

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

is also eligible for vocational rehabilitation under 38 U.S.C. chapter 31 or educational assistance under chapter 34, must elect which benefit he will receive. The election is subject to the conditions specified in § 21.4022.

5. In § 21.3023(a), the headnote and introductory portion preceding subparagraph (1) and subparagraph (2) are amended; paragraph (b) and the headnote of paragraph (c) are amended; and paragraph (d) is added, so that the amended and added material reads as follows:

§ 21.3023 Nonduplication; pension, compensation and dependency and indemnity compensation.

(a) *Child; age 18.* A child who is eligible for educational assistance and who is also eligible for pension, compensation, or dependency and indemnity compensation based on school attendance must elect whether he will receive educational assistance or pension, compensation or dependency and indemnity compensation.

(2) Payment of pension, compensation or dependency and indemnity compensation to or on account of a child after his 18th birthday does not bar subsequent payments of educational assistance.

(b) *Child; under 18 or helpless.* Educational assistance allowance or special restorative training allowance may generally be paid concurrently with pension, compensation or dependency and indemnity compensation for a child under the age of 18 years or for a helpless child based on the service of one or more parents. Where, however, entitlement is based on the death of more than one parent in the same parental line, concurrent payments in two or more cases may not be authorized if the death of one such parent occurred on or after June 9, 1960. In the latter cases, an election of educational assistance and pension, compensation or dependency and indemnity compensation in one case does not preclude a reelection of benefits before attaining age 18 or while helpless based on the service of another parent in the same parental line.

(c) *Child; election.* The commencement of a program of education constitutes an election.

(d) *Wife, widow.* Educational assistance allowance may be paid for an eligible wife or widow concurrently with pension, compensation or dependency and indemnity compensation.

6. Immediately following § 21.3023, the cross references are amended to read as follows:

Cross REFERENCES: Discontinuance. See § 3.503(h) of this chapter.

Concurrent payments. See § 3.707 of this chapter.

Certification. See § 3.807 of this chapter.

7. Section 21.3024 is revised to read as follows:

§ 21.3024 Nonduplication; Bureau of Employees' Compensation.

The provisions of this section are applicable to cases where there is eligibility for benefits from the Bureau of Employees' Compensation based on the disability or death of the veteran from whom eligibility for educational assistance is derived.

(a) *Child, wife or widow.* A person who is eligible for educational assistance and is also eligible for Bureau of Employees' Compensation benefits must elect which benefit he will receive.

(b) *Veteran, wife and child; widow and child.* An eligible person may receive educational assistance notwithstanding that Bureau of Employees' Compensation benefits are being paid to a veteran or widow.

(c) *Election.* An election of Bureau of Employees' Compensation benefits by or for a child filed on or after July 4, 1966, is a bar to subsequent payments of Veterans Administration benefits during the period of concurrent eligibility. An election of Bureau of Employees' Compensation benefits by a widow filed on or after December 1, 1968, is a bar to subsequent payments of Veterans Administration benefits during the period of concurrent eligibility. (5 U.S.C. 8101(17), 8110(a), 8116, 8133(b); Public Law 90-631, 82 Stat. 1331.)

8. Sections 21.3030 and 21.3031 are revised to read as follows:

§ 21.3030 Claims.

A specific claim in the form prescribed by the Administrator must be filed by the wife, widow, or the parent of a child or guardian in order for educational assistance allowance or special restorative training allowance to be paid. (38 U.S.C. 1713)

§ 21.3031 Informal claims.

(a) Any communication from a wife, widow, parent of a child or guardian, an authorized representative or a Member of Congress indicating an intent to apply for educational assistance for an eligible person may be considered an informal claim. Upon receipt of an informal claim, if a formal claim has not been filed, an application form will be forwarded to the wife, widow, parent of a child or guardian for execution. If received within 1 year after the date it was sent to the wife, widow, parent of a child or guardian, it will be considered filed as of the date of receipt of the informal claim.

(b) The act of enrolling in an approved school does not, in itself, constitute an informal application.

9. In § 21.3032(a), subparagraphs (1) and (2) are amended to read as follows:

§ 21.3032 Time limits.

(a) *Completion of claim—(1) Processing time.* If, after filing application, the eligible child, for other than a reason determined by the Veterans Administration to have been beyond his control, fails to report for a scheduled counseling appointment or fails to submit an educational plan within 60 days after the date on which a counseling certificate is

executed, the application will be considered abandoned for the purpose of computing processing time. If the eligible child reports after the 60-day period but within 1 year of filing application, the date of reporting for counseling will be considered the appropriate date from which to compute processing time.

(2) *Claim or request for change.* When required counseling is delayed by an eligible person for 12 or more months, for other than a reason beyond his control, the application or request for change of program will be considered abandoned.

10. In § 21.3040, the heading is changed to read as follows:

§ 21.3040 Eligibility; child.

11. In § 21.3041, the heading and paragraph (e) are amended (footnotes 1 and 2 are now incorporated in the text) to read as follows:

§ 21.3041 Periods of eligibility; child.

(e) *Extensions to ending dates.* (1) Suspension of program due to conditions determined by the Veterans Administration to have been beyond the person's control (see § 21.3043): Extended for length of period of suspension, but not beyond age 31. See § 21.3040(d).

(2) *Processing time:* Extended by length of processing time, but not beyond age 31. See § 21.3040(d). "Processing time" means the period of time which elapses between the eligible person's 18th birthday or the date of receipt of the application, whichever is later, and the date on which the Certificate for a Program of Education is signed by an authorized official, or would have been signed except that the expected date of enrollment is more than 60 days in the future.

(3) *Period of eligibility as specified in paragraph (c) or (d) of this section ends while enrolled during last half of quarter or semester, or during last half of course not operating on quarter or semester system:* Extended to end of quarter or semester for schools operating on quarter or semester system, or end of course or for 9 weeks, whichever is earlier, for schools not operating on quarter or semester system. Extension may be authorized beyond age 31, but may not exceed maximum entitlement. See § 21.3044(a).

(4) *Child is enrolled and eligibility ceases because veteran is no longer rated permanently and totally disabled:* Extended to date specified in subparagraph (3) of this paragraph without regard to whether the midpoint of the quarter, semester or term has been reached. See § 21.4135(c).

12. In § 21.3042, paragraphs (a), (b), and (d) are amended to read as follows:

§ 21.3042 Service with Armed Forces.

(a) No educational assistance may be provided an otherwise eligible person during any period he is on duty with the Armed Forces. See § 21.3021 (c) and

(d). This does not apply to brief periods of active duty for training. See § 21.4135 (n). (38 U.S.C. 1701(d))

(b) If the eligible person served with the Armed Forces, his discharge or release from each period of service must have been under conditions other than dishonorable. (38 U.S.C. 1701(d))

(d) For the eligible child called to active duty after July 30, 1961, and before August 1, 1962, by (1) an order issued to him as a Reserve or (2) an extension of an enlistment, appointment or period of duty pursuant to section 2 of Public Law 87-117, 75 Stat. 242 ("Berlin Crisis"), the extended period under § 21.3041 will be further extended by the number of months and days served during such period.

13. In § 21.3043, the heading is amended to read as follows:

§ 21.3043 Suspension of program; child.

14. In § 21.3044, paragraph (a) is amended to read as follows:

§ 21.3044 Entitlement.

(a) Each eligible person is entitled to educational assistance for a period not in excess of 36 months, or the equivalent thereof in part-time training. The period of entitlement 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. The period of entitlement will not be reduced by any period during which subsistence allowance was paid after determination of employability following vocational rehabilitation. Where the period of entitlement is subject to reduction by reason of prior training the period of prior training will be converted to months and quarter fractions of a month before subtracting this period from the period of entitlement. In the conversion process a period of prior training less than a full month will be converted by using the table in § 21.1041(c).

15. Section 21.3046 is added to read as follows:

§ 21.3046 Periods of eligibility; wife or widow.

(a) *Beginning date.* Effective date of permanent-total rating of veteran or date of veteran's death, whichever is earlier. If the permanent-total rating was effective or the veteran's death occurred before December 1, 1968, the beginning date is December 1, 1968.

(b) *Ending date.* Whichever of the following is later:

(1) Eight years from the effective date of the permanent-total rating of veteran or date of the veteran's death or

(2) November 30, 1976.

(c) *Extension to ending date.* Wife is enrolled and eligibility ceases for a reason specified in subparagraph (1) or (2) of this paragraph: extended to end of quarter or semester for schools operating on quarter or semester system, or for schools not operating on quarter or semester sys-

tem, to end of course or for 9 weeks, whichever is earlier, but not to exceed maximum entitlement or beyond the 8-year delimiting date specified in paragraph (b) of this section. Extension is authorized without regard to whether the midpoint of the quarter, semester or term has been reached.

(1) Veteran is no longer rated permanently and totally disabled.

(2) Wife is divorced from veteran without fault on her part.

(38 U.S.C. 1711(b), 1712(b), sec. 2(f), 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.

[P.R. Doc. 69-727; Filed, Jan. 17, 1969; 8:49 a.m.]

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart D—Administration of Educational Benefits; 38 U.S.C. Chapters 34, 35, and 36

MISCELLANEOUS AMENDMENTS

1. A new § 21.4020 is added to read as follows:

§ 21.4020 Two or more programs.

The aggregate period for which any person may receive assistance under two or more of the laws listed below:

(a) Parts VII or VIII, Veterans Regulation numbered 1(a), as amended;

(b) Title II of the Veterans' Readjustment Assistance Act of 1952;

(c) The War Orphans' Educational Assistance Act of 1956;

(d) 38 U.S.C. chapters 31, 34, and 35 and the former chapter 33, may not exceed 48 months (or the part-time equivalent thereof), but this section shall not be deemed to limit the period for which assistance may be received under chapter 31 alone. (38 U.S.C. 1791)

2. Section 21.4022 is revised to read as follows:

§ 21.4022 Nonduplication; 38 U.S.C. chapters 31, 34, and 35.

(a) *Election.* A veteran or eligible person who is eligible for education or training under more than one program under 38 U.S.C. chapters 31, 34, and 35 based on his own service or based on the service of another person must elect which benefit he will receive. The person may recede at any time.

(b) *Prior training.* (1) If a veteran has pursued an educational or training program under chapters 33 (prior to its repeal), 34, or 35, the program of education or special restorative training previously pursued shall be utilized to the fullest extent practicable in determining the character and duration of vocational rehabilitation to be furnished him. (38 U.S.C. 1502(b))

(2) Where a veteran who is also an eligible person has received educational assistance under chapter 34 or chapter 35, the program of education previously pursued will be utilized to the fullest extent practicable in determining the character and duration of the course for which enrollment may be approved under the other chapter.

3. Section 21.4025 is revised to read as follows:

§ 21.4025 Nonduplication; Federal programs.

(a) *General.* Except where specifically permitted by law, neither educational assistance allowance nor special training allowance may be authorized for any period during which the veteran or eligible person is enrolled in and pursuing a course of education or training paid for by the United States in whole or in part under any other provision of law, where the educational assistance would constitute a duplication of benefits from the Federal Treasury. In programs subject to this prohibition, a duplication of benefits is barred where a payment is made from the Federal Treasury under any other Federal education program, either to the student or trainee or directly to a school or training establishment (as distinguished from a State agency) to provide an allowance for living expenses or tuition. (38 U.S.C. 1781).

(b) *Programs barred.* The bar to concurrent payments includes the following:

(1) An Atomic Energy Commission fellowship.

(2) A National Science Foundation fellowship.

(3) The U.S. Maritime Commission training program.

(4) The Financial Assistance program in the Senior Reserve Officers' Training Corps of the Air Force, Army or Navy (Public Law 88-647) (similar to the former regular Navy ROTC program, Holloway Plan).

(5) The program provided under the Universal Military Training and Service Act (Public Law 51, 82d Cong.).

(6) The Veterans Administration Career Residency program for full-time physicians and dentists, and the Veterans Administration Career Dental Internship program for full-time dentists, of the Veterans Administration Department of Medicine and Surgery.

(7) Tuition assistance paid by a service department to a person on active duty, and

(8) Educational assistance under the Manpower Development and Training Act (Public Law 87-415).

(c) *Programs not barred.* Educational assistance allowance or special training allowance is not barred solely because the veteran or eligible person is:

(1) Enrolled in a land-grant college which is receiving Morrill-Nelson and Bankhead-Jones funds.

(2) Enrolled in a vocational training course conducted under the Act of February 23, 1917, as amended or the Vocational Educational Act of 1946 (Public Law 586, 79th Cong.).