

days in advance of the date of said use and in the local "Notice to Mariners."

(ii) Display of red flag from the tower at 34°05'53"N., 119°06'59"W; or display of red flashing beacons in the case of night firing.

(iii) Radio broadcast on VHF-FM channel 16.

(iv) Notice to individual craft by visit of United States vessel.

(v) Telephone advice to such fisherman's organizations as may request, in writing, that such advice be given.

(3) Safety observers will be on duty at all times when the range is in use. Upon completion of firings, or if the scheduled firing is canceled for any reason, fishermen and small boat operators will be notified as far in advance as possible by Marine Radio Broadcast.

(4) Persons, vessels or other craft shall not enter or remain in the danger zone when the warning flag or beacon is being displayed unless authorized to do so by the range officer in the control tower.

(5) The regulations in this section shall be enforced by personnel attached to the Naval Air Weapons Station, Point Mugu, California, and by such other agencies as the Commandant, Eleventh Naval District, San Diego, California, may designate.

Dated: July 14, 1997.

**Russell L. Fuhrman,**

*Major General, USA, Director of Civil Works.*

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## DEPARTMENT OF DEFENSE

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 21

RIN 2900-A134

### Veterans Education: Approval of Training by Independent Study, Including Television

**AGENCIES:** Department of Defense, Department of Transportation (Coast Guard), and Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** This document amends the educational assistance and educational benefit regulations of the Department of Veterans Affairs (VA). It updates the

definition of independent study; makes changes to reflect statutory provisions; updates authority citations; and makes other changes for purposes of clarification.

**DATES:** Effective: This final rule is effective July 28, 1997.

**Applicability:** Certain of the statutory interpretations, restatements of statute, and changes in authority citations contained in this final rule will be applied retroactively from the effective date of the statutory provisions. For more information concerning the dates of application of the provisions of this final rule, see the **SUPPLEMENTARY INFORMATION** section.

**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 amends 38 CFR part 21, which contains VA educational assistance and educational benefit regulations.

Prior to the enactment of section 104 of the Veterans' Benefits Improvements Act of 1996 (Pub. L. 104-275), an individual's enrollment in an open-circuit television course was permitted for VA educational benefit purposes, only if the course were offered as an integral part of a residence program leading to a standard college degree. The regulations retain the requirement that an open-circuit television course lead to a standard college degree, but Pub. L. 104-275 removed the requirement that an open-circuit television course must be pursued as a part of a residence program. Accordingly, 38 CFR 21.4233, 21.7112, and 21.7612 are amended to reflect this statutory change. With these changes, open-circuit television training is treated as independent study.

Under 38 U.S.C. 3680A, educational assistance is provided to veterans enrolled in independent study programs. A definition of "independent study" is set forth at 38 CFR 21.4267. This definition was intended to interpret the statutory term "independent study." The definition necessitates interaction between the student and the faculty. Previously, § 21.4267 provided that such interaction could be by mail, by telephone, or in person. The definition, however, was not intended to restrict the use of other available means of communication. Accordingly, the definition of "independent study" is changed to include the use of modern communication technologies for the

necessary interaction between faculty and student.

38 U.S.C. 3672 provides for State approving agencies to approve courses for VA training. This includes courses offered by independent study. The regulations at § 21.4267 are amended to reflect these statutory provisions.

Other changes are also made for the purpose of clarity and to reflect current authority citations.

The statutory interpretations and restatements of statute contained in this final rule and changes in authority citations to reflect statutory amendments will be applied retroactively from the effective dates of the statutory provisions. The changes to paragraphs amended solely for purposes of clarification will not be applied retroactively. Accordingly, the dates of application for the provisions covered by this document are as follows: October 9, 1996: §§ 21.4233(c); 21.4267(a); 21.4267(b)(2); 21.7112; and 21.7612. July 28, 1997: Subparts D and K authority citations; §§ 21.4233(d); 21.4267(b)(1)(i); and 21.4267(f).

This document consists of restatements of statute, interpretive rules, updates to authority citations, and changes for purpose of clarification. Therefore, 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 Department of Defense (DOD), the Department of Transportation (Coast Guard), and VA are jointly issuing this final rule insofar as it relates to the Montgomery GI Bill—Selected Reserve. This program is funded by DOD and the Coast Guard, and is administered by VA. The remainder of this final rule is issued solely by VA.

The Secretary of Defense, Commandant of the Coast Guard, and Secretary of Veterans Affairs hereby certify 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 will not cause educational institutions to make significant changes in their activities and will not have discernible monetary effects. 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 programs affected by this final rule are 64.117, 64.120, and 64.124. The final rule also affects the Montgomery GI Bill—Selected Reserve for which there is no Catalog of Federal Domestic Assistance number.

**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: April 25, 1997.

**Jesse Brown,**

*Secretary of Veterans Affairs.*

Approved: July 7, 1997.

**Normand G. Lezy,**

*Lieutenant General, USAF, Deputy Assistant Secretary (Military Personnel Policy).*

Approved: June 13, 1997.

**Alan M. Steinman,**

*Assistant Commandant for Human Resources Acting.*

For the reasons set forth in the preamble, 38 CFR part 21 (subparts D, K, and L) are amended as set forth below.

## **PART 21—VOCATIONAL REHABILITATION AND EDUCATION**

### **Subpart D—Administration of Educational Assistance Programs**

1. The authority citation for part 21, 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.

2. In § 21.4233, paragraph (d) is amended by removing “a veteran or other” and adding, in its place, “an”; and paragraph (c) is revised to read as follows:

#### **§ 21.4233 Combination.**

\* \* \* \* \*

(c) *Television.* (1) A course offered by open-circuit television is an independent study course. In order for an eligible person to receive educational assistance while pursuing such a course, the course must meet all the requirements for independent study found in § 21.4267.

(Authority: 38 U.S.C. 3523, 3680A)

\* \* \* \* \*

3. In § 21.4267, the authority citations for paragraphs (a) and (b), and paragraph (b)(1)(i) are revised, and paragraph (f) is added to read as follows:

#### **§ 21.4267 Approval of independent study.**

(a) \* \* \*

(Authority: 38 U.S.C. 3014, 3523, 3672, 3676(e), 3680A(a))

(b) \* \* \*

(1) \* \* \*

(i) It consists of a prescribed program of study with provision for interaction between the student and the regularly employed faculty of the institution of higher learning. The interaction may be personally or through use of communications technology, including mail, telephone, videoconferencing, computer technology (to include electronic mail), and other electronic means;

\* \* \* \* \*

(Authority: 38 U.S.C. 3523, 3676(e), 3680A(a))

\* \* \* \* \*

(f) *Course approval.* A State approving agency may approve a course offered by independent study or a combination of independent study and resident training only if—

(1) The course is accredited and leads to a standard college degree; and

(2) The course meets the requirements of § 21.4253.

(Authority: 38 U.S.C. 3672, 3675, 3680A(a)(4))

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

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

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

5. In § 21.7112, paragraph (c) is revised to read as follows:

#### **§ 21.7112 Programs of education combining two or more types of courses.**

\* \* \* \* \*

(c) *Television.* In determining whether a veteran or servicemember may pursue all or part of a program of education under 38 U.S.C. chapter 30 by television, VA will apply the provisions of § 21.4233(c).

(Authority: 38 U.S.C. 3034(a))

6. In § 21.7612, paragraph (b) is revised to read as follows:

#### **§ 21.7612 Programs of education combining two or more types of courses.**

\* \* \* \* \*

(b) *Television.* In determining whether a reservist may pursue all or part of a program of education by television, VA will apply the provisions of § 21.4233(c).

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3680A)

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## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Parts 52 and 81**

[OH107-2a; KY94-9717a; FRL-5863-8]

### **Clean Air Act Promulgation of Extension of Attainment Date for Ozone Nonattainment Area; Ohio; Kentucky**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule; withdrawal.

**SUMMARY:** On May 27, 1997 (62 FR 28634), EPA extended the attainment date for the Cincinnati-Hamilton interstate moderate ozone nonattainment area from November 15, 1996 to November 15, 1997. This extension was based in part on monitored air quality readings for the national ambient air quality standard (NAAQS) for ozone during 1996. Accordingly, EPA revised the table in the Code of Federal Regulations concerning ozone attainment dates in this area. The EPA is withdrawing this final rule due to the receipt of adverse comments on EPA's rulemaking action. In a subsequent final rule, EPA will summarize and respond to the comments received and announce final rulemaking action on the attainment date extension requests.

**EFFECTIVE DATE:** July 28, 1997.

**ADDRESSES:** Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Atlanta Federal Center, Region 4, Air Planning Branch, 61 Forsyth Street S.W., Atlanta, Georgia 30303-3104.

U.S. Environmental Protection Agency, Region 5, Regulation Development Branch, 77 West Jackson Boulevard, Chicago, Illinois 60604.

**FOR FURTHER INFORMATION CONTACT:** Randolph O. Cano at (312) 886-6036 or Joseph M. LeVasseur at (404) 562-9035.

### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Intergovernmental relations, Ozone, Volatile organic compounds.

### **List of Subjects in 40 CFR Part 81**

Environmental protection, Air pollution control, National parks, Wilderness areas.