

DEPARTMENT OF DEFENSE**Department of the Army****Corps of Engineers****33 CFR Part 334**

Albemarle Sound, Pamlico Sound, and adjacent waters, North Carolina; danger zones/restricted areas for naval aircraft operations.

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Correction to final rule.

SUMMARY: This document contains a correction to the final rule which was published Tuesday, February 27, 1996 (61 FR 7214). The effective date was February 27, 1996. This rule re-established a danger zone as a restricted area in the waters off of Harvey Point, Perquimans County, North Carolina. This is an editorial correction and will not affect the restrictions placed on entry into the area.

DATES: Effective May 24, 1996.

ADDRESS: HQUSACE, CECW-OR, Washington, D.C. 20314-1000.

FOR FURTHER INFORMATION CONTACT:

Ms. Angie Yelverton of the Corps Wilmington District at (910) 251-4480, or Mr. Ralph Eppard, Regulatory Branch, CECW-OR at (202) 761-1783.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in Section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriations Act of 1919 (40 Stat. 892; 33 U.S.C. 3), the Corps promulgated a regulation under 33 CFR 334.412 which re-established an area that was previously a danger zone, as a restricted area in the waters off of Harvey Point, Albemarle Sound, North Carolina.

Need for Correction

As published, the final rules in Sec. 334.412(a) contain an incorrect bearing listed as "southwesterly to latitude 36° 04'18", which should have read "northwesterly to latitude 36° 04'18"

Correction of Publication

Accordingly, the publication on February 27, 1996, of the final rule, which was the subject of 61 FR 7214-7215, is corrected as follows:

§ 334.412 [Corrected]

On page 7215, in § 334.412 in the second column, second line, remove "southwesterly" and replace it with "northwesterly".

Dated: May 6, 1996.

Approved;
Stanley G. Genega,
Major General, USA, Director of Civil Works.
[FR Doc. 96-13090 Filed 5-23-96; 8:45 am]
BILLING CODE 3710-92-M

DEPARTMENT OF VETERANS AFFAIRS**38 CFR Part 2****RIN 2900-A112****Delegations of Authority Concerning Discrimination or Reprisal**

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document sets forth delegations of authority to the General Counsel and certain subordinates to make the final decision on a complaint of discrimination on grounds of race, color, religion, sex, national origin, age, disability, or reprisal brought by an employee of the Department of Veterans Affairs or an applicant for employment. The effect of this action is to clarify and expand CFR material to specify all delegations of authority already made concerning this subject matter.

EFFECTIVE DATE: May 24, 1996.

FOR FURTHER INFORMATION CONTACT: Neal C. Lawson, Assistant General Counsel (024), Office of General Counsel, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273-6384.

SUPPLEMENTARY INFORMATION: This final rule consists of delegations of authority and, therefore, is not subject to the notice and comment and effective date provisions of 5 U.S.C. 553.

The Secretary hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. This rule merely sets forth delegations of authority.

There is no Catalog of Federal Domestic Assistance program number for this regulation.

List of Subjects in 38 CFR Part 2

Authority delegations (government agencies).

Approved: May 17, 1996.
Jesse Brown,
Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 2 is amended as set forth below:

PART 2—DELEGATIONS OF AUTHORITY

1. The authority citation for part 2 is revised to read as follows:

Authority: 5 U.S.C. 302; 38 U.S.C. 501,512; 44 U.S.C. 3702.

2. In § 2.6, paragraph (e)(6) is revised to read as follows:

§ 2.6 Secretary's delegations of authority to certain officials (38 U.S.C. 512).

* * * * *

(e) * * *

(6) Authority is delegated to the General Counsel and Deputy General Counsel and to the Assistant General Counsel and Deputy Assistant General Counsel of Professional Staff Group IV to make the final decision on a complaint of discrimination on grounds of race, color, religion, sex, national origin, age, disability, or reprisal brought by an employee of the Department of Veterans Affairs or an applicant for employment.

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

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[FR Doc. 96-13079 Filed 5-23-96; 8:45 am]

BILLING CODE 8320-01-P

38 CFR Part 21**RIN 2900-AH60****Veterans and Dependents Education: Miscellaneous**

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the educational assistance regulations. It removes "sunsetting" provisions that had been authorized by the Vietnam Era GI Bill. Under the Vietnam Era GI Bill, no benefits can be authorized for training that occurred after December 31, 1989, and no educational loans can be authorized for training that occurred after December 31, 1991. Consequently, the provisions concerning such educational assistance are removed because they are no longer of any effect. This document also amends the educational assistance regulations by placing virtually all of the provisions relating solely to benefits under the Survivors' and Dependents' Educational Assistance program in one subpart, 38 CFR Part 21, Subpart C. Further, this document removes regulations in 38 CFR Part 21, Subpart E concerning civil rights matters since they are duplicative of provisions in 38 CFR Parts 18, 18a, and 18b. In addition, this document removes 38 CFR Part 21, Subpart F-2 concerning special benefits for certain

former military officers since the deadline for applying for such benefits has expired and no further benefits can be paid. The educational assistance regulations are further amended by removing a number of other provisions that no longer apply or otherwise have no substantive effect and by making changes for purposes of clarification.

EFFECTIVE DATE: May 24, 1996.

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

SUPPLEMENTARY INFORMATION: This document affects 38 CFR part 21, subparts B, C, D, E, F, F-2, and K. It removes provisions that are obsolete, duplicative, or without substantive effect; moves provisions from one subpart to another; and makes changes for clarification. This document makes no substantive changes. Accordingly, there is a basis for dispensing with prior notice and comment and delayed effective date provisions of 5 U.S.C. 552 and 553.

The Secretary of Veterans Affairs hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. This final rule makes no substantive changes. Pursuant to 5 U.S.C. 605(b), this final rule, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

The Catalog of Federal Domestic Assistance numbers for the programs affected by these regulations are 64.117 and 64.124.

List of Subjects in 38 CFR Part 21

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

Approved: May 13, 1996.

Jesse Brown,
Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 21 is amended as set forth below.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart B—Claims and Applications for Educational Assistance

1. The authority citation for subpart B is revised to read as follows:

Authority: 38 U.S.C. 501(a), ch. 51, unless otherwise noted.

2. The heading for subpart B is revised to read as set forth above.

3. The undesignated center heading preceding § 21.1020, §§ 21.1020 through 21.1022, § 21.1025, the undesignated center heading preceding § 21.1040, and §§ 21.1040 through 21.1045 are removed.

Subpart C—Survivors' and Dependents' Educational Assistance under 38 U.S.C. Chapter 35

4. The authority citation for subpart C is revised to read as follows:

Authority: 38 U.S.C. 501(a), 512, 3500-3566, unless otherwise noted.

5. Sections 21.3001 and 21.3002 are added, to read as follows:

§ 21.3001 Delegation of authority.

Except as otherwise provided, authority is delegated to the Under Secretary for Benefits and to supervisory or administrative personnel within the jurisdiction of the Education Service, Veterans Benefits Administration, designated by him or her to make findings and decisions under 38 U.S.C. chapter 35 and the applicable regulations, precedents and instructions, as to the program authorized by this subpart.

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

§ 21.3002 Administration of Survivors' and Dependents' Educational Assistance Program.

Subpart D of this part applies to the Survivors' and Dependents' Educational Assistance Program, unless the provisions of a section in that subpart are explicitly limited to one or more of the other educational assistance programs VA administers.

(Authority: 38 U.S.C. 501, 3501-3566)

6. In § 21.3021, paragraphs (h), (i), (j), and (k) are added prior to the cross references, to read as follows:

§ 21.3021 Definitions.

* * * * *

(h) *Program of education.* The term *program of education* means any curriculum or any combination of unit courses or subjects pursued at an educational institution which is generally accepted as necessary to fulfill

the requirements for the attainment of a predetermined and identified educational, professional, or vocational objective.

(Authority: 38 U.S.C. 3501(a)(5))

(i) *Educational objective.* An educational objective is one that leads to the awarding of a diploma, degree, or certificate which reflects educational attainment.

(Authority: 38 U.S.C. 3501(a)(5))

(j) *Professional or vocational objective.* A professional or vocational objective is one that leads to an occupation. It may include educational objectives essential to prepare for the chosen occupation. When a program consists of a series of courses not leading to an educational objective, such courses must be directed toward attainment of a designated professional or vocational objective.

(Authority: 38 U.S.C. 3501(a)(5))

(k) *Additional definitions.* The definitions in § 21.4200 apply to subpart C of this part.

(Authority: 38 U.S.C. 501, 3501)

* * * * *

7. Section 21.3025 is revised to read as follows:

§ 21.3025 Nonduplication; Federal programs.

Payment of subsistence allowance and special training allowance is prohibited to an otherwise eligible person—

(a) Who is on active duty and is pursuing a course of education which is being paid for by the Armed Forces (or by the Department of Health and Human Services in the case of the Public Health Service); or

(b) For a unit course or courses which are being paid for under 5 U.S.C. chapter 41.

(Authority: 38 U.S.C. 3681(a))

§ 21.3032 [Amended]

8. In § 21.3032, paragraph (a)(2) is amended by removing “§ 21.4105” and adding, in its place, “§ 21.3104”.

9. In § 21.3040, an authority citation is added following paragraph (d), to read as follows:

§ 21.3040 Eligibility; child.

* * * * *

(d) * * *

(Authority: 38 U.S.C. 3512(a))

§ 21.3041 [Amended]

10. In § 21.3041, paragraph (d)(9)(iii) is amended by removing “eligibility” and adding, in its place “eligibility” and by removing “§ 21.4135(z)” and adding, in its place, “§ 21.3135(g)”.

11. In § 21.3042, paragraph (d) is removed; and paragraph (a) is revised to read as follows:

§ 21.3042 Service with Armed Forces.

(a) No educational assistance under 38 U.S.C. chapter 35 may be provided an otherwise eligible person during any period he or she is on duty with the Armed Forces. See § 21.3021 (e) and (f). This does not apply to brief periods of active duty for training. See § 21.3135(f).

(Authority: 38 U.S.C. 3501(d))

* * * * *

§ 21.3044 [Amended]

12. In § 21.3044, paragraph (c)(1) is amended by removing “§ 21.4237(d)” and adding, in its place, “§ 21.3344(d)”.

§ 21.3045 [Amended]

13. In § 21.3045, the introductory text of paragraph (b)(1) and the introductory text of paragraph (b)(2) are amended by removing “21.4235 of this part” each time it appears and adding, in its place, “21.3344”; and paragraph (b)(2)(i) is amended by removing “21.4137(a)” and adding, in its place, “21.3131(a)”.

14. An undesignated center heading and §§ 21.3100, 21.3102, 21.3103, 21.3104, and 21.3105 are added to read as follows:

Counseling

§ 21.3100 Counseling.

(a) *Purpose of counseling.* The purpose of counseling is to assist:

(1) In selecting an educational or training objective;

(Authority: 38 U.S.C. 3520)

(2) In developing a suitable program of education or training;

(Authority: 38 U.S.C. 3520)

(3) In selecting an educational institution or training establishment appropriate for the attainment of the educational or training objective;

(Authority: 38 U.S.C. 3561(a))

(4) In resolving any personal problems which are likely to interfere with successful pursuit of a program;

(Authority: 38 U.S.C. 3561(a))

(5) In selecting an employment objective for the eligible person that would be likely to provide the eligible person with satisfactory employment opportunities in light of his or her circumstances.

(Authority: 38 U.S.C. 3520, 3561(a))

(b) *Availability of counseling.*

Counseling assistance is available for—
(1) Identifying and removing reasons for academic difficulties which may result in interruption or discontinuance of training; or

(2) In considering changes in career plans, and making sound decisions about the changes.

(Authority: 38 U.S.C. 3520, 3561(a))

(c) *Provision of counseling.* VA shall provide counseling as needed for the purposes identified in paragraphs (a) and (b) of this section upon the request of the eligible person.

(Authority: 38 U.S.C. 3520, 3561(a))

§ 21.3102 Required counseling.

(a) *Child.* The VA counseling psychologist will provide counseling and assist in preparing the educational plan only if the eligible child or his or her parent or guardian requests assistance, except that counseling is required for an eligible child if—

(1) The eligible child may require specialized vocational training or special restorative training; or

(2) The eligible child has reached the compulsory school attendance age under State law, but has neither reached his or her 18th birthday, nor completed secondary schooling. See § 21.3040(a).

(b) *Spouse or surviving spouse.* Counseling is required for a spouse or surviving spouse only if he or she desires specialized vocational training.

(Authority: 38 U.S.C. 3520, 3536, 3541, 3561)

§ 21.3103 Failure to cooperate.

VA will not act further on an eligible person's application for assistance under 38 U.S.C. chapter 35 when counseling is required for him or her and the eligible person—

(a) Fails to report;

(b) Fails to cooperate in the counseling process; or

(c) Does not complete counseling to the extent required under § 21.3102.

(Authority: 38 U.S.C. 3536, 3541, 3561(a))

§ 21.3104 Special training.

(a) *Initial counseling.* A counseling psychologist in the Vocational Rehabilitation and Counseling Division will counsel a disabled child, spouse, or surviving spouse before referring the case to the Vocational Rehabilitation Panel (established under § 21.60) for consideration as to the child's, spouse's or surviving spouse's need for a course of specialized vocational training or the child's need for special restorative training. After consulting with the panel, and considering the panel's report, the counseling psychologist will determine if the disabled child, spouse, or surviving spouse needs a course of specialized vocational training or the disabled child needs special restorative training, and where need is found to exist will prescribe a course which is

suitable to accomplish the goals of 38 U.S.C. chapter 35.

(Authority: 38 U.S.C. 3536, 3540–3543, 3561(a))

(b) *Counseling after special restorative training.* When an eligible child completes or discontinues a course of special restorative training without having selected an objective and a program of education, a counseling psychologist in the Vocational Rehabilitation and Counseling Division will provide additional counseling to assist the child in selecting a program of education suitable to accomplish the purposes of 38 U.S.C. chapter 35.

(Authority: 38 U.S.C. 3561)

§ 21.3105 Travel expenses.

(a) *General.* VA shall determine and pay the necessary expense of travel to and from the place of counseling for an eligible person who is required to receive counseling as provided under 38 U.S.C. 111 (a), (d), (e), and (g).

(Authority: 38 U.S.C. 111 (a), (d), (e), and (g))

(b) *Restriction.* VA will not pay the necessary cost of travel to and from the place of counseling when counseling is not required, but is provided as a result of a voluntary request by the eligible person.

(Authority: 38 U.S.C. 111)

15. Sections 21.3130 and 21.3131 are added following the undesignated center heading that precedes § 21.3145, to read as follows:

§ 21.3130 Educational assistance.

(a) *Approval of a program of education.* VA will approve a program of education selected by an eligible person if:

(1) The program is described in § 21.3021 (h) and (i) or (j);

(2) The individual is not already qualified for the objective of the program of education;

(3) The proposed educational institution or training establishment is in compliance with all the requirements of 38 U.S.C. chapters 35 and 36; and

(4) It does not appear that the enrollment in or pursuit of such person's program of education would violate any provision of 38 U.S.C. chapters 35 and 36.

(Authority: 38 U.S.C. 3521)

(b) *Payments.* VA will pay educational assistance at the rate specified in § 21.3131 (subject to the reductions required by § 21.3132) while the eligible person is pursuing an approved program of education or training.

(Authority: 38 U.S.C. 3521, 3532)

(c) *No payment for excessive training.*

(1) VA will make no payment for:

(i) Training in an apprenticeship or other on-job training program in excess of the number of hours approved by the State approving agency or VA; or

(ii) Lessons completed in a correspondence course in excess of the number approved by the State approving agency.

(2) A school's standards of progress may permit a student to repeat a course or portion of a course in which he or she has done poorly. VA considers the repeated courses to be part of the program of education. VA will make no payment for courses or training if the courses or training are not part of the eligible person's program of education.

(Authority: 38 U.S.C. 3501(a)(5), 3521)

(d) *Courses precluded.* VA may not pay educational assistance:

(1) For pursuit of a course if approval of the enrollment in the course is precluded by § 21.4252;

(2) For training in a foreign country unless the training is in the Philippines or is approved pursuant to the provisions of § 21.4260; or

(3) For pursuit of a course offered by open-circuit television, unless the eligible person's pursuit meets the requirements of § 21.4233(c).

(Authority: 38 U.S.C. 3523)

(e) *Commencing date.* In determining the commencing date of an award of educational assistance, VA will apply the provisions of § 21.4131.

(Authority: 38 U.S.C. 5113)

§ 21.3131 Rates—educational assistance allowance—38 U.S.C. chapter 35.(a) *Rates.* Except as provided in § 21.3132, educational assistance allowance is payable at the following rates effective January 1, 1990:

Type of courses	Monthly rate
Institutional:	
Full time	\$404
¾ time	304
½ time	202
Less than ½ but more than ¼ time ³ .	202
¼ time or less ³	101
Cooperative (other than farm cooperative) (Full time only).	\$327
Apprentice or On-Job (full time only, but see footnote 1)	
First six months	\$294
Second six months	220
Third six months	146
Fourth six months and thereafter.	73

Type of courses	Monthly rate
Farm Cooperative:	
Full time	\$327
¾ time	245
½ time	163
Correspondence	55 percent of the established charge for the number of lessons completed by the eligible spouse or surviving spouse and serviced by the school—Allowance paid quarterly. ²

¹ See footnote 5 of § 21.4270(c) for measurement of full time and § 21.3132(c) for proportionate reduction in award for completion of less than 120 hours per month.² Established charge means the charge for the course or courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency or the actual cost to the eligible spouse or surviving spouse, whichever is the lesser. VA considers the continuity of an enrollment broken when there are more than 6 months between the servicing of the lessons.³ If an eligible person under chapter 35 pursuing independent study on a less than one-half-time basis completes his or her program before the designated completion time, his or her award will be recomputed to permit payment of tuition and fees not to exceed \$202 or \$101 as appropriate, per month, if the maximum allowance is not initially authorized.

(Authority: 38 U.S.C. 3532, 3686)

(b) *Less than half time.* The monthly rate for an eligible person who is pursuing an institutional course on less than one-half time basis may not exceed the monthly rate of the cost of the course computed on basis of the total cost for tuition and fees which the school requires similarly circumstanced individuals enrolled in the same course to pay. "Cost of the course" does not include the cost of books or supplies which the student is required to purchase at his or her own expense.

(Authority: 38 U.S.C. 3532(a)(2))

(c) *Courses leading to a secondary school diploma or equivalency certificate.* The monthly rate of Survivors' and Dependents' Educational Assistance payable for an eligible person enrolled in a course leading to a secondary school diploma or equivalency certificate shall be the rate for institutional training stated in paragraph (a) of this section.

(Authority: 38 U.S.C. 3532(d), 3533)

(d) *Payments made to eligible persons in the Republic of the Philippines or to certain Filipinos.* When the eligible person is pursuing training at an institution located in the Republic of the Philippines or when an eligible child's entitlement is based on the service of a veteran in the Philippine

Commonwealth Army, or as a Philippine Scout as defined in § 3.8 (b), (c), or (d) of this chapter, payments of educational assistance allowance made after December 31, 1994, will be made at the rate of 50 cents for each dollar authorized.

(Authority: 38 U.S.C. 3532(d), 3565)

§ 21.4137 [Redesignated as § 21.3132]**§ 21.3132 [Amended]**

16. Section 21.4137 is redesignated as § 21.3132; paragraphs (d) through (g) are removed; paragraph (h) is redesignated as paragraph (d); newly redesignated paragraph (d)(4) is amended by removing "106" and adding, in its place, "1606"; newly redesignated paragraphs (d)(4) and (d)(5) are amended by removing "(h)(1)(ii)" in each place it appears and adding, in its place, "(d)(1)(ii)"; paragraphs (i) through (o) are removed; and the section heading is revised, introductory text is added, and paragraphs (a) through (c) are revised, to read as follows:

§ 21.3132 Reductions in Survivors' and Dependents' Educational Assistance.

The monthly rates established in § 21.3131 shall be reduced as stated in this section whenever the circumstances described in this section arise.

(a) *No educational assistance allowance for some incarcerated eligible persons.* VA will pay no educational assistance allowance to an eligible person who:

(1) Is incarcerated in a Federal, State, or local penal institution for conviction of a felony; and

(2) Is enrolled in a course:

(i) For which there are no tuition or fees, or charges for books, supplies, and equipment; or

(ii) For which tuition and fees are being paid by a Federal program (other than one administered by VA) or by a State or local program, and the eligible person is incurring no charge for the books, supplies, and equipment necessary for the course.

(Authority: 38 U.S.C. 3532(e))

(b) *Reduced educational assistance allowance for some incarcerated eligible persons—felony conviction.* (1) VA will pay a reduced educational assistance allowance to an eligible person who:

(i) Is incarcerated in a Federal, State, or local penal institution for conviction of a felony; and

(ii) Is enrolled in a course:

(A) For which the eligible person pays some (but not all) of the charges for tuition and fees; or

(B) For which a Federal program (other than one administered by VA) or a State or local program pays all the

charges for tuition and fees, but which requires the eligible person to pay for books, supplies, and equipment.

(2) The monthly rate of educational assistance allowance payable to such an eligible person who is pursuing a course on a half-time or greater basis shall be the lesser of the following:

(i) The monthly rate of the portion of the tuition and fees that the eligible person must pay plus the monthly rate of the charge to the eligible person for the cost of necessary supplies, books, and equipment; or

(ii) The monthly rate stated in § 21.3131.

(3) The monthly rate of educational assistance payable to such an eligible person who is pursuing the course on a less than half-time basis or on a one quarter-time basis shall be the lowest of the following:

(i) The monthly rate of the tuition and fees charged for the course;

(ii) The monthly rate of tuition and fees which the eligible person must pay plus the monthly rate of the charge to the eligible person for the cost of necessary supplies, books, and equipment; or

(iii) The monthly rate stated in § 21.3131.

(Authority: 38 U.S.C. 3482(g))

(c) *Reduction in training assistance allowance.* (1) For any month in which an eligible person pursuing an apprenticeship or on-job training program fails to complete 120 hours of training, VA shall reduce the rate specified in § 21.3131(a) proportionally. In this computation VA shall round the number of hours worked to the nearest multiple of eight.

(2) For the purpose of this paragraph *hours worked* include only:

(i) The training hours the eligible person worked; and

(ii) All hours of the eligible person's related training which occurred during the standard workweek and for which the eligible person received wages.

(Authority: 38 U.S.C. 3687(b)(3))

* * * * *

17. Section 21.3133 is added to read as follows:

§ 21.3133 Payment procedures.

(a) *Release of payments and payment procedures.* In determining whether payments of educational assistance allowance may be made in a lump sum, in advance, for an interval or if a certification is required from an eligible person before a payment may be made, VA will apply the provisions of § 21.4138.

(Authority: 38 U.S.C. 3680)

(b) *Payee.* (1) VA will pay an educational assistance allowance to the eligible person if he or she has attained majority and has no known legal disability.

(2) If an eligible person has not attained majority, VA will pay an educational assistance allowance directly to an eligible person, a relative, or some other person for the use and benefit of the eligible person notwithstanding a legal disability on the part of the eligible person when VA determines:

(i) The best interest of the eligible person would be served;

(ii) Undue delay in payment would be avoided; or

(iii) Payment would otherwise not be feasible.

(Authority: 38 U.S.C. 3501(a)(4), 3501(c), 3531(a), 5502)

(c) *Payment of accrued benefits.* Educational assistance remaining due and unpaid at the date of the eligible person's death is payable under the provisions of § 3.1000 of this chapter.

(Authority: 38 U.S.C. 5121)

(d) *Tutorial assistance.* An individual who is otherwise eligible to receive benefits under the Survivors' and Dependents' Educational Assistance program may receive supplemental monetary assistance to provide tutorial services. In determining whether VA will pay the individual this assistance, VA will apply the provisions of § 21.4236.

(Authority: 38 U.S.C. 3492, 3533(b))

(e) *Offsets: 38 U.S.C. chapter 35, compensation, pension and dependency and indemnity compensation.* Payment of dependents' educational assistance will be subject to offset of amounts of pension, compensation or dependency and indemnity compensation paid over the same period on behalf of a child based on school attendance.

(Authority: 38 U.S.C. 3562)

(f) *Final payment.* VA may withhold final payment until VA receives proof of continued enrollment and adjusts the eligible person's account.

(Authority: 38 U.S.C. 3680)

18. Section 21.3135 is added to read as follows:

§ 21.3135 Reduction or discontinuance dates for awards of educational assistance allowance.

The reduction or discontinuance date of an award of educational assistance will be as stated in this section. If more than one basis for reduction or discontinuance is involved, the earliest date will control.

(a) *Ending date of course.* Educational assistance allowance will be discontinued on the ending date of the course or period of enrollment as certified by the school.

(Authority: 38 U.S.C. 3531, 3680(a))

(b) *Ending date of eligibility.*

Educational assistance allowance will be discontinued on the ending date of the eligible person's eligibility as determined by § 21.3041, § 21.3042, § 21.3043, or § 21.3046.

(Authority: 38 U.S.C. 3512)

(c) *General reduction or discontinuance dates.* Educational assistance allowance will be reduced or discontinued on the date specified in § 21.4135.

(Authority: 38 U.S.C. 3482(g), 3531, 3671(g), 3672(a), 3680, 3683, 3690, 5112, 5113, 6103, 6104, 6105)

(d) *Divorce.* If the veteran and eligible spouse divorce, the discontinuance date for the eligible spouse's award of educational assistance will be:

(1) The end of the quarter or semester if the school is operated on a quarter or semester system, and the divorce was without fault on the eligible spouse's part;

(2) The end of the course or a 12-week period, whichever is earlier, if the school does not operate on a quarter or semester system, and the divorce was without fault on the eligible spouse's part; or

(3) In all other instances, the date the divorce decree becomes final.

(Authority: 38 U.S.C. 3501(a)(1)(D), 3511(b))

(e) *Remarriage or other relationship of spouse or surviving spouse.* (1) If an eligible surviving spouse remarries, the date of discontinuance of his or her award of educational assistance allowance will be the last date of attendance before remarriage.

(2) If a spouse or surviving spouse begins a relationship by living with another person and holding himself or herself out openly to the public to be the spouse of the other person, the date of discontinuance of his or her award of educational assistance allowance will be the last date of the month before the spouse's or surviving spouse's relationship began.

(Authority: 38 U.S.C. 101(3), 3501(a)(1)(B))

(f) *Entrance on active duty (§ 21.3042).* If an eligible person enters on active duty, VA will terminate his or her educational assistance allowance on the day before the day of entrance on active duty. Brief periods of active duty for training, if the school permits such an absence without interruption of

training, will not result in termination of the allowance under this paragraph.

(Authority: 38 U.S.C. 3501(d))

(g) *Eligible child ceases to be a stepchild.* When an eligible child loses eligibility because he or she ceases to be the stepchild of the veteran, VA will discontinue the dependent's educational assistance allowance on the last day of the child's eligibility as determined by § 21.3041(d)(9).

(Authority: 38 U.S.C. 101(4)(A), 3501)

(h) *Veteran no longer rated permanently and totally disabled.* (1) If the veteran on whose service an eligible person's eligibility is based is no longer permanently and totally disabled, VA will discontinue the educational assistance allowance—

(i) On the last date of the quarter or semester during which VA rated the veteran as no longer permanently and totally disabled if the eligible person's educational institution is organized on a quarter or semester basis; or

(ii) On the earlier of the following dates when the eligible person's educational institution is not organized on a quarter or semester basis:

(A) The last date of the course;

(B) The end of a 12-week period beginning on the date VA rated the veteran as being no longer permanently and totally disabled.

(Authority: 38 U.S.C. 3511(b), 3512(a)(6)(A))

(i) Serviceperson is removed from "missing status" listing. (1) If the serviceperson on whose service an eligible person's eligibility is based is removed from the "missing status" listing, VA will discontinue the educational assistance allowance—

(i) On the last date of the quarter or semester during which the serviceperson was removed from the "missing status" listing if the eligible person's educational institution is organized on a quarter or semester basis; or

(ii) On the earlier of the following dates when the eligible person's educational institution is not organized on a quarter or semester basis:

(A) The last date of the course;

(B) The end of a 12-week period beginning on the date the serviceperson was removed from the "missing status" listing.

(Authority: 38 U.S.C. 3512(a)(6)(A))

§ 21.3145 [Removed]

19. Section 21.3145 is removed.

20. In § 21.3330, paragraph (a) is amended by removing "§ 21.4139" and adding, in its place, "§ 21.3133(b)"; and paragraph (c) is revised to read as follows:

§ 21.3330 Payments.

* * * * *

(c) The provisions of § 21.3133(e) apply to the payment of special restorative training allowance.

(Authority: 38 U.S.C. 3562)

§ 21.3331 [Amended]

21. Section 21.3331 is amended by removing "§ 21.4131", and adding, in its place, "§ 21.3130(c)".

§ 21.3332 [Amended]

22. Section 21.3332 is amended by removing "§ 21.4135", and adding, in its place, "§ 21.3130(d)".

23. An undesignated center heading and § 21.3344 are added to read as follows:

Special Assistance and Training

§ 21.3344 Special assistance for the educationally disadvantaged.

(a) *Enrollment.* VA may approve the enrollment of an eligible person in an appropriate course or courses at the secondary school level. This approval may be made only if the eligible person—

(1) Has not received a secondary school diploma (or an equivalency certificate);

(2) Needs additional secondary school education, remedial, refresher, or deficiency courses, to qualify for admission to an appropriate educational institution in a State in order to pursue a program of education; and

(3) Is to pursue the course or courses in a State.

(Authority: 38 U.S.C. 3491(a), 3533)

(b) *Measurement.* VA will measure remedial, deficiency, or refresher courses offered at the secondary school level as provided in §§ 21.4270(a)(2) and 21.4272(k).

(Authority: 38 U.S.C. 3533)

(c) *Educational assistance.* VA will authorize educational assistance at the monthly rates specified in § 21.3131.

(Authority: 38 U.S.C. 3491(a), 3533)

(d) *Entitlement charge.* The provisions of § 21.3045 will determine whether VA will make a charge against the period of the entitlement of the eligible person because of enrollment in a course under the provisions of this section.

(Authority: 38 U.S.C. 3533)

(e) *Certifications.* (1) Certifications of the eligible person's need for deficiency or remedial courses in basic English language skills and mathematics skills may be made by:

(i) A VA counseling psychologist in the Vocational Rehabilitation and Counseling Division;

(ii) The educational institution administering the course; or

(iii) The educational institution where the student has applied for admission.

(2) Certification of need for other refresher, remedial or deficiency course requirements are to be made by the educational institution—

(i) Administering the course which the eligible person is planning to enter; or

(ii) Where the eligible person has applied for admission.

(Authority: 38 U.S.C. 3533)

(f) *Basic skills.* Basic English language courses or mathematics courses will be authorized when it is found by accepted testing methods that the eligible person is lacking in basic reading, writing, speaking, or essential mathematics.

(Authority: 38 U.S.C. 3533)

Subpart D—Administration of Educational Assistance Programs

24. The authority citation for subpart D is revised to read as follows:

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

25. The heading for subpart D is revised to read as set forth above.

§ 21.4001 [Amended]

26. In § 21.4001, paragraph (a) is amended by removing "Chief Benefits Director" and adding, in its place, "Under Secretary for Benefits"; by removing "Vocational Rehabilitation and"; and by removing "34, 35," and adding, in its place, "34"; paragraph (b) is amended by removing "Chief, Benefits Director" and adding, in its place, "Under Secretary for Benefits"; and by removing "Vocational Rehabilitation and"; paragraph (c) introductory text is amended by removing "Vocational Rehabilitation and"; paragraph (d) is amended by removing "Chief Benefits Director" and adding, in its place, "Under Secretary for Benefits", and by adding "his or her" immediately preceding "designee"; paragraph (e) is amended by removing "Chief Benefits Director" and adding, in its place, "Under Secretary for Benefits"; paragraph (f) is amended by removing "Chief Benefits Director" and adding, in its place, "Under Secretary for Benefits"; and paragraph (g) is amended by removing "Education" and adding, in its place, "Counseling".

§ 21.4009 [Amended]

27. In § 21.4009, paragraph (a)(2)(i) is amended by removing "excessive absences from a course or"; and by removing "veteran" and adding, in its place, "veteran, reservist".

§ 21.4022 [Amended]

28. In § 21.4022, the heading for paragraph (a) is removed; paragraph (b) is removed; and paragraph (a) introductory text and paragraphs (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (a)(6), (a)(7), (a)(8), and (a)(9) are redesignated as introductory text and paragraphs (a), (b), (c), (d), (e), (f), (g), (h), and (i), respectively.

§ 21.4025 [Removed]

29. Section 21.4025 is removed.

§§ 21.4100 through 21.4105 and 21.4130 [Removed]

30. The undesignated center heading which precedes § 21.4100, and §§ 21.4100 through 21.4105 and § 21.4130 are removed.

§ 21.4131 [Amended]

31. In § 21.4131, paragraphs (e) and (j) are removed and reserved; the heading for paragraph (g) is amended by removing "(§§ 21.1042(b), 21.3042(b))"; paragraph (g) is amended by removing "veteran" and adding, in its place, "veteran or eligible person"; the authority citation for paragraph (g) is amended by removing "3462(b)" and adding, in its place, "3462(b), 3501(d)"; and paragraph (h), introductory text, is amended by removing "§ 21.4136 (n), (o), (p), or (r) § 21.4137 (j) or (l)" and adding, in its place, "§ 21.3132(a) or (b) or § 21.5139".

§ 21.4132 [Removed]

32. Section 21.4132 is removed.

33. In § 21.4135, paragraphs (b), (c), (d), (n), (o), (v), and (z) are removed and reserved; paragraph (e)(2) introductory text is amended by removing "as provided in § 21.4136(k) or 21.4137(h),"; paragraph (m)(1) is amended by removing "§ 21.4136(n), (o), (p), or (r) or § 21.4137(j) or (l)" and adding, in its place, "§ 21.3132(a) or (b) or § 21.5139"; and in paragraph (e), the heading and paragraph (e)(1) are revised, to read as follows:

§ 21.4135 Discontinuance dates.

* * * * *

(e) *Course discontinued; course interrupted; course terminated; course not satisfactorily completed or withdrawn from.* (1) If the individual receives all nonpunitive grades, or withdraws from all courses other than because of being ordered to active duty, and no mitigating circumstances are found, VA will terminate the individual's educational assistance allowance effective the first date of the term in which the withdrawal occurs.

* * * * *

34. In § 21.4136, paragraphs (a) through (j) are removed; paragraph (k)

heading, paragraph (k)(1) introductory text, paragraphs (k)(1)(i), (k)(1)(ii) introductory text, (k)(1)(ii)(A), (k)(1)(ii)(B), (k)(1)(ii)(C), and (k)(2) through (k)(5) are redesignated as paragraph (a) heading, paragraph (a) introductory text, paragraphs (a)(1), (a)(2) introductory text, (a)(2)(i), (a)(2)(ii), (a)(2)(iii), and (b) through (e), respectively; newly redesignated paragraphs (a)(2)(ii) and (a)(2)(iii) are amended by removing "veteran" wherever it appears and adding, in its place, "individual"; paragraphs (l) through (t) and the cross reference at the end of the section are removed; and the section heading, the heading and introductory text of newly redesignated paragraph (a), the authority citation at the end of newly redesignated paragraph (a), and newly redesignated paragraph (a)(1) and paragraphs (b) through (e) are revised to read as follows:

§ 21.4136 Withdrawals or nonpunitive grades may result in nonpayment.

(a) *General.* VA will not pay benefits to an individual for a course from which the individual withdraws or receives a nonpunitive grade which is not used in computing the requirements for graduation unless:

(1) The individual withdraws because he or she is ordered to active duty; or

* * * * *

(Authority: 38 U.S.C. 3680(a))

(b) *Representative mitigating circumstances.* The following circumstances, which are not all inclusive, are representative of those that VA considers to be mitigating provided they prevent the individual from pursuing the program of education continuously:

(1) An illness of the individual;

(2) An illness or death in the individual's family;

(3) An unavoidable geographical transfer resulting from the individual's employment;

(4) An unavoidable change in the individual's conditions of employment;

(5) Immediate family or financial obligations beyond the control of the individual that require him or her to suspend pursuit of the program of education to obtain employment;

(6) Discontinuance of the course by the school;

(7) Unanticipated active duty for training;

(8) Unanticipated difficulties in caring for the individual's child or children.

(Authority: 38 U.S.C. 3680(a))

(c) *Failure to complete a course for the educationally disadvantaged.* If the individual fails to satisfactorily

complete a course under 38 U.S.C. 3491(a) without fault, VA will consider the circumstances that caused the failure to be mitigating. This will be the case even if the circumstances were not so severe as to preclude continuous pursuit of a program of education.

(d) *Withdrawals after May 31, 1989.* In the first instance of a withdrawal after May 31, 1989, from a course or courses for which the individual received educational assistance under 38 U.S.C. chapter 32, VA will consider that mitigating circumstances exist with respect to courses totaling not more than six semester hours or the equivalent, and paragraphs (a)(2)(ii) and (a)(2)(iii) of this section will not apply.

(Authority: 38 U.S.C. 3680(a)(3))

(e) *Withdrawals during a drop-add period.* If the individual withdraws from a course during a drop-add period, VA will consider the circumstances that caused the withdrawal to be mitigating, and paragraphs (a)(2)(ii) and (a)(2)(iii) of this section will not apply.

(Authority: 38 U.S.C. 3680(a))

§§ 21.4139 through 21.4141 [Removed]

35. Sections 21.4139 through 21.4141 are removed.

36. In § 21.4145, paragraph (b) is amended by removing "veteran" wherever it appears, and adding, in its place, "veteran, reservist, or eligible person", and by removing "veteran's" and adding, in its place, "veteran's, reservist's, or eligible person's"; paragraph (c) introductory text is amended by removing "Veteran-student" and adding, in its place, "Work-study"; the heading of paragraph (g) is amended by removing "Veteran" and adding, in its place, "Veteran, reservist, or eligible person"; paragraphs (g) and (h) are amended by removing "veteran" wherever it appears, and adding, in its place, "veteran, reservist, or eligible person"; paragraph (i) is amended by removing "veterans" and adding, in its place, "veterans, reservists, or eligible persons"; and the section heading and paragraphs (a), (c)(3), (c)(4), (d), (e), and (f) are revised, and paragraph (c)(5) is added, to read as follows:

§ 21.4145 Work-study allowance.

(a) *Eligibility.* (1) A veteran or reservist pursuing a program of education under either 38 U.S.C. chapter 30 or 32 or 10 U.S.C. chapter 1606 at a rate of three-quarter time or full time is eligible to receive a work-study allowance.

(2) An eligible person is eligible to receive a work-study allowance when-

(i) The eligible person is pursuing a program of education under 38 U.S.C. chapter 35 on at least a three-quarter-time basis;

(ii) The eligible person is pursuing a program of education in a State; and

(iii) The eligible person is not pursuing a program of special restorative training.

(Authority: 10 U.S.C. 16136; 38 U.S.C. 3034, 3241, 3485, 3537)

* * * * *

(c) * * *

(3) Hospital and domiciliary care and medical treatment at VA facilities;

(4) For a reservist training under 10 U.S.C. chapter 1606, activities relating to the administration of 10 U.S.C. chapter 1606 at Department of Defense facilities, Coast Guard facilities, or National Guard facilities; and

(5) Any other appropriate activity of VA.

(Authority: 10 U.S.C. 16136; 38 U.S.C. 3034, 3241, 3485, 3537)

(d) *Rate of payment.* In return for the veteran's, reservist's, or eligible person's agreement to perform services for VA totaling not more than 25 hours times the number of weeks contained in an enrollment period, VA will pay an allowance in an amount equal to the higher of:

(1) The hourly minimum wage in effect under section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)) times the number of hours the veteran, reservist, or eligible person has agreed to work; or

(2) The hourly minimum wage under comparable law of the State in which the services are to be performed times the number of hours the veteran, reservist, or eligible person has agreed to work.

(Authority: 10 U.S.C. 16136; 38 U.S.C. 3034, 3241, 3485, 3537)

(e) *Payment in advance.* VA will pay in advance an amount equal to the lesser of the following:

(1) 40 percent of the total amount payable under the contract; or

(2) An amount equal to 50 times the applicable minimum hourly wage in effect on the date the contract is signed.

(Authority: 10 U.S.C. 16136; 38 U.S.C. 3034, 3241, 3485, 3537)

(f) *Veteran, reservist, or eligible person reduces rate of training.* In the event the veteran, reservist, or eligible person reduces his or her training to less than three-quarter-time before completing an agreement, the veteran, reservist, or eligible person, with the approval of the Director of the VA field station, or designee, may be permitted to

complete the portions of an agreement in the same or immediately following term, quarter, or semester in which the veteran, reservist, or eligible person ceases to be a three-quarter-time student.

(Authority: 10 U.S.C. 16136; 38 U.S.C. 3034, 3241, 3485, 3537)

* * * * *

§ 21.4146 [Amended]

37. In § 21.4146, paragraph (a) is amended by removing "Chapters 34, 35 and 36, Title 38, U.S.C." and adding, in its place, "38 U.S.C. chapters 30, 32, 35, or 36, or 10 U.S.C. chapter 1606"; and paragraph (f) is removed.

38. In § 21.4153, paragraph (b) is amended by removing "Chief Benefits Director" and adding, in its place, "Under Secretary for Benefits"; and by removing "Vocational Rehabilitation and"; paragraph (c)(2)(i)(B) is amended by removing "Vocational Rehabilitation and"; and paragraph (c)(3) is revised, to read as follows:

§ 21.4153 Reimbursement of expenses.

* * * * *

(c) *Reimbursable expenses.* * * *

(3) *Administrative expenses.* In determining the allowance for administrative expenses for which payment may be authorized, VA will apply the provisions of 38 U.S.C. 3674(b). In making that application, VA will determine reimbursable salary cost pursuant to paragraph (c)(1) of this section.

* * * * *

39. In § 21.4200, paragraph (v) is revised to read as follows:

§ 21.4200 Definitions.

* * * * *

(v) *Reservist.* The term *reservist* means a member of the Selected Reserve of the Ready Reserve of any of the reserve components (including the Army National Guard of the United States and the Air National Guard of the United States) of the Armed Forces who is eligible to receive educational assistance under 38 U.S.C. chapter 30 or 10 U.S.C. chapter 1606.

(Authority: 38 U.S.C. 3002)

§ 21.4201 [Amended]

40. In § 21.4201, paragraph (g)(6) is amended by removing "in a course either before December 1, 1976 or after November 30, 1976,".

§ 21.4204 [Amended]

41. In § 21.4204, paragraph (b)(2) is removed; and paragraphs (b)(3), (b)(4), (b)(5), and (b)(6) are redesignated as paragraphs (b)(2), (b)(3), (b)(4), and (b)(5), respectively.

§ 21.4205 [Removed]

42. Section 21.4205 is removed.

§ 21.4209 [Amended]

43. Section 21.4209 is amended in the heading of paragraph (c) by removing "Below college level" and adding, in its place, "Noncollege degree"; in paragraph (c) by removing "veterans or" and adding, in its place, "veterans, servicemembers, reservists, and/or"; by removing "or courses which do" and adding, in its place, "that does"; and by removing "which has enrolled veterans under Chapter 34 or eligible persons under Chapter 35" and adding, in its place, "that has enrolled veterans under 38 U.S.C. chapter 30 or 32, reservists under 10 U.S.C. chapter 1606, or eligible persons under 38 U.S.C. chapter 35"; and, immediately after paragraph (c), by adding an authority citation to read "(Authority: 10 U.S.C. 16136; 38 U.S.C. 3034, 3241, 3690(c))".

§ 21.4230 [Removed]

44. Section 21.4230 is removed.

§ 21.4235 [Removed]

45. Section 21.4235 is removed.

46. In § 21.4236, the section heading, the authority citation following paragraph (b), and paragraphs (c) and (d) are revised, to read as follows:

§ 21.4236 Tutorial assistance.

* * * * *

(b) * * *

(Authority: 10 U.S.C. 16131(h); 38 U.S.C. 3019, 3234, 3492, 3533(b))

(c) *Limits on tutorial assistance.* (1) VA will authorize the cost of tutorial assistance in an amount not to exceed \$100 per month.

(2) The total amount of all tutorial assistance provided under this section will not exceed \$1200.

(Authority: 38 U.S.C. 3019, 3492, 3533(b))

(d) *Entitlement charge.* VA will make no charge against the veteran's or eligible person's entitlement to educational assistance for any amount of tutorial assistance authorized.

(Authority: 38 U.S.C. 3019, 3492, 3533(b))

§ 21.4237 [Removed]

47. Section 21.4237 is removed.

§ 21.4252 [Amended]

48. In § 21.4252, the authority citation for paragraph (b)(3) is amended by removing "3473(a), 3523(a)" and adding, in its place, "3523(a), 3680A(b)"; paragraph (c)(1) is amended by removing "training under Chapter 34." and adding, in its place, "training; or"; paragraph (c)(2) is removed; paragraph (c)(3) is redesignated as

paragraph (c)(2); and the authority citation for paragraph (c) is amended by removing "Sec. 2003, Pub. L. 97-35" and adding, in its place, "10 U.S.C. 16131(g); 38 U.S.C. 3034(d), 3241(b), 3523(b), 3680A(b)".

§ 21.4260 [Amended]

49. In § 21.4260, paragraph (c)(1)(i) is amended by removing "§§ 21.1040 through 21.1045," and paragraph (c)(1)(ii) is amended by removing "21.4230 or § 21.5230" and adding, in its place, "21.3021(h) or § 21.5021(q)".

§ 21.4264 [Amended]

50. In § 21.4264, paragraph (b) is amended by removing "a veteran or" and adding, in its place, "an"; and paragraph (d)(1) introductory text is amended by removing "veterans,".

§ 21.4266 [Amended]

51. In § 21.4266, paragraph (c)(1)(iii) is amended by removing "21.4203, 21.4204 and 21.4205"; and adding, in its place, "21.4203 and 21.4204".

§ 21.4276 [Removed]

52. Section 21.4276 is removed.

Subpart E—[Removed]

53. Subpart E is removed.

Subpart F—Education Loans

54. The authority citation for subpart F is revised to read as follows:

Authority: 38 U.S.C. 501, 3537, 3698, 3699, unless otherwise noted.

55. In § 21.4500, paragraph (b) is amended by removing "Veteran or person" and adding, in its place, "spouse or surviving spouse", and by removing "section 3698, Title 38, U.S.C." and adding, in its place, "38 U.S.C. 3512(f) and 3698."; paragraph (d)(2) introductory text is amended by removing "a veteran or eligible person" and adding, in its place, "an eligible spouse or surviving spouse"; the authority citation following paragraph (d)(2) introductory text is amended by removing "3698" and adding, in its place, "3512(f), 3698"; paragraph (d)(2)(ii) is amended by removing "Vocational Rehabilitation and" in each place it appears; the authority citation for paragraph (d) is amended by removing "3698(c)" and adding, in its place, "3512(f), 3698(c)"; paragraph (e)(1) is amended by removing "the veteran or other eligible person" and adding, in its place, "the eligible spouse or surviving spouse"; paragraph (e)(2) is amended by removing "the veteran or other eligible person" and adding, in its place, "the eligible spouse or surviving spouse"; paragraph (e)(3) is amended by removing "the veteran or other eligible person" and adding, in its place, "the

eligible spouse or surviving spouse"; paragraph (e)(4) is amended by removing "the veteran or other eligible person under section 3231, 3461, or subchapter II of Chapter 35, Title 38 U.S.C., which applies solely to the veteran or eligible person" and adding, in its place, "the eligible spouse or surviving spouse under 38 U.S.C. chapter 35"; paragraph (e)(5) is amended by removing "veteran or other eligible person" and adding, in its place, "eligible spouse or surviving spouse"; paragraph (e)(6) is amended by removing "veteran under section 3485, Title 38 U.S.C." and adding, in its place, "eligible spouse or surviving spouse under 38 U.S.C. 3537"; paragraph (g) is amended by removing "a veteran or eligible person" and adding, in its place, "an eligible spouse or surviving spouse"; and by removing "Effective January 1, 1975, the" and adding, in its place, "The"; the authority citation following paragraph (h) is amended by removing "3698(b)" and adding, in its place, "3512(f), 3698(b)"; and paragraph (f) is revised to read as follows:

§ 21.4500 Definitions.

* * * * *

(f) *Actual cost of attendance.* The term *actual cost of attendance* means:

- (1) The actual charge per student for tuition, fees, and books;
- (2) An allowance for commuting (this allowance will be based on 22.5¢ per mile for distances not exceeding normal commuting distance);
- (3) An allowance for other expenses reasonably related to attendance at the institution at which the eligible spouse or surviving spouse is enrolled; and
- (4) A room and board allowance that shall be determined as follows:
 - (i) If the educational institution actually provides the eligible spouse or surviving spouse with room and board, the allowance shall equal the actual charges to him or her for room and board;
 - (ii) If the educational institution provides some students with room and board, but does not provide room and board for the eligible spouse or surviving spouse, the room and board allowance shall equal either the actual expenses incurred by the eligible spouse or surviving spouse for room and board, or the amount for room and board that the educational institution would have charged the eligible spouse or surviving spouse, had the educational institution provided him or her with room and board, whichever is less; and
 - (iii) If the educational institution does not provide any students with room and board, the room and board allowance shall equal either the actual expenses

incurred by the eligible spouse or surviving spouse for room and board or the amount the eligible spouse or surviving spouse would have been charged for room and board had he or she been provided room and board by the nearest State college or State university that provides room and board, whichever is less.

* * * * *

56. Section 21.4501 is revised to read as follows:

§ 21.4501 Eligibility.

(a) *General.* Any eligible spouse or surviving spouse shall be eligible to receive an education loan if he or she meets the criteria of this section.

(Authority: 38 U.S.C. 3512(f), 3698)

(b) *Eligibility criteria.* To qualify for an education loan—

(1) The eligible spouse's or surviving spouse's delimiting period as determined by § 21.3046 (a), (b), or (d) must have expired;

(2) The eligible spouse or surviving spouse must—

(i) Have financial resources that may reasonably be expected to be expended for education needs and which are insufficient to meet the actual costs of attendance;

(ii) Execute a promissory note payable to the Department of Veterans Affairs, as provided by § 21.4504;

(iii) Have unused entitlement provided under 38 U.S.C. 3511;

(iv) During the term, quarter, or semester for which the loan is granted, be enrolled on a full-time basis in pursuit of the approved program of education in which he or she was enrolled on the date his or her eligibility expired under § 21.3046 (a), (b), or (d); and

(v) Have been enrolled in a program of education on a full-time basis—

(A) On the date his or her period of eligibility expired under § 21.3046 (a), (b), or (d); or

(B) On the last date of the ordinary term, semester or quarter preceding the date his or her eligibility expired under § 21.3046 (a), (b), or (d), if the delimiting date fell during a school break or summer term.

(Authority: 38 U.S.C. 3512(f), 3698)

(c) *Limitations.* The period for which a loan may be granted shall not extend beyond the earliest of the following dates:

(1) Two years after the expiration of the period of eligibility as determined by § 21.3046(a), (b), or (d);

(2) The date on which the eligible spouse's or surviving spouse's entitlement is exhausted; or

(3) The date on which the eligible spouse or surviving spouse completes the approved program of education which he or she was pursuing on the date the delimiting period determined by § 21.3046 (a), (b), or (d) expired.

(Authority: 38 U.S.C. 3512(f), 3698)

(d) *Exclusions.* No eligible spouse or surviving spouse shall be authorized an education loan if he or she has defaulted on a previous education loan and there is a remaining unliquidated payment due VA.

(Authority: 38 U.S.C. 3512(f), 3698)

§ 21.4502 [Amended]

57. In § 21.4502, paragraph (a) is amended by removing “veteran or other eligible person” and adding, in its place, “spouse or surviving spouse”; paragraph (b)(2) is amended by removing “veteran or other eligible person” and adding, in its place, “eligible spouse or surviving spouse”; paragraph (b)(3) is amended by removing “veteran or other eligible person” and adding, in its place, “eligible spouse or surviving spouse”; and paragraph (b)(4) is amended by removing “veteran or other eligible person” wherever it appears, and adding, in its place, “eligible spouse or surviving spouse”.

58. In § 21.4503, paragraph (a)(1) is amended by removing “veteran or other eligible person” and adding, in its place, “eligible spouse or surviving spouse”; paragraphs (b)(4), (b)(5), (b)(10), and (b)(11) are removed; paragraphs (b)(6), (b)(7), (b)(8), and (b)(9) are redesignated as paragraphs (b)(4), (b)(5), (b)(6), and (b)(7), respectively; the authority citation following newly redesignated paragraph (b)(4) is amended by removing “3698(b)” and adding, in its place, “3512(f), 3698(b)”; newly redesignated paragraph (b)(5) is amended by removing “veteran or other eligible person” and adding, in its place, “eligible spouse or surviving spouse”; newly redesignated paragraph (b)(7) is amended by removing “veteran or other eligible person” and adding, in its place, “spouse or surviving spouse”; and paragraph (b)(2) and newly redesignated paragraph (b)(6) are revised to read as follows:

§ 21.4503 *Determination of loan amount.*

* * * * *

(b) *Amount.* * * *

(2) The aggregate of the amounts any eligible spouse or surviving spouse may borrow for an education loan may not exceed \$2,500 in any one academic year. It also may not exceed an amount determined by multiplying the number of months of educational assistance to

which the eligible spouse or surviving spouse would be entitled were it not for the expiration of his or her delimiting period under 38 U.S.C. 3511 times \$376.

(Authority: 38 U.S.C. 3512(f), 3698)

* * * * *

(6) An eligible spouse or surviving spouse may receive more than one loan covering separate loan periods, subject to paragraphs (b)(3) and (b)(7) of this section.

* * * * *

59. In § 21.4504, paragraph (d) is amended by removing “veteran or other eligible person” each place it appears, and adding, in its place, “spouse or surviving spouse” and by removing “veteran’s or eligible person’s” and adding, in its place, “eligible spouse’s or surviving spouse’s”; paragraph (e) is amended by removing “veteran or eligible person” and adding, in its place, “spouse or surviving spouse”; paragraph (f) is amended by removing “veteran or eligible person” each place it appears, and adding, in its place, “spouse or surviving spouse”; paragraph (g) is amended by removing “A veteran or eligible person” and adding, in its place, “An eligible spouse or surviving spouse”; and paragraph (a) introductory text and paragraph (a)(3)(ii) are revised to read as follows:

§ 21.4504 *Promissory note.*

(a) *General.* The agreement by VA to loan money pursuant to 38 U.S.C. 3512(f) and 3698 to any eligible spouse or surviving spouse shall be in the form of a promissory note which shall include:

* * * * *

(3) * * *

(ii) For loans of less than \$600, 1 year and 7 months after such date for the first \$50 of the loan plus 1 additional month for each additional \$5 of the loan.

* * * * *

§ 21.4505 [Amended]

60. In § 21.4505, paragraph (a) is amended by removing “veteran or eligible person” each place it appears, and adding, in its place, “eligible spouse or surviving spouse”; paragraph (b)(1) is amended by removing “veteran or eligible person” and adding, in its place, “eligible spouse or surviving spouse”; paragraph (b)(2) introductory text is amended by removing “veterans and other eligible persons”, and adding, in its place, “spouses or surviving spouses”; and the authority citation following paragraph (b) is amended by removing “3698” and adding, in its place, “3512(f), 3698”.

§ 21.4507 [Amended]

61. In § 21.4507, paragraph (a) is amended by removing “persons” and adding, in its place, “spouses and surviving spouses”; paragraph (b) is amended by removing “veterans and other eligible persons” and adding, in its place, “spouses and surviving spouses”; and the authority citation is amended by removing “3696” and adding, in its place, “3512(f), 3696”.

Subpart F—2—[Removed]

62. Subpart F—2 is removed.

Subpart K—All Volunteer Force Educational Assistance Program (Montgomery GI Bill—Active Duty)

63. The authority citation for subpart K continues to read as follows:

Authority: 38 U.S.C. 501(a), chs. 30, 36, unless otherwise noted.

64. The heading for subpart K is revised to read as set forth above.

65. In § 21.7000, paragraph (b) is revised to read as follows:

§ 21.7000 *Establishment of educational assistance program.*

* * * * *

(b) *Purpose.* The purpose of this program is as stated in 38 U.S.C. 3001. (Authority: 38 U.S.C. 3001)

66. In § 21.7044, the section heading and paragraphs (a)(1) and (b)(1) are revised to read as follows:

§ 21.7044 *Persons with eligibility under 38 U.S.C. chapter 34.*

* * * * *

(a) *Eligibility based solely on active duty.* * * *

(1) The individual must have met the requirements of 38 U.S.C. chapter 34, as in effect on December 31, 1989, establishing eligibility for educational assistance allowance under that chapter;

* * * * *

(b) *Eligibility based on combined active duty service and service in the Selected Reserve.* * * *

(1) The individual must have met the requirements of 38 U.S.C. chapter 34, as in effect on December 31, 1989, establishing eligibility for educational assistance allowance under that chapter;

* * * * *

§ 21.7135 [Amended]

67. In § 21.7135, paragraph (f)(3) is amended by removing “21.7140(b) of this part” and adding, in its place, “21.7140(d)”; paragraph (i) is amended by removing “of this part” wherever it appears; paragraphs (j)(1), (k)(1), (n), and (o) are amended by removing “of this part”; paragraph (p) is amended by

removing "of this part" each place it appears; paragraph (r) is amended by removing "of this part" each place it appears; and paragraph (t) is amended by removing "of this part".

§ 21.7140 [Amended]

68. In § 21.7140, paragraph (c)(1)(i) is amended by removing "of this part"; paragraph (c)(2) introductory text is amended by removing "after-" and adding, in its place, "after-"; paragraph (c)(2)(i) is amended by removing "of this part"; paragraph (c)(2)(ii) is amended by removing "worked" and adding, in its place, "worked."; paragraph (d)(1) is amended by removing "of this part" wherever it appears; paragraphs (d)(2)(i) and (d)(2)(ii) are amended by removing "Vocational Rehabilitation and" wherever it appears; and paragraph (e)(2) is amended by removing "of this part".

69. Section 21.7141 is revised to read as follows:

§ 21.7141 Tutorial assistance.

An individual who is otherwise eligible to receive benefits under the Montgomery GI Bill - Active Duty may receive supplemental monetary assistance to provide tutorial services. In determining whether VA will pay the individual this assistance, VA will apply the provisions of § 21.4236.

(Authority: 38 U.S.C. 3019, 3492)

§ 21.7145 [Removed]

70. Section 21.7145 is removed.

§ 21.7154 [Amended]

71. In § 21.7154, paragraph (b) is removed, and paragraph (c) is redesignated as paragraph (b).

§ 21.7158 [Amended]

72. In § 21.7158, paragraph (b)(1) is amended by removing "21.744(b)" and adding, in its place, "21.7144(b)".

[FR Doc. 96-12548 Filed 5-23-96; 8:45 am]

BILLING CODE 8320-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300412A; FRL-5359-4]

RIN 2070-AB78

Oxo-Alkyl Acetates; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document exempts from the requirements of a tolerance residues

of a group of chemicals known as oxo-alkyl acetates [oxo-hexyl acetate (CAS Reg. No. 88230-35-7), oxo-heptyl acetate (CAS Reg. No. 90438-79-2), oxo-octyl acetate (CAS Reg. No. 108419-32-5), oxo-nonyl acetate (CAS Reg. No. 108419-34-7), oxo-decyl acetate (CAS Reg. No. 108419-33-6), and oxo-tridecyl acetate (CAS Reg. No. 108419-35-8)] when used as a solvent in pesticide formulations. This regulation was requested by Exxon Chemical Co., Performance Products Group.

EFFECTIVE DATE: May 24, 1996.

ADDRESSES: Written objections and hearing requests, identified by the document control number, [OPP-300412A], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket number [OPP-300412A]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Amelia M. Acierto, Registration Support Branch, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401

M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: 2800 Crystal Drive, North Tower, Arlington, VA, 703-308-8375; e-mail:

acierto.amelia@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the Federal Register of February 14, 1996 (61 FR 5728), Exxon Chemical Co., Performance Products Group, Linden, NJ 07036, submitted pesticide petition (PP) 3E04267 to EPA requesting that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e), propose to amend 40 CFR 180.1001(d) by establishing an exemption from the requirement of a tolerance for oxo-alkyl acetates [oxo-hexyl acetate (CAS Reg. No. 88230-35-7), oxo-heptyl acetate (CAS Reg. No. 90438-79-2), oxo-octyl acetate (CAS Reg. No. 108419-32-5), oxo-nonyl acetate (CAS Reg. No. 108419-34-7), oxo-decyl acetate (CAS Reg. No. 108419-33-6), and oxo-tridecyl acetate (CAS Reg. No. 108419-35-8)] when used as solvents in pesticide formulations applied to growing crops only.

There were no comments received in response to the proposed rule.

Based upon an evaluation of the toxicological data which shows no evidence of mutagenicity (Ames Test), and no significant acute and subchronic or developmental toxicity of the branched alkyl acetates in this molecular weight range (C₈-C₁₃ alkyl acetates), the Agency concludes that this chemical poses no significant risks under the conditions of use and that no further data are required.

Based upon the toxicological data evaluated, the physico-chemical properties of oxo-alkyl acetates and information regarding their use, the Agency has found that, when used in accordance with good agricultural practice, these ingredients are useful and a tolerance is not necessary to protect the public health. Therefore, EPA is exempting oxo-alkyl acetates from the requirement of a tolerance as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the Federal Register, file written objections to the regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions