

“Regional Counsel” wherever they appear.

### **PART 36—LOAN GUARANTY**

14. Remove the words “District Counsel” and add in their place “Regional Counsel” wherever they appear.

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## **DEPARTMENT OF DEFENSE**

### **DEPARTMENT OF VETERANS AFFAIRS**

#### **38 CFR Part 21**

#### **RIN 2900-AG23**

### **Veterans Education: Implementation of the Veterans' Benefits Act of 1992 and the Department of Defense Authorization Act for Fiscal Year 1993 in the Post-Vietnam Era Veterans' Educational Assistance Program**

**AGENCIES:** Department of Defense and Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the educational assistance and educational benefits regulations of the Department of Veterans Affairs (VA). It makes changes concerning measurement of training time, duplication of benefits, advance payment for work study, and permission for some service members who participated in the Post-Vietnam Era Veterans' Educational Assistance Program (VEAP) to instead elect to receive benefits under the Montgomery GI Bill—Active Duty. These changes restate statutory requirements.

**EFFECTIVE DATES:** The effective dates of the changes made by this final rule are as follows:

October 23, 1992: § 21.5058.

October 29, 1992: §§ 21.5023, 21.5145, 21.5231, and 21.5250.

July 1, 1993: § 21.5270.

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

**SUPPLEMENTARY INFORMATION:** Regulations concerning VA-administered educational assistance and educational benefits are contained in 38 CFR Part 21. The Veterans' Benefits Act of 1992 (Pub. L. 102-568) amends educational assistance provisions under VEAP and amends other provisions that affect work-study under that program. The National Defense Authorization Act

for Fiscal Year 1993 (Pub. L. 102-484) allows some VEAP participants to receive benefits under the Montgomery GI Bill—Active Duty. This document contains a number of changes to the regulations which merely reflect certain changes made by these public laws. These changes to the regulations are as follows.

Under Public Law 102-568, the limit on the amount of money that VA can pay in advance on a work-study contract has been changed. Formerly, that limit was 40 percent of the total amount payable under the contract. Now the limit is the lesser of 40 percent of the total amount payable under the contract or 50 times the applicable minimum hourly wage in effect on the date the contract is signed. Changes are made to 38 CFR 21.5145 to reflect these statutory provisions.

Public Law 102-484, among other things, provides that a veteran who has been discharged under the Voluntary Separation Incentive or Special Separation Benefit programs before October 23, 1992, was eligible on or before October 23, 1993 to elect to receive educational assistance under the Montgomery GI Bill—Active Duty in lieu of any other educational assistance, including VEAP. Changes are made to § 21.5058 to reflect these statutory changes.

Previously, § 21.5023 allowed for veterans receiving assistance under the Government Employees' Training Act (GETA) also to receive assistance under VEAP if the VEAP training occurred other than during duty hours. However, under Pub. L. 102-568 payment under VEAP is now prohibited for veterans receiving assistance under GETA regardless of whether the veteran is a full-time or part-time employee. Changes are made to § 21.5023 to reflect this statutory change.

Several provisions of Public Law 102-568 apply to VEAP. These are prohibition of receipt of educational assistance while the veterans is training under the Service Members Occupational Conversion and Training Act; a change in the ending date of the award of educational assistance when the veterans die during the period covered by an advanced payment of educational assistance; prohibition of approval of a nonaccredited course offered by independent study and prohibition of approval of an enrollment in such a course; and measurement of nonaccredited courses not leading to a standard college degree. Changes are made to 38 CFR 21.5231, 21.5250, and 21.5270 to reflect these changes.

The effective dates of the various changes made by this final rule reflect

the effective dates of the corresponding statutory changes.

Nonsubstantive changes are made for purposes of clarity.

This final rule reflects statutory changes and, therefore, is not subject to the provisions of 5 U.S.C. 552, or 553, including the notice and comment provisions.

The Secretary of Veterans Affairs and the Secretary of Defense 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. The changes made by the final rule restate statutory 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 §§ 603 and 604.

The Catalog of Federal Domestic Assistance number for the program affected by this final rule is 64.120.

#### **List of Subjects in 38 CFR Part 18**

Civil rights, Claims, Education, Grant programs-education, Loan programs-education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: October 11, 1995.

Jesse Brown,

*Secretary of Veterans Affairs.*

Samuel E. Ebbesen,

*Lieutenant General, USA, Deputy Assistant Secretary (Military Personnel Policy), Department of Defense.*

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

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

#### **Subpart G—Post-Vietnam Era Veterans' Educational Assistance Under 38 U.S.C. Chapter 32**

1. The authority citation for part 21, subpart G is revised to read as follows:

Authority: 38 U.S.C. 501(a), Chapter 32, unless otherwise noted.

#### **§ 21.5023 [Amended]**

2. In § 21.5023, paragraph (b) is amended by removing “and whose full salary is being paid to him or her while so training”.

#### **§ 21.5058 [Amended]**

3. In § 21.5058, paragraph (a) is amended by adding the heading “General.”

4. In § 21.5058 paragraphs (b) and (c) are revised to read as follows:

**§ 21.5058 Resumption of participation.**

\* \* \* \* \*

(b) *Disenrollment in order to participate in other educational programs.* A person who elects to disenroll in order to receive educational assistance allowance under 38 U.S.C. chapter 34 or to receive an officer adjustment benefit payable under § 21.4703 may not reenroll if he or she has negotiated a check under the provisions of law governing the program elected in lieu of the Post-Vietnam Era Veterans' Educational Assistance Program. A person who elects to disenroll in order to receive educational assistance under the Montgomery GI Bill—Active Duty, as provided in § 21.7045, may not reenroll.

(Authority: 38 U.S.C. 3018A, 3018B, 3202(1), 3222)

(c) *Reenrollment permitted following some disenrollments.* (1) Except as provided in paragraph (b) of this section, a person who has disenrolled may reenroll, but will have to qualify again for minimum participation as described in § 21.5052(a).

(2) If a person does reenroll, he or she may "repurchase" entitlement by tendering previously refunded contributions which he or she received upon disenrollment, subject to the conditions of § 21.5052(f).

(Authority: 38 U.S.C. 3221, 3222)

5. In § 21.5145, paragraph (e) is revised to read as follows:

**§ 21.5145 Work-study program.**

\* \* \* \* \*

(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 contract is signed.

(Authority: 38 U.S.C. 3241, 3485)

\* \* \* \* \*

**§ 21.5231 [Amended]**

6. Section 21.5231, is amended by removing "in the same manner as it is applied in the administration of chapters 34 and 36".

7. In § 21.5250, the introductory text of paragraph (a) and paragraph (a)(3) are revised, and paragraph (a)(16) is added, to read as follows:

**§ 21.5250 Courses.**

(a) In administering benefits payable under 38 U.S.C. chapter 32, VA and, where appropriate, the State approving agencies shall apply the following sections.

\* \* \* \* \*

(3) Section 21.4252—Courses precluded.

\* \* \* \* \*

(16) Section 21.4267—Approval of independent study.

\* \* \* \* \*

8. In § 21.5270, paragraphs (b) and (j) are removed and reserved; and the introductory text and paragraph (c) are revised, to read as follows:

**§ 21.5270 Assessment and pursuit of courses.**

In the administration of benefits payable under 38 U.S.C. chapter 32, VA shall apply the following sections.

\* \* \* \* \*

(c) Section 21.4272—Collegiate course measurement.

(Authority: 38 U.S.C. 3241, 3688)

\* \* \* \* \*

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[LA-32-7238; FRL-5430-1]

**Approval of and Promulgation of Implementation Plans; Louisiana**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving Louisiana's request to grant an exemption for the Baton Rouge ozone nonattainment area from the applicable nitrogen oxides (NO<sub>x</sub>) transportation conformity requirements. On July 25, 1995, Louisiana submitted to the EPA a State Implementation Plan (SIP) revision request for an exemption (under section 182(b)(1) of the Clean Air Act (Act)) from the transportation conformity requirements for NO<sub>x</sub> for the Baton Rouge ozone nonattainment area, which is classified as serious. The State of Louisiana bases its request for Baton Rouge upon a modeling demonstration that additional NO<sub>x</sub> reductions would not contribute to attainment in the nonattainment area.

**EFFECTIVE DATE:** This final rule will be effective on February 12, 1996.

**ADDRESSES:** Copies of the SIP revision, public comments and the EPA's responses are available for inspection at the following address:

U.S. Environmental Protection Agency, Region 6, Multimedia Planning and Permitting Division, 1445 Ross

Avenue, Suite 700, Dallas, Texas 75202-2733.

Louisiana Department of Environmental Quality, H. B. Garlock Building, 7290 Bluebonnet, Baton Rouge, Louisiana 70810.

**FOR FURTHER INFORMATION CONTACT:** Ms. Jeanne McDaniels or Mr. Quang Nguyen, U.S. Environmental Protection Agency, Region 6, Air Planning Section (6PD-L), Multimedia Planning and Permitting Division, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone (214) 665-7214.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Clean Air Act section 176(c)(3)(A)(iii) requires, in order to demonstrate conformity with the applicable SIP, that transportation plans and transportation improvement programs (TIPs) contribute to emissions reductions in ozone nonattainment areas during the period before control strategy SIPs are approved by the EPA. This requirement is implemented in 40 CFR 51.436 through 51.440 (and 93.122 through 93.124), which establishes the so-called "build/no-build test." This test requires a demonstration that the "Action" scenario (representing the implementation of the proposed transportation plan/TIP) will result in lower motor vehicle emissions than the "Baseline" scenario (representing the implementation of the current transportation plan/TIP). In addition, the "Action" scenario must result in emissions lower than 1990 levels.

The November 24, 1993, final transportation conformity rule<sup>1</sup> does not require the "build/no-build test" and "less-than-1990 test" for NO<sub>x</sub> as an ozone precursor in ozone nonattainment areas where the Administrator determines that additional reductions of NO<sub>x</sub> would not contribute to attainment of the National Ambient Air Quality Standard (NAAQS) for ozone. Clean Air Act section 176(c)(3)(A)(iii), which is the conformity provision requiring contributions to emission reductions before SIPs with emissions budgets can be approved, specifically references Clean Air Act section 182(b)(1). That section requires submission of State plans that, among other things, provide for specific annual reductions of volatile organic compounds (VOC) and NO<sub>x</sub> emissions "as necessary" to attain the ozone standard by the applicable

<sup>1</sup> "Criteria and Procedures for Determining Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Funded or Approved under Title 23 U.S.C. of the Federal Transit Act," November 24, 1993 (58 FR 62188).