you have received one. If you want to change the amount of benefits you requested or decide to reapply after canceling a request, you may file another application in which you request either the same or a different amount of benefits.

(2) If you die before cashing or depositing an Accelerated Benefit payment, the payment must be returned to the Office of Servicemembers' Group Life Insurance. Their mailing address is 290 W. Mt. Pleasant Avenue, Livingston, New Jersey 07039.

(j) *If you have cashed or deposited an Accelerated Benefit, are you eligible for additional Accelerated Benefits?* No.

[67 FR 52413, Aug. 12, 2002; as amended at 79 FR 44299, July 31, 2014]

Supplement *Highlights* references: 15(1), 27(1).

(Approved by the Office of Management and Budget under control number 2900-0618)

(Authority: 38 U.S.C. 1965, 1966, 1967, 1980)

Next Section is §9.20

§9.20 Traumatic injury protection.

(a) *What is traumatic injury protection?* Traumatic injury protection provides for the payment of a specified benefit amount to a member insured by Servicemembers' Group Life Insurance who sustains a traumatic injury directly resulting in a scheduled loss.

(b) *What is a traumatic event?*

(1) A traumatic event is the application of external force, violence, chemical, biological, or radiological weapons, or accidental ingestion of a contaminated substance causing damage to a living being occurring on or after October 7, 2001:

(2) A traumatic event does not include a medical or surgical procedure in and of itself.

(c) *What is a traumatic injury?*

(1) A traumatic injury is physical damage to a living body that is caused by a traumatic event as defined in paragraph (b) of this section.

(2) For purposes of this section, the term "traumatic injury" does not include damage to a living body caused by:

(i) A mental disorder; or

(ii) A mental or physical illness or disease, except if the physical illness or disease is caused by a pyogenic infection, biological, chemical, or radiological weapons, or accidental ingestion of a contaminated substance.

(3) For purposes of this section, all traumatic injuries will be considered to have occurred at the same time as the traumatic event.

(d) *What are the eligibility requirements for payment of traumatic injury protection benefits?* You must meet all of the following requirements in order to be eligible for traumatic injury protection benefits.

(1) You must be a member of the uniformed services who is insured by Servicemembers' Group Life Insurance under section 1967(a)(1)(A)(i), (B) or (C)(i) of title 38, United States Code, on the date you sustained a traumatic injury, except if you are a member who experienced a traumatic injury on or after October 7, 2001, through and including November 30, 2005. (For this purpose, you will be considered a member of the uniformed services until midnight on the date of termination of your duty status in the uniformed services that established your eligibility for Servicemembers' Group Life Insurance, notwithstanding an extension of your Servicemembers' Group Life Insurance coverage under section 1968(a) of title 38, United States Code.)

(2) You must suffer a scheduled loss that is a direct result of a traumatic injury and no other cause.

(3) You must survive for a period not less than seven full days from the date of the traumatic injury. The seven day period begins on the date and Zulu (Greenwich Meridian) time of the traumatic injury and ends 168 full hours later.

(4) You must suffer a scheduled loss under paragraph (e)(7) of this section within two years of the traumatic injury.

(5) You must suffer a traumatic injury before midnight on the date of termination of your duty status in the uniformed services that established eligibility for Servicemembers' Group Life Insurance. For purposes of this section, the scheduled loss may occur after the date of termination of your duty status in the uniformed services that established eligibility for Servicemembers' Group Life Insurance.

(e) What is a scheduled loss and what amount will be paid because of that loss?

(1) The term "scheduled loss" means a condition listed in the schedule in paragraph (e)(7) of this section if directly caused by a traumatic injury. A scheduled loss is payable at the amount specified in the schedule.

(2) The maximum amount payable under the schedule for all losses resulting from traumatic events occurring within a seven-day period is \$100,000. We will calculate the seven-day period beginning with the day on which the first traumatic event occurs.

(3) A benefit will not be paid if a scheduled loss is due to a traumatic injury:

(i) Caused by:

(A) The member's attempted suicide, while sane or insane;

The uniformed service will certify whether you were at the time of the traumatic injury insured under Servicemembers' Group Life Insurance and whether you have sustained a qualifying loss.

(h) How does a member make a claim for traumatic injury protection benefits?

(1) (i) A member who believes he or she qualifies for traumatic injury protection benefits must complete Part A of the Application for TSGLI Benefits Form and sign the form.

(ii) If a member is unable to sign the Application for TSGLI Benefits Form due to the member's physical or mental incapacity, the form must be signed by the member's guardian; if none, the member's agent or attorney acting under a valid Power of Attorney; if none, the member's military trustee.

(iii) If a member suffered a scheduled loss as a direct result of the traumatic injury, survived seven full days from the date of the traumatic event, and then died before the maximum benefit for which the service member qualifies is paid, the beneficiary or beneficiaries of the member's Servicemembers' Group Life Insurance policy should complete an Application for TSGLI Benefits Form.

(2) If a member seeks traumatic injury protection benefits for a scheduled loss occurring after submission of a completed Application for TSGLI Benefits Form for a different scheduled loss, the member must submit a completed Application for TSGLI Benefits Form for the new scheduled loss and for each scheduled loss that occurs thereafter and for each increment of a scheduled loss that occurs thereafter. For example, if a member seeks traumatic injury protection benefits for a scheduled loss due to coma from traumatic injury and/or the inability to carry out activities of daily living due to traumatic brain injury (§9.20(f)(17)), or the inability to carry out activities of daily living due to loss directly resulting from a traumatic injury other than an injury to the brain (§9.20(f)(19)), a completed Application for TSGLI Benefits Form must be submitted for each increment of time for which TSGLI is payable. Also, for example, if a service member suffers a scheduled loss due to a coma, a completed Application for TSGLI Benefits Form should be filed after the 15th consecutive day that the member is in the coma, for which \$25,000 is payable. If the member remains in a coma for another 15 days, another completed Application for TSGLI Benefits Form should be submitted and another \$25,000 will be paid.

(i) How does a member or beneficiary appeal an adverse eligibility determination?

(1) Notice of a decision regarding a member's eligibility for traumatic injury protection benefits will include an explanation of the procedure for obtaining review of the decision. An appeal of an eligibility determination, such as whether the loss occurred within 365 days of the traumatic injury, whether the injury was self-inflicted or whether a loss of hearing was total and permanent, must be in writing. An appeal must be submitted by a member or a member's legal representative or by the beneficiary or the beneficiary's legal representative, within one year of the date of a denial of eligibility, to the office of the uniformed service identified in the decision regarding the member's eligibility for the benefit.

(2) An appeal regarding whether a member was insured under Servicemembers' Group Life Insurance when the traumatic injury was sustained must be in writing. An appeal must be submitted by a member or a member's legal representative or by the beneficiary or the beneficiary's legal representative within one year of the date of a denial of eligibility to the Office of Servicemembers' Group Life Insurance.

(3) Nothing in this section precludes a member from pursuing legal remedies under 38 U.S.C. 1975 and 38 CFR 9.13.

(j) *Who will be paid the traumatic injury protection benefit?* The injured member who suffered a scheduled loss will be paid the traumatic injury protection benefit in accordance with title 38 U.S.C. 1980A except under the following circumstances:

(1) If a member is legally incapacitated, the member's guardian or agent or attorney acting under a valid Power of Attorney will be paid the benefit on behalf of the member.

(2) If no guardian, agent, or attorney is authorized to act as the member's legal representative, a military trustee who has been appointed under the authority of 37 U.S.C. 602 will be paid the benefit on behalf of the member. The military trustee will report the receipt of the traumatic injury benefit payment and any disbursements from that payment to the Department of Defense.

(3) If a member dies before payment is made, the beneficiary or beneficiaries who will be paid the benefit will be determined in accordance with 38 U.S.C. 1970(a). (Authority: 37 U.S.C. 602, 603; 38 U.S.C. 501(a), 1980A)

(k) The Traumatic Servicemembers' Group Life Insurance program will be administered in accordance with this rule, except to the extent that any regulatory provision is inconsistent with subsequently enacted applicable law.

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900-0671.)

[70 FR 75946, Dec. 22, 2005, as amended at 72 FR 10365, Mar. 8, 2007; 73 FR 71930, Nov. 26, 2008; 74 FR 26788, June 4, 2009; 76 FR 75460, Dec. 2, 2011; 77 FR 32398, June 1, 2012; 79 FR 44299, July 31, 2014]

Supplement *Highlights* references: 17(1), 19(1), 20(1), 21(1), 23(1), 27(1).

End of Part 9