

and, except for the initial return, shall be filed not later than the last day of the first month following the calendar quarter to which the return relates. The initial return shall be filed not later than February 28, 1969.

(g) *Records to be maintained.* A participating firm withholding money under this section shall include, in the separate records otherwise required to be maintained under section 4918, the following—

(1) The written consent of each seller to such withholding;

(2) Specific information concerning all sales (involving withholding) made by each seller, including daily entries denoting each sale, the sales price of the stock or debt obligations sold and the amount withheld with respect to each sale;

(3) Specific information regarding the release of any part of the amount withheld; and

(4) Any document furnished by a seller to obtain a release of all or part of the amount withheld.

Such records shall be maintained in a manner which will permit the items described above to be readily identified.

(h) *Claim for refund.* If the money withheld by a participating firm under this section is paid over to the director of the appropriate service center and the seller is able to establish that paying over such money resulted in an overpayment of the interest equalization tax imposed upon his acquisition of the stock or debt obligation with respect to the sale of which such money was withheld, the seller may file with the director of such service center on Form 843 a claim for an appropriate refund in accordance with the applicable provisions of 1.301.6402-2 of this chapter (Regulations on Procedure and Administration).

(i) *Definitions and special rules.*—(1) *Definitions.* As used in this section—

(i) The term "seller" means a U.S. person making a sale of stock of a foreign issuer or a debt obligation of a foreign obligor in connection with which money is withheld by a participating firm.

(ii) The term "effective date of a sale" means—

(a) In the case of a sale subject to the rules of a national securities exchange or association registered with the Securities and Exchange Commission, the settlement date provided in the rules of such exchange or association for delivery of and payment for the stock or debt obligation being sold; or

(b) In the case of a sale which is not subject to the rules of such exchange or association, the date on which the consideration is paid for such stock or debt obligation.

(iii) The term "appropriate service center" means the Internal Revenue regional service center serving the area in which the principal office of a participating firm is located.

(2) *Final return to be filed upon termination of participating firm status.* If the status of a firm as a participating firm is terminated pursuant to section 4918(c)(2)(C), such firm shall, on or

before the sixth business day following the effective date of such termination, make and file with the director of the appropriate service center a return (including a negative return) on Form 4410 (marked "Final Return") and pay over to the director of such service center any money withheld under this section.

(3) *Inapplicability to sale of certain Japanese debt obligations.* The provisions of section 4918(e)(7) and of this section shall not apply to a sale, effected by or for a participating firm, of a debt obligation of a Japanese corporation convertible into the stock of the corporation which, at the time of initial issuance, was acquired without payment of interest equalization tax by reason of the exclusion provided in an Executive order (or Executive orders) issued under the authority of section 4917 (relating to the exclusion for original or new issues where required for international monetary stability).

(Sec. 7805, Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805))

[SEAL] SHELDON S. COHEN,
Commissioner of Internal Revenue.

Approved: January 14, 1969.

STANLEY S. SURREY,
Assistant Secretary
of the Treasury.

[F.R. Doc. 69-714; Filed, Jan. 17, 1969;
8:48 a.m.]

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER B—PERSONNEL; MILITARY AND CIVILIAN

PART 48—OPTIONAL RETIREMENT Discontinuance

Codification of Part 48 is discontinued.

MAURICE W. ROCHE,
Director, Correspondence and
Directives Division, OASD
(Administration).

[F.R. Doc. 69-671; Filed, Jan. 17, 1969;
8:45 a.m.]

PART 91—POLICIES GOVERNING PARTICIPATION OF DOD LIAISON REPRESENTATIVES IN ACTIVITIES OF TECHNICAL SOCIETIES, ASSO- CIATIONS, AND GROUPS

The Deputy Secretary of Defense approved the following:

Sec.
91.1 Purpose.
91.2 Policies.

AUTHORITY: The provisions of this Part 91 issued under 5 U.S.C. 301.

§ 91.1 Purpose.

The purpose of this part is to establish policies governing the participation of liaison representatives of the Department of Defense in the activities of private or nongovernmental organizations or associations, including technical and professional societies.

§ 91.2 Policies.

(a) Departments and agencies of the Department of Defense are authorized to participate in activities of scientific, technical, professional and other organizations, societies, and associations in the discussions of matters of mutual interest, otherwise consistently with law, including antitrust laws, and laws relating to security and subject to Part 40 of this chapter.

(b) Participation by departments and agencies of the Department of Defense in the activities of private or nongovernmental associations or societies shall be limited to the extent of the Department of Defense interest involved and shall be upon such basis as will avoid (1) the favoring of one association or organization over another; (2) the unauthorized acceptance of legal membership by the United States in private organization; (3) the use of the name of the U.S. Government by a private organization, voluntary association, or corporation, implying the sponsorship of such organization by the Government, without authority of Congress; (4) participation in the management and control of such organization without congressional authorization; and (5) participation in the determinations or conclusions of private organizations or associations, in such manner as to suggest compliance therewith by the Government without subsequent responsible administrative authority or congressional authorization.

(c) Subject to the above limitations, liaison representatives of departments and agencies of the Department of Defense while participating in the activities of scientific, technical, professional and other organizations, societies, and associations, including technical committees and standards committees thereof, may give free and complete expression of their views on the subject matter under discussion and may vote verbally or in writing on issues presented for a vote, providing it is made clear to the private organizations, societies, and associations that such vote indicates no more than the opinion on that issue of the liaison representatives of the Department or agency voting. No vote so cast shall be considered to bind the Department of Defense or any department or agency thereof in any way to any particular present or future course of action.

(d) These policies shall not apply to membership or participation by officers or employees of the Department of Defense, as individuals, in private organizations or associations, including technical and professional societies, and military or veterans organizations, otherwise consistently with law, including the Hatch Act, and Anti-Lobby Act, and other laws which prohibit Government officers and employees from engaging in activities inconsistent with their Government employment.

MAURICE W. ROCHE,
Director, Correspondence and
Directives Division, OASD
(Administration).

[F.R. Doc. 69-672; Filed, Jan. 17, 1969;
8:45 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER I—ANCHORAGES [CGFR 68-158]

PART 110—ANCHORAGE REGULATIONS

Subpart A—Special Anchorage Areas

Subpart B—Anchorage Grounds

PORT OF NEW YORK AND VICINITY

1. The Commander, 3d Coast Guard District, New York, N.Y., by letter dated September 24, 1968, recommended that General Anchorages 48A, 48B, and 48C, Sheepshead Bay, New York Harbor, be discontinued as General Anchorage Areas, and be established as Special Anchorage Areas. General Anchorages 48A, 48B, and 48C in Sheepshead Bay are primarily used by pleasure craft. Under present laws and regulations, vessels anchoring in these areas must show anchor lights. Since the area is used primarily by pleasure craft it is desirable to change the area to a Special Anchorage Area. A public notice dated July 25, 1968, was issued by the Commander, 3d Coast Guard District describing the Special Anchorage Areas and the regulation pertaining thereto. No objections were received. Therefore, the request is granted and the establishment of the Special Anchorage Areas and the regulations pertaining thereto, as described in 33 CFR 110.60(x) below, is granted, subject to the right to change the requirements and to amend the regulations if and when necessary in the public interests.

2. The purpose of this document is to establish and describe the Special Anchorage Areas in Sheepshead Bay, N.Y., as described in 33 CFR 110.60(x) below, wherein vessels not more than 65 feet in length, when at anchor in such special anchorage areas, are not required to carry or exhibit anchor lights. The area is principally for use by yachts and other recreational craft. The issuing of mooring permits, the assignment of moorings, and the method of anchoring mooring buoys will be as prescribed by the Captain of the Port of New York.

3. The further purpose of this document is to delete the anchorage grounds known as General Anchorages No. 48A, 48B, and 48C, Sheepshead Bay, New York Harbor, as described in 33 CFR 110.155(k).

4. By virtue of the authority vested in me as Commandant, U.S. Coast Guard, by 14 U.S.C. 632 and the delegation in 49 CFR 1.4(a)(3) of the Secretary of Transportation under 49 U.S.C. 1655(g)(1), 33 CFR Part 110 is amended as follows to become effective on and after the date of publication of this document in the FEDERAL REGISTER:

1. Section 110.60 is amended by adding new paragraph (x) reading as follows:

§ 110.60 Port of New York and vicinity.

(x) *Sheepshead Bay*—(1) *Western Area*. South of a line 25 feet south of and parallel to the bulkhead wall along the south side of Emmons Avenue; east of a line 200 feet east of and parallel to the prolonged west line of East 15th Street; north of a line 75 feet north of and parallel to the bulkhead wall along the north side of Shore Boulevard between Amherst Street and Dover Street and as prolonged to a point 315 feet south of the bulkhead wall along the south side of Emmons Avenue and 25 feet west of the prolonged west side of Ocean Avenue; and west of a line parallel to and 25 feet west of the prolonged west line of Ocean Avenue.

(2) *Northern Area*. South of the established U.S. pierhead line on the north side of the bay; west of the prolonged west line of Coyle Street; north of a line ranging from a point 90 feet south of said pierhead line in said prolonged west line of Coyle Street to the intersection of the south line of Shore Boulevard and the west line of Kensington Street; north of a line parallel to and 325 feet north of the bulkhead wall along the north side of Shore Boulevard; northeast of a line ranging from the point of intersection of the last-mentioned line with the prolonged east line of East 28th Street, toward a point on the prolonged east line of East 27th Street and 245 feet south of the established U.S. pierhead line on the north side of the bay; and east of the prolonged east side of East 27th Street.

(3) *Southern Area*. South of a line extending from a point 175 feet northerly of the bulkhead wall along the north side of Shore Boulevard (perpendicular distance) and in the prolonged west side of Hastings Street to a point on the prolonged east side of Mackenzie Street 125 feet north of the bulkhead wall on the north side of Shore Boulevard; thence south of a line parallel to and 125 feet northerly of the bulkhead wall along the north side of Shore Boulevard from the last-mentioned point to the prolonged west line of Coyle Street; north of a line parallel to and 25 feet north of the bulkhead wall along the north side of Shore Boulevard; and east of the prolonged west side of Hastings Street.

(4) *Captain of the Port Regulations*. In Sheepshead Bay, N.Y., Western, Northern and Southern Special Anchorage Areas, the Captain of the Port—New York mooring regulations in § 110.155 (1) (7) apply with the following modifications:

(i) Two anchors shall be used. The anchor minimum weight and minimum chain size shall be as shown in table 110.60(x)(4) and the anchor shall be placed as shown in figure 110.60(x)(4).

(ii) A Sheepshead Bay, N.Y., mooring position is designated by the encircled number from the Coast Guard mooring chart, and the distance from the nearest range number, and the distance from the nearest bulkhead line. (Example: circle 2-W in Western Area 50' East of

range No. 20, 40' South of bulkhead line.)

(iii) The area is principally for vessels used for a recreational purpose.

Table 110.60(x)(4)

Vessel length, in feet	Anchor weight, in pounds per anchor	Chain size, in inches
15 or less	100	3/4
Greater than 15 but not greater than 21	150	3/4
Greater than 21 but not greater than 26	200	3/4
Greater than 26	10 per foot of vessel length.	3/4 for each anchor whose weight is not greater than 400 lbs., 5/4 for each anchor whose weight is greater than 400 lbs.

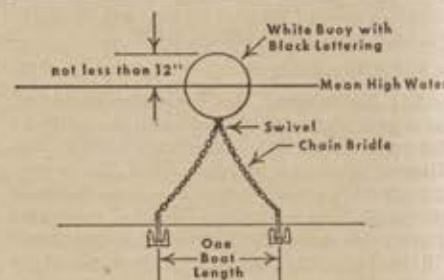


FIGURE 110.60(x)(4)

(R.S. 4233, as amended, 28 Stat. 647, as amended, 30 Stat. 98, as amended, sec. 6(g)(1), 80 Stat. 940; 33 U.S.C. 180, 258, 322; 49 U.S.C. 1655(g)(1); 49 CFR 1.4(a)(3))

§ 110.155 [Amended]

2. Section 110.155 *Port of New York* is amended by deleting paragraph (k), which includes subparagraphs (1) through (4), and insert "(k) [Reserved]."

(Sec. 7, 38 Stat. 1053, as amended, sec. 6(g)(1), 80 Stat. 940; 33 U.S.C. 471, 49 U.S.C. 1655(g)(1); 49 CFR 1.4(a)(3))

Dated: January 13, 1969.

W. J. SMITH,
Admiral, U.S. Coast Guard,
Commandant.

[F.R. Doc. 69-622; Filed, Jan. 17, 1969;
8:45 a.m.]

[CGFR 69-1]

PART 110—ANCHORAGE REGULATIONS

Subpart B—Anchorage Grounds

LOCKWOODS FOLLY INLET, N.C.

1. The Commander, 5th Coast Guard District, by letter dated November 21, 1968, requested the establishment and publication of an explosives anchorage off Brunswick County, N.C. The Commander, Military Sea Transport Service, Atlantic, has advised that an explosives anchorage is needed in that area. A public notice dated October 15, 1968, was issued by Commander, 5th Coast Guard District, Portsmouth, Va.,

describing the proposed anchorage. All known interested parties were notified and comments or objections were requested. No objections were received. Therefore, the request is granted and the establishment of an explosives anchorage, as described in 33 CFR 110.170 below is granted, subject to the right to change the requirements and to amend the regulations if and when necessary in the public interest.

2. The purpose of this document is to establish and describe the explosives anchorage off Brunswick County, N.C., as described in 33 CFR 110.170 below.

3. By virtue of the authority vested in me as Commandant, U.S. Coast Guard, by 14 U.S.C. 632 and the delegation in 49 CFR 1.4(a)(3) of the Secretary of Transportation under 49 U.S.C. 1655(g)(1), 33 CFR Part 110 is amended by inserting after § 110.168 a new § 110.170, to read as follows and to become effective on and after January 16, 1969:

§ 110.170 Lockwoods Folly Inlet, N.C.

(a) *Explosives Anchorage.* Beginning at a point southeast of Shallotte Inlet at latitude 33°52'31", longitude 78°18'49"; thence south to latitude 33°51'31", longitude 78°18'42"; thence east to latitude 33°51'51", longitude 78°14'35"; thence north to latitude 33°52'52", longitude 78°14'40"; thence west to the point of beginning.

(b) *General regulations.* (1) This anchorage is reserved for the exclusive use of vessels carrying explosives.

(2) Vessels in this anchorage shall not anchor closer than 1,500 yards to one another. This provision is not intended to prohibit barges or lighters from lying alongside vessels for transfer of cargo.

(3) The maximum quantity of explosives aboard any vessel that may be in this anchorage is 8,000 tons.

(4) Nothing in this section shall be construed as relieving the owner, master, or person in charge of any vessel from the penalties of the law for obstructing navigation or for not complying with the navigation laws in regard to lights, fog signals, etc.

(Sec. 7, 38 Stat. 1053, as amended, sec. 6(g)(1), 80 Stat. 940; 33 U.S.C. 471, 49 U.S.C. 1655(g)(1); 49 CFR 1.4(a)(3))

Dated: January 15, 1969.

W. J. SMITH,
Admiral, U.S. Coast Guard,
Commandant.

[F.R. Doc. 69-736; Filed, Jan. 17, 1969;
8:50 a.m.]

SUBCHAPTER J—BRIDGES

[CFR 68-162]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Cape Cod Canal, Mass., and Chesapeake and Delaware Canal, Del.

1. The drawbridge operation regulation concerning Cape Cod Canal, Mass., and the Chesapeake and Delaware Canal,

Del., are presently listed under 33 CFR 207.20(h) and 33 CFR 207.100(j). The purpose of this document is to transfer these drawbridge operation regulations to 33 CFR 117.78 and 33 CFR 117.235a, respectively. Minor editorial changes without substantive change in meaning or intent have been made. Accordingly, notice and opportunity for public participation is deemed unnecessary.

2. By virtue of the authority vested in me as Commandant, U.S. Coast Guard by 14 U.S.C. 632 and 49 CFR 1.4(a)(3), the text of 33 CFR 117.78 and 33 CFR 117.235a reads as follows and shall be effective on and after date of publication of this document in the FEDERAL REGISTER:

§ 117.78 Cape Cod Canal, Mass.

(a) The lift span of the Buzzards Bay Railroad bridge will normally be kept in the raised (open) position except for the passage of trains or for maintenance. No signal is required if the lift span is raised.

(b) If the lift span is in other than the raised position, the opening signal shall be one long and one short blast.

(c) Signals to be sounded from the bridge are:

(1) Immediately preceding the raising of the drawspan: One long blast.

(2) Immediately preceding the lowering of the drawspan: Two long blasts.

(3) When a vessel has sounded the opening signal and the drawspan cannot be raised immediately: Four short blasts in a rapid succession.

(4) When the draw is closed and visibility is reduced in foggy weather: Four short blasts in rapid succession every 2 minutes.

§ 117.235a Chesapeake and Delaware Canal, Del.

(a) When any vessel is unable to pass under a closed drawbridge of the Chesapeake and Delaware Canal, the opening signal shall be three blasts.

(1) If the drawspan is to be opened immediately: One blast.

(2) If the drawspan is not ready to be opened: Four blasts.

(3) When the drawspan is open and clear for vessel passage: Two blasts.

(b) The sound signals listed in paragraph (a) of this section shall be supplemented by the following light signals in the center of the drawspan on both upstream and downstream sides of the bridge.

(1) When the drawspan is to be opened immediately: One fixed amber light.

(2) When the drawspan is not ready to be opened: One flashing red light.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g), 80 Stat. 941; 33 U.S.C. 499, 49 U.S.C. 1655(g); 49 CFR 1.4(a)(3)(v))

Dated: January 10, 1969.

W. J. SMITH,
Admiral, U.S. Coast Guard,
Commandant.

[F.R. Doc. 69-694; Filed, Jan. 17, 1969;
8:47 a.m.]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

**Chapter I—Veterans Administration
PART 3—ADJUDICATION**

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

MISCELLANEOUS AMENDMENTS

1. In § 3.503, paragraph (h) is amended to read as follows:

§ 3.503 Children.

(h) *Dependents' educational assistance* (§§ 3.707, 3.807, and § 21.3023 of this chapter). Day preceding beginning date of educational assistance allowance.

2. In § 3.659, paragraph (b) is amended to read as follows:

§ 3.659 Two parents in same parental line.

(b) Any reduction or discontinuance of an award to the child or to a widow will be effective the day preceding the commencing date of death pension, compensation, or dependency and indemnity compensation or, under the circumstances described in § 3.707, the commencing date of dependents' educational assistance under 38 U.S.C. chapter 35, to or on account of the child based on the service of another parent in the same parental line. Any increase to a widow or another child will be effective the commencing date of the award to the child.

§ 3.667 [Amended]

3. Following § 3.667, the cross reference "War orphans' educational assistance" is changed to read "Dependents' educational assistance."

4. In § 3.703, paragraph (c) is amended to read as follows:

§ 3.703 Two parents in same parental line.

(c) *Other payees.* Where a child has elected to receive pension, compensation, dependency and indemnity compensation or dependents' educational assistance under 38 U.S.C. chapter 35 based on the death of a veteran, he will be excluded from consideration in determining the eligibility or rate payable to a widow or another child or children in the case of another deceased veteran in the same parental line. See § 3.659(b).

5. In § 3.704, paragraph (a) is amended to read as follows:

§ 3.704 Elections within class of dependents.

(a) *Children.* Where children are eligible to receive monthly benefits under more than one law in the same case, the election of benefits under one law by or on behalf of one child will not serve to increase the rate allowable for any other

child under another law in that case. The rate payable for each child will not exceed the amount which would be paid if all children were receiving benefits under the same law. Where a child is no longer eligible to receive pension, compensation or dependency and indemnity compensation because of having elected dependents' educational assistance under 38 U.S.C. chapter 35, the child will be excluded from consideration in determining the rate payable for another child or children.

6. Section 3.707 is revised to read as follows:

§ 3.707 Dependents' educational assistance.

(a) *Child.* The conditions applicable to the bar to payment of pension, compensation or dependency and indemnity compensation for a child concurrently with educational assistance allowance under 38 U.S.C. chapter 35 are set forth in § 21.3023 of this chapter.

(b) *Wife or widow.* There is no bar to the payment of pension, compensation or dependency and indemnity compensation to a wife or widow concurrently with educational assistance allowance under 38 U.S.C. chapter 35.

7. Immediately following § 3.707, the cross reference is amended and a new one added so that the cross references are as follows:

CROSS REFERENCES: Discontinuance. See § 3.503(h). Certification. See § 3.807.

8. In § 3.807, the introductory portion preceding paragraph (a) and paragraph (b) are amended and paragraph (d) is added so that the amended and added material reads as follows:

§ 3.807 Dependents' educational assistance; certification.

For the purposes of dependents' educational assistance under 38 U.S.C. chapter 35 (see § 21.3020 of this chapter), the child, wife or widow of a veteran will have basic eligibility if the following conditions are met.

(b) *Service.* Service-connected disability or death must have been the result of active military, naval, or air service on or after April 21, 1898. (Public Law 89-358; 80 Stat. 12.) Effective September 30, 1966, educational assistance for a child (but not for a wife or widow) may be authorized based on service in the Philippine Commonwealth Army or as a Philippine Scout as defined in § 3.8 (b), (c), or (d). (38 U.S.C. 1765.)

(d) *Relationship.* (1) "Child" means the son or daughter of a veteran who meets the requirements of § 3.57, except as to age and marital status.

(2) "Wife" means a person whose marriage to the veteran meets the requirements of § 3.50(a). A dependent husband who meets the requirements of § 3.51 is included.

(3) "Widow" means a person whose marriage to the veteran meets the requirements of § 3.50(b) or § 3.52. A de-

pendent widower who meets the requirements of § 3.51 is included.

9. Following § 3.807, a new cross reference is added to read:

CROSS REFERENCE: * * * Nonduplication. See § 21.3023 of this chapter.

10. In § 3.1000, paragraphs (d) (2) and (f) are amended to read as follows:

§ 3.1000 Under 38 U.S.C. 3021.

(d) *Definitions.* * * *

(2) "Child" is as defined in § 3.57 and includes an unmarried child who became permanently incapable of self-support prior to attaining 18 years of age as well as an unmarried child over the age of 18 but not over 23 years of age, who was pursuing a course of instruction within the meaning of § 3.57 at the time of the payee's death. However, upon the death of a child in receipt of death pension, compensation, or dependency and indemnity compensation, any accrued will be payable to the surviving child or children of the veteran entitled to death pension, compensation, or dependency and indemnity compensation. Upon the death of a child, another child who has elected dependents' educational assistance under 38 U.S.C. chapter 35 may receive accrued death pension, compensation, or dependency and indemnity compensation, payable on behalf of the deceased child for periods prior to the commencement of benefits under that chapter.

(f) *Dependents' educational assistance.* Educational assistance allowance or special restorative training allowance under 38 U.S.C. chapter 35, remaining due and unpaid at the date of death of an eligible widow or eligible child is payable to a child or children of the veteran (see paragraphs (a) (2) and (3) and (d) (2) of this section), or on the expenses of last sickness and burial (see paragraph (a) (4) of this section). Benefits due and unpaid at the date of death of an eligible wife are payable only on the expenses of last sickness and burial (see paragraph (a) (4) of this section).

(72 Stat. 1114; 38 U.S.C. 210)

These VA regulations are effective December 1, 1968.

Approved: January 14, 1969.

By the direction of the Administrator.

[SEAL]

A. W. STRATTON,
Deputy Administrator.

[F.R. Doc. 69-725; Filed, Jan. 17, 1969; 8:49 a.m.]

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart A—Vocational Rehabilitation Under 38 U.S.C. Ch. 31

NONDUPLICATION; 38 U.S.C. CHAPTERS 31, 34 AND 35

Section 21.21 is revised to read as follows:

§ 21.21 Nonduplication; 38 U.S.C. chapters 31, 34 and 35.

A person who is eligible for vocational rehabilitation training under chapter 31 and is also eligible for educational assistance under chapters 34 or 35 must elect which benefit he will receive. The election is subject to the conditions specified in § 21.4022.

(72 Stat. 1114; 38 U.S.C. 210)

This VA regulation is effective December 1, 1968.

Approved: January 14, 1969.

By the direction of the Administrator.

[SEAL]

A. W. STRATTON,
Deputy Administrator.

[F.R. Doc. 69-724; Filed, Jan. 17, 1969; 8:49 a.m.]

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart B—Veterans' Educational Assistance Under 38 U.S.C. Chapter 34

MISCELLANEOUS AMENDMENTS

1. Section 21.1022 is revised to read as follows:

§ 21.1022 Nonduplication; 38 U.S.C. chapters 31, 34, and 35.

A person who is eligible for educational assistance under chapter 34 and is also eligible for vocational rehabilitation under chapter 31 or educational assistance under chapter 35 must elect which benefit he will receive. The election is subject to the conditions specified in § 21.4022.

2. In § 21.1040, paragraph (c) is amended to read as follows:

§ 21.1040 Basic eligibility.

Basic eligibility for educational assistance is subject to the following requirements:

(c) *Periods excluded; Korean conflict veterans.* Where a veteran has received education or training under the Veterans' Readjustment Assistance Act of 1952, Title II, or 38 U.S.C. ch. 33 (as in effect before Feb. 1, 1965) as a Korean conflict veteran based on service which extended beyond January 31, 1955, the months of service after January 31, 1955, which were previously used to establish eligibility for the education or training received will be excluded in determining the period of entitlement for educational assistance under chapter 34.

3. In § 21.1041, paragraphs (a), (b), and (d) are amended to read as follows:

§ 21.1041 Periods of entitlement.

(a) *General.* (1) A veteran with less than 18 months active duty service or a person on active duty who meets the requirements of § 21.1040 will be entitled to full-time educational assistance for a period computed on the basis of 1½ months (or the equivalent in part-time educational assistance) for each month

or fraction of month of service on active duty on or after February 1, 1955, but not in excess of 36 months. There will be excluded from the period of entitlement the periods specified in § 21.1040 (b) and (c).

(2) A veteran who has served a continuous period of not less than 18 months on active duty on or after February 1, 1955, and who has been released from such service under conditions that satisfied his active duty obligation, will be entitled to full-time educational assistance for a period of 36 months (or the equivalent in part-time educational assistance). The periods specified in § 21.1040(b) will be excluded in computing the 18-month period.

(3) The veteran may use his entitlement at any time during the 8-year period determined under § 21.1042. It is not required that the entitlement time will be used in consecutive months.

(4) The 36-month limitation may be exceeded where an extension is authorized under paragraph (d) of this section, or where no charge against entitlement is made based on a course or courses pursued at a secondary school level, as provided in § 21.1045(a).

(b) *Prior Veterans' Administration training.* The period of entitlement for educational assistance when added to education or training received under any or all of the laws cited in § 21.4020 will not exceed 48 months of full-time educational assistance, except as provided in paragraph (a)(4) of this section. A reduction in the period of entitlement by reason of prior training will be computed as provided in paragraph (c) of this section.

(d) *Extension.* The period of entitlement, including the 36-months period, may be extended, but not beyond the 8-year delimiting date specified in § 21.1042:

(1) To the end of a term, quarter or semester in a school regularly operated on a term, quarter or semester system, when the period of entitlement ends during the term, quarter or semester.

(2) To the end of the course or for 12 weeks, whichever is less, in all other schools, when the period of entitlement ends after more than half of the course has been completed. In a course consisting exclusively of flight training and in a course pursued exclusively by correspondence, the period of entitlement will be extended to the end of the course or for the total additional amount of instruction that \$364 will provide, whichever is less. (38 U.S.C. 1661; Pub. Law 90-631; 82 Stat. 1331.)

(3) No extension of the period of entitlement will be made where training is pursued in a training establishment as defined in § 21.4200(c).

4. In § 21.1045, paragraph (b) is amended to read as follows:

§ 21.1045 Entitlement charges.

(b) *Correspondence courses—chapter 34—(1) High school courses.* The provisions of paragraph (a)(1) of this section

are applicable to correspondence courses at a secondary school level.

(2) *Other courses.* Except as provided in subparagraph (1) of this paragraph, the period of entitlement of any eligible veteran who is pursuing a program of education exclusively by correspondence will be charged with 1 month for each \$130 paid to the veteran as an educational assistance allowance for such course. Where the computation results in a period of time other than a full month, or other than exactly three-fourths, one-half, or one-fourth fractional part of a month, the figure will be reduced to the next lower quarter. (38 U.S.C. 1682(c) (2); Public Law 90-631; 82 Stat. 1331)

(72 Stat. 1114; 38 U.S.C. 210)

These VA regulations are effective December 1, 1968.

Approved: January 14, 1969.

By direction of the Administrator.

[SEAL]

A. W. STRATTON,
Deputy Administrator.

[F.R. Doc. 69-726; Filed: Jan. 17, 1969; 8:49 a.m.]

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart C—War Orphans' and Widows' Educational Assistance Under 38 U.S.C. Chapter 35

MISCELLANEOUS AMENDMENTS

1. The title of Subpart C is amended to read as set forth above.

2. Immediately preceding paragraph (a) of § 21.3020, a new introduction is added and paragraph (a) is amended so that the added and amended material reads as follows:

§ 21.3020 Educational assistance.

The program of educational assistance under 38 U.S.C. chapter 35, captioned War Orphans' and Widows' Educational Assistance, may be referred to as Dependents' Educational Assistance.

(a) *General.* A program of education or special restorative training may be authorized for an eligible person who meets the definition contained in § 21.3021.

3. In § 21.3021, paragraphs (a), (b), (c), and (d) are amended to read as follows:

§ 21.3021 Definitions.

(a) *Eligible person—child, wife and widow:*

(i) "Eligible person" means (1) a child of a veteran who died of a service-connected disability or who has a total disability permanent in nature resulting from a service-connected disability, or who died while a disability so evaluated was in existence, or

(ii) The widow of any veteran who died of a service-connected disability, or

(iii) The wife of any veteran who has a total disability permanent in nature resulting from a service-connected disability, or the widow of a veteran who

died while a disability so evaluated was in existence, arising out of active military, naval, or air service after the beginning of the Spanish American War. See §§ 3.6(a) and 3.807 of this chapter.

(2) "Child" means a son or daughter of a veteran as defined in § 3.807(d) of this chapter. The term includes a child of a Philippine Commonwealth Army veteran and a Philippine Scout (designated as a "New" Philippine Scout under 38 U.S.C. 1766(b)), as defined in § 3.8 (b), (c), or (d) of this chapter, but educational assistance allowance may not be authorized based on such service for any period before September 30, 1966.

(3) "Wife" and "widow" mean an individual as defined in § 3.807(d) of this chapter. Educational assistance allowance may not be authorized for a wife or widow for any period before December 1, 1968.

(b) "Parent or guardian" means a natural or adoptive parent, a fiduciary legally appointed by a court of competent jurisdiction or any person who is determined to be otherwise legally vested with the care of the eligible person (38 U.S.C. 1701(a)(4)) or it may be the eligible person himself.

(1) The term includes the eligible person if he has attained his majority under laws applicable in his State of residence as shown on his application and is under no known legal disability (38 U.S.C. 1701(b)). Also the eligible person himself (child, wife, or widow) may be designated as the person by whom required actions may be taken even though he has not attained his majority, or having attained his majority, is under a legal disability, when it is determined that to do otherwise would not be in his best interest, would result in undue delay or would not be administratively feasible.

(2) Where necessary to protect his interest and there is reason why the eligible person should not act for himself, some other individual may be designated as the person by whom required actions should be taken. (38 U.S.C. 1701(c)).

(c) "Armed Forces," as to service by the eligible person, means the U.S. Army, Navy, Marine Corps, Air Force, and Coast Guard, including the Reserve components of each, the National Guard of the United States and the Air National Guard of the United States. (38 U.S.C. 1701 (a) (3) and (d); 1712(a).)

(d) "Duty with the Armed Forces," as to service by the eligible person, means active duty, active duty for training for a period of 6 or more consecutive months, or an initial period of active duty for training of not less than 3 months or more than 6 months in the Ready Reserve. (38 U.S.C. 1701 (a) (3) and (d); 1712(a).) See §§ 21.3041 and 21.3042.

4. Section 21.3022 is revised to read as follows:

§ 21.3022 Nonduplication; 38 U.S.C. chapters 31, 34, and 35.

A person who is eligible for educational assistance under 38 U.S.C. chapter 35 and