and 1382b(a), respectively) to include in the Act for the first time the housing assistance exclusions contained in section 2(h) of Public Law 94–375 and to add a housing assistance exclusion from income and resources contained in section 202(h) of the Housing Act of 1959. Section 8103 of Public Law 100–647 included payments under section 202(h) of the Housing Act of 1959 to correct the inadvertent elimination of the income and resource exclusion under section 8 of the 1937 Housing Act when the provision for such housing assistance was placed under section 202 of the Housing Act of 1959.

These housing assistance exclusions are being added to §§ 416.1124(c), 416.1210, and 416.1238 of the regulations as an indication that these exclusions are now provided under the Social Security Act, rather than under statutes other than the Act.

Justification for Dispensing With Rulemaking Procedures

We are publishing these amendments without prior notice and public procedure thereon. The Department, even when not required by statute, as a matter of policy, generally follows the Administrative Procedure Act (APA) notice of proposed rulemaking and public comment procedures specified in 5 U.S.C. 553 in the development of regulations. The APA provides exceptions to its notice and comment requirements when an agency finds there is good cause for dispensing with such procedures. Section 553(b)(3)(B) of the APA exempts application of notice and comment rulemaking procedures "when the agency for good cause finds * * * that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." We find good cause to dispense with notice of proposed rulemaking in the case of these rules because we find that such rulemaking is "unnecessary" since we are only reflecting the statutory provisions in the regulations and these provisions do not require any exercise of discretion.

Regulatory Procedures

Executive Order 12291

The Secretary has determined that this is not a major rule under Executive Order 12291, since there are no costs associated with the regulation and the threshold criteria for a major rule are not otherwise met. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will affect only individuals. Therefore, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, 5 U.S.C. 601 through 612, is not required.

Paperwork Reduction Act

These regulations do not impose reporting and recordkeeping requirements necessitating clearance by the Office of Management and Budget.

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program)

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental security income (SSI).

Dated: April 18, 1990.

Gwendolyn S. King,

Commissioner of Social Security.

Approved: May 22, 1990.

Louis W. Sullivan,

Secretary of Health and Human Services.

Part 416 of title 20 of the Code of Federal Regulations is amended as follows:

PART 416—[AMENDED]

1. The authority citation for subpart K of part 416 continues to read as follows:

Authority: Secs. 1102, 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631, of the Social Security Act; 42 U.S.C. 1302, 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, and 1383; sec. 211 of Pub. L. 93–66, 87 Stat. 154; sec. 2639 of Pub. L. 98–369, 98 Stat. 1144.

2. In § 416.1124, the word "and" at the end of paragraph (c) (12) is removed and added to the end of paragraph (c)(13), and a new paragraph (c)(14) is added to read as follows:

§ 416.1124 Unearned income we do not count.

* * * * *

(c) *Other unearned income we do not count.* We do not count as unearned income—* * *

(14) The value of any assistance paid with respect to a dwelling unit under—

(i) The United States Housing Act of 1937;

(ii) The National Housing Act;

(iii) Section 101 of the Housing and Urban Development Act of 1965;

(iv) Title V of the Housing Act of 1949; or

(v) Section 202(h) of the Housing Act of 1959.

3. In § 416.1161, a new paragraph (a)(18) is added to read as follows:

§ 416.1161 Income of an ineligible spouse, ineligible parent, and essential person for deeming purposes.

* * * * *

(a) * * *

(18) Housing assistance as provided in § 416.1124(c)(14).

* * * * *

4. The authority citation for subpart L of part 416 continues to read as follows:

Authority: Secs. 1102, 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631 of the Social Security Act; 42 U.S.C. 1302, 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, and 1383; sec. 211 of Pub. L. 93–66, 87 Stat. 154.

5. In § 416.1210, a new paragraph (n) is added to read as follows:

§ 416.1210 Exclusions from resources; general.

* * * * *

(n) Housing assistance as provided in § 416.1238.

§ 416.1236 [Amended]

6. In § 416.1236, paragraph (a)(12) is removed and reserved.

7. Section 416.1238 is added to read as follows:

§ 416.1238 Exclusion of certain housing assistance.

The value of any assistance paid with respect to a dwelling under the statutes listed in § 416.1124(c)(14) is excluded from resources.

[FR Doc. 90–16146 Filed 7–10–90; 8:45 am]

BILLING CODE 4190–11–M

Food and Drug Administration

21 CFR Part 314

[Docket No. 89N–0118]

Technical Revision in the Regulations Governing Drug Master File Submissions

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is making minor revisions to the rules governing the submission to FDA of drug master files (DMF's). DMF's are reference files submitted to FDA in support of investigational and marketing applications for human drugs. There are five types of DMF's. This rule revises the titles of the five types to reflect more accurately the purpose of each type of DMF.

EFFECTIVE DATE: August 10, 1990.

FOR FURTHER INFORMATION CONTACT: Adele S. Seifried, Center for Drug

Evaluation and Research (HFD-362), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8046.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of February 22, 1985 (50 FR 7452 at 7493), FDA adopted new regulations governing the submission and content of DMF's. DMF's are reference files submitted to FDA that are used in the review of investigational and marketing applications for human drugs. DMF's are submitted to the agency to allow another party to reference this material without disclosing to that party the contents of the file. The regulation describes several types of information that may be submitted in a DMF. DMF's are divided into five types according to their contents. In the **Federal Register** of October 17, 1989 (54 FR 42515), FDA proposed minor changes in the titles of the five types of DMF's. In the same issue of the **Federal Register** (54 FR 42569), FDA announced the availability of the final "Guideline for Drug Master Files," which may be consulted for help in preparing and submitting DMF's. The revisions in this final rule are consistent with the guidance provided in that guideline.

This final rule amends 21 CFR 314.420 by revising paragraphs (a)(1), (a)(2), (a)(3), (a)(4), and (a)(5). Type I DMF's, described in 21 CFR 314.420(a)(1), cover the facilities and operating procedures used to manufacture drug products and drug substances. This final rule revises 21 CFR 314.420(a)(1) to make clear that such DMF's are intended to be submitted for foreign but not for domestic manufacturing establishments.

The final rule also revises the title of Type V DMF's from "Preclinical or clinical data" to "FDA-accepted reference information." The change is intended to discourage the submission of Type V DMF's for miscellaneous information, duplicate information, or information that should be included in one of the other types of DMF's.

This final rule also makes minor changes in the regulation to describe more accurately the other three types of DMF's.

II. Summary of Comments and the Agency's Responses

Interested persons were given 60 days to submit written comments on the proposed rule. The agency received five comments. These comments are summarized below with the agency's responses.

FDA proposed to change the title of Type I DMF's from "Facilities and operating procedures used to manufacture a drug substance or drug product" to "Manufacturing site, facilities, operating procedures, and personnel." The proposal also recommended Type I DMF's only for foreign drug manufacturing establishments. Four comments objected to the proposed changes, stating that domestic manufacturers also make use of Type I DMF's to describe information about manufacturing facilities and personnel information that the manufacturers may not wish to disclose to third parties. Several comments suggested that Type I DMF's are useful in conveying information about domestic manufacturing sites when multiple sites are used for manufacture. Several comments contended that the proposed change would compel manufacturers to submit the same information about manufacturing sites in each affected investigational new drug (IND) application or new drug application (NDA). Finally, one comment stated that the proposed change would compel a manufacturer to include DMF-type information for all facilities belonging to its suppliers.

As explained in the preamble to the proposed rule, Type I DMF's are sometimes useful for planning and conducting inspections of foreign establishments but are generally not helpful for domestic establishments because of FDA's generally greater familiarity with the location and layout ofsuch establishments. An FDA on-site inspection of a foreign drug manufacturing facility presents unique problems not presented by an inspection of a domestic manufacturing facility. To help FDA plan efficient inspections of foreign manufacturing facilities, some foreign manufacturers have submitted information about their facilities in DMF's. DMF's provide a convenient means to convey such information.

It should be noted that the kind of information about manufacturing facilities and personnel in Type I DMF's is not required to be submitted in either investigational or marketing applications. Thus the change will not cause manufacturers to submit additional Type I DMF information in applications.

Two comments objected to the proposed title change of Type V DMF's. One comment asked that Type V DMF's continue to be used for clinical/preclinical data for a product that may be marketed or used by several drug companies to reduce the amount of paper submitted to FDA. The second comment concurred with the expansion of data allowable in Type V DMF's, but objected to the restriction that FDA be contacted prior to submission of a Type V DMF.

The change in the title of Type V DMF's from "preclinical or clinical data" to "FDA-accepted reference information" is not intended to preclude the use of Type V DMF's for preclinical or clinical data, when necessary. Rather, the change is intended to reflect the use of Type V DMF's for data and information that do not fall under any of the other DMF types.

While a Type V DMF may be used for preclinical or clinical data, the new procedures do reflect the view that a DMF is not usually the best means for submitting clinical or preclinical data to FDA. For example, as noted in the preamble to the proposed rule, FDA has received clinical data in Type V DMF's that should be a part of an IND or NDA. The DMF staff must be contacted before submission of clinical or preclinical data for a Type V DMF to ensure that the DMF is the appropriate file for such information.

III. Environmental Impact

The agency has determined pursuant to 21 CFR 25.24(a)(9) that this technical revision is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IV. Economic Impact

In accordance with Executive Order 12291 and the Regulatory Flexibility Act (Pub. L. 96-354), the agency has carefully analyzed the economic consequences of this final rule. This final rule is merely a technical revision of an existing rule which will have minor but beneficial economic consequences, and the agency has determined that it is, therefore, not a major rule as defined in Executive Order 12291. Further, the Commissioner certifies that this clarification will not have a significant impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act.

V. Paperwork Reduction Act

The minor technical changes under this rule relate to information collection requirements already submitted to the Office of Management and Budget (OMB) under section 3507 of the Paperwork Reduction Act of 1980 and previously approved under OMB control number 0910-0001.

List of Subjects in 21 CFR Part 314

Administrative practice and procedure, Confidential business

information, Drugs, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 314 is amended as follows:

PART 314—APPLICATIONS FOR FDA APPROVAL TO MARKET A NEW DRUG OR AN ANTIBIOTIC DRUG

1. The authority citation for 21 CFR part 314 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 505, 506, 701, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 355, 356, 357, 371, 376).

2. Section 314.420 is amended by revising paragraphs (a)(1), (a)(2), (a)(3), (a)(4), and (a)(5) to read as follows:

§ 314.420 Drug master files.

(a) * * *

(1) Manufacturing site, facilities, operating procedures, and personnel (because an FDA on-site inspection of a foreign drug manufacturing facility presents unique problems of planning and travel not presented by an inspection of a domestic manufacturing facility, this information is only recommended for foreign manufacturing establishments);

(2) Drug substance, drug substance intermediate, and materials used in their preparation, or drug product;

(3) Packaging materials;

(4) Excipient, colorant, flavor, essence, or materials used in their preparation;

(5) FDA-accepted reference information. (A person wishing to submit information and supporting data in a drug master file (DMF) that is not covered by Types I through IV DMF's must first submit a letter of intent to the Drug Master File Staff, Food and Drug Administration, 12420 Parklawn Dr., Rm. 2–14, Rockville, MD 20852. FDA will then contact the person to discuss the proposed submission.)

* * * * *

Dated: June 20, 1990.

Ronald G. Chesemore,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 90–16118 Filed 7–10–90; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 610

[Docket No. 89N–0109]

General Biological Products Standards; Test for Residual Moisture

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the biologics regulations for residual moisture testing of dried (e.g., lyophilized) biological products. The amendment reflects the availablity of alternative analytical methods acceptable to FDA for such testing, and permits manufacturers to select the most appropriate analytical method on a product-by-product basis. The amendment reflects the fact that appropriate residual moisture limits may vary from product to product and that alternative, acceptable analytical methods may yield different residual moisture results for a given product, due to differences in methodological specificity and sensitivity. The amendment permits the appropriate residual moisture limit not to be exceeded for a given product to be reconciled with the specificity and sensitivity of the analytical method used for testing. Elsewhere in this issue of the Federal Register, FDA is announcing the lability of a residual moisture testing guideline consistent with the amended regulation.

EFFECTIVE DATE: This regulation becomes effective July 11, 1990. A manufacturer of a currently licensed dried biological product may continue to use the analytical method and residual moisture limit specified in the product license application for that product. A manufacturer may instead, if deemed warranted for a given product, submit a request to amend the analytical method and/or residual moisture limit currently specified in the product license application for that product. A manufacturer may begin using an alternative analytical method and/or residual moisture limit, effective immediately upon approval of an amended product license application.

ADDRESSES: Submit written requests to amend current product license applications and written requests for exemptions from residual moisture testing to the Director, Center for Biologics Evaluation and Research (HFB–240), 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Ann Reed Gaines, Center for Biologics Evaluation and Research (HFB–130), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20892, 301–295–8188.

SUPPLEMENTARY INFORMATION:

I. Proposed Rule

The existing regulation, § 610.13(a) (21 CFR 610.13(a)), specifies both the analytical method to be used and the residual moisture limit not to be exceeded in dried (T3e.g.,T1 lyophilized) biological products. In the **Federal Register** of June 29, 1989 (54 FR 27389), FDA proposed to revise paragraph (a) to require that each lot of product meet and not exceed the residual moisture limit that is specified in the product license application and determined by an approved method on file.

This amendment reflects, for given products, the lability of alternative analytical methods, in addition to the gravimetric loss-on-drying method described in the existing regulations, for quantitating residual moisture. FDA is amending 21 CFR 610.13(a) because specification of only one approved analytical method prevents the use of alternative analytical methods unless comparative data were submitted in accordance with § 610.9 Equivalent methods and processes (21 CFR 610.9). These alternative methods offer advantages for certain products that include, but are not restricted to, decreased turnaround time for analysis and decreased product aliquot required for analysis. Use of these alternative methods may be more appropriate for certain products, due to considerations such as the amount of product packaged per container during the manufacturing process and the types of moisture (*e.g.*, bound, surface) contained in the product.

This amendment reflects, for given products, the appropriateness of residual moisture limits other than the 1-percent limit cited in the existing regulations and the fact that different, yet still acceptable, analytical methods may yield different residual moisture results, due to differences in methodological specificity and sensitivity. This amendment accommodates such differences in residual moisture results by allowing the analytical method and the correspondingly appropriate residual moisture limit for a given product to be specified by the manufacturer in the product license application.

FDA further proposed to permit exemptions for residual moisture testing of dried biological products to be granted by the Director, Center for Biologics Evaluation and Research. This amendment serves to eliminate this testing requirement when deemed not necessary for the continued safety, purity, and potency of such products.

II. Comments

FDA provided interested persons 60 days to submit written comments on the proposed rule. FDA received three

letters of comment. All the letters generally supported the proposed amendment to the current regulations.

Two comments on proposed § 610.13(a)(1) suggested that the phrase "* * * and other volatile substances * * *" either be defined in or deleted from the regulation. The comments noted that certain of the analytical methods in the draft guideline are specific for water and do not detect other volatile substances.

FDA agrees with the comments. The intent of the regulation is to address only residual moisture defined as water. Other volatile substances are not considered to be significant constituents of currently licensed dried biological products. Therefore, FDA is deleting the phrase "* * * and other volatile substances * * *." In the future, if FDA determines that any volatile substances other than water are significant constituents of dried biological products, FDA will then consider the appropriate analytical method and appropriate residual volatile substances limit not to be exceeded.

III. Effective Date

This rule becomes effective upon date of publication in the **Federal Register**. A manufacturer of a currently licensed dried biological product may continue to use the analytical method and residual moisture limit specified in the product license application for that product. A manufacturer may instead, if deemed warranted for a given product, submit a request to amend the analytical method and/or residual moisture limit currently specified in the product license application for that product. A manufacturer may begin using an alternative analytical method and/or alternative residual moisture limit effective upon approval of an amended product license application.

Section 10.40(c)(4)(i) (21 CFR 10.40(c)(4)(i)) states that the effective date of a final regulation may not be less than 30 days after the date of publication in the **Federal Register** except for a regulation that grants an exemption or relieves a restriction. FDA has determined that this rule is effective upon publication in the **Federal Register** because § 610.13 satisfies the exceptions provided for by § 10.40(c)(4)(i). First, § 610.13 permits exemptions for residual moisture testing of dried biological products to be granted by the Director, Center for Biologics Evaluation and Research, when deemed not necessary for the continued safety, purity, and potency of the product. Second, § 610.13 relieves a restriction in the existing regulation by permitting manufacturers to specify an alternative analytical method for residual moisture testing and/or an alternative residual moisture limit in the product license application for a given product.

IV. Guideline

In that same issue of the **Federal Register** (June 29, 1989; 54 FR 27389), FDA announced the availability of, and invited public comment on, a draft guideline regarding analytical methods for residual moisture testing. This guideline summarized the technical considerations and applicability of both the approved analytical method cited in the existing regulations and those alternative analytical methods now acceptable to FDA. Elsewhere in this issue of the **Federal Register**, FDA is announcing the availability of the final guideline, based on the draft guideline and revised by FDA to incorporate minor changes suggested by interested parties.

V. Economic, Environmental, and Paperwork Considerations

The agency has examined the economic impact of this final rule and has determined that it does not require either a regulatory impact analysis, as specified in Executive Order 12291, or a regulatory flexibility analysis, as specified in the Regulatory Flexibility Act (Pub. L. 96–354). The final rule increases the flexibility of the testing requirement for residual moisture in biological products. The final rule also permits the Director, Center for Biologics Evaluation and Research, to exempt manufacturers from this testing requirement. Therefore, the agency has determined that the final rule is not a major rule as defined in Executive Order 12291. Further, FDA certifies that the final rule will not have a significant impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act.

The agency has determined under 21 CFR 25.24(a)(10) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

As stated in the June 29, 1989, proposal, § 610.13(a)(2) contains cross-references to 21 CFR 211.188 and 211.194, which contain information collection requirements that were submitted for review and approval to the Director, Office of Management and Budget (OMB), as required by section 3507 of the Paperwork Reduction Act of 1980. Those requirements were approved and assigned OMB control number 0910–0139. Therefore, a parenthetical statement is being added at the end of § 610.13.

List of Subjects in 21 CFR Part 610

Biologics, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 610 is amended as follows:

PART 610—GENERAL BIOLOGICAL PRODUCTS STANDARDS

1. The authority citation for 21 CFR part 610 continues to read as follows:

Authority: Secs. 201, 501, 502, 503, 505, 510, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 353, 355, 360, 371); secs. 215, 351, 352, 353, 361, of the Public Health Service Act (42 U.S.C. 216, 262, 263, 263a, 264).

2. Section 610.13 is amended by revising paragraph (a) and by adding an OMB control number at the end of the section to read as follows:

§ 610.13 Purity.

* * * * *

(a)(1) *Test for residual moisture.* Each lot of dried product shall be tested for residual moisture and shall meet and not exceed established limits as specified by an approved method on file in the product license application. The test for residual moisture may be exempted by the Director, Center for Biologics Evaluation and Research, when deemed not necessary for the continued safety, purity, and potency of the product.

(2) *Records.* Appropriate records for residual moisture under paragraph (a)(1) of this section shall be prepared and maintained as required by the applicable provisions of §§ 211.188 and 211.194 of this chapter.

* * * * *

(Information collection requirements were approved by the Office of Management and Budget (OMB) and assigned OMB control number 0910–0139)

Dated: June 20, 1990.

Ronald G. Chesemore,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 90–16116 Filed 7–10–90; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900-AE03

Veterans Education; Implementation of the Veterans' Benefits Improvement and Health-Care Authorization Act of 1986 and the New GI Bill Continuation Act of 1987

AGENCY: Department of Veterans Affairs.

ACTION: Final regulations.

SUMMARY: These rules implement portions of the Veterans' Benefits Improvement and Health-Care Authorization Act of 1986 and the New GI Bill Continuation Act of 1987. The Veterans' Benefits Improvement and Health-Care Authorization Act of 1986 contains many provisions which affect the administration of the new educational assistance program for veterans and servicemembers. These include provision for apprenticeship and other on-job training and correspondence training in this program; minor changes to the criteria which must be met in order to establish eligibility for the program; a requirement that certain veterans be counseled before choosing a program of education; and a change concerning nonduplication of Federal programs. The New GI Bill Continuation Act of 1987 makes this program permanent, and changes its name to the Montgomery GI Bill.

Since regulations must agree with and implement these provisions of the law, the effect of these regulations will be to enable VA to achieve the maximum benefit of this legislation for the affected individuals.

EFFECTIVE DATES: The effective dates of the amended regulations coincide with the effective dates of the laws upon which they are based, except for § 21.7152 which is effective August 10, 1990. The amendments to §§ 21.7000(b), 21.7040(a), 21.7042(a)(1), 21.7042(b)(1), 21.7042(d)(1), 21.7042(e)(1), and 21.7044(c)(1) are retroactively effective on June 1, 1987, the effective date of the New GI Bill Continuation Act. The amendments to all other sections are retroactively effective on October 28, 1986, the effective date of the relevant sections of the Veterans' Benefits Improvement and Health-Care Authorization Act.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Education Policy and Program Administration, Vocational Rehabilitation and Education Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-2092.

SUPPLEMENTARY INFORMATION: On pages 25733 through 25743 of the Federal Register of June 19, 1989, there was published a notice of intent to amend part 21, 38 CFR in order to implement provisions of the Veterans' Benefits Improvement and Health Care Authorization Act of 1986 and the New GI Bill Continuation Act of 1987. Interested people were given 30 days to submit comments, suggestions or objections. VA received one letter from an educational organization containing objections.

The proposed § 21.7139(i) provides that a veteran enrolled in a correspondence course would be reimbursed at the rate of 55% of the cost of the course. The letter writer stated that since under the Montgomery GI Bill—Active Duty, the veteran has had $1200 deducted from his or her military pay, it was not logical to require him or her to pay a portion of the cost of the course.

VA has considered this objection, but finds that there is good reason to set the reimbursement rate at 55% of the course. While Public Law 99-576 does not contain a reimbursement rate for correspondence courses, the law was subsequently amended to provide for a 55% rate. VA has concluded that it was the intent of the Congress to have that rate from the time that pursuit of correspondence courses was permitted in the program. Accordingly, VA has decided to retain the 55% reimbursement rate in the final regulations.

The letter writer also objected to the requirement of § 21.7131(c)(2)(i) which makes an enrollment agreement in a correspondence course invalid unless the veteran affirms the agreement. He commented that the requirement was "wasteful, condescending and provides no justifiable protection to the veteran."

This provision of the regulations is based upon a provision of chapter 36, title 38, U.S. Code. Section 1786(b) of that chapter provides for an enrollment agreement for correspondence courses; provides that a copy of the agreement shall be given to the veteran; and states, "No such agreement shall be effective unless such veteran * * * shall, after the expiration of ten days after the enrollment agreement is signed, have signed and submitted to the Administrator a written statement, with a signed copy to the institution, specifically affirming the enrollment agreement." Section 1434(a), title 38, U.S. Code, lists the sections of chapter 36 which apply to the administration of the Montgomery GI Bill—Active Duty. Section 1786(b) applies. Accordingly, the provision for affirming an enrollment agreement must appear in the implementing regulations. VA has included it in the final regulations.

Finally, the writer stated that the proposed rule governing correspondence training were not in agreement with the intent of the Congress in enacting the legislation nor with the intent of the Congress in creating the Department of Veterans Affairs. VA does not agree with this comment.

As is stated above, the regulations governing correspondence courses properly implement provisions of the law governing this type of training under the Montgomery GI Bill—Active Duty. When the law is clear on its face, the agency responsible for implementing it should implement it as written without looking behind the words of the law. Hence, VA is making the regulations final without change.

These final regulatory amendments do not meet the criteria for a major rule as that term is defined by Executive Order 12291. These regulatory amendments will not have a $100 million annual effect on the economy, will not cause a major increase in costs or prices and will not have any other significant adverse effects on the economy.

The Secretary hereby certifies that these regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 United States Code 601-612. Pursuant to 5 United States Code 605(b), these regulations are therefore exempt from the regulatory analyses requirements of 5 United States Code 603 and 604. The reason for this certification is that the regulations affect only individuals and impose no regulatory burden on small entities.

(The Catalog of Federal Domestic Assistance number is 64.124)

Paperwork Reduction Act

Certain sections of the regulations require that individuals or educational institutions submit reports or applications to VA. VA has already developed forms to collect this information. This has been done either because the information needs to be collected in order to administer other education programs or because the regulation in question already requires the information collection and the amended regulation merely amends the information to be collected.

Identified below for the affected sections of the regulation are the VA

form number, the form name, the OMB control number, and the reporting burden per response. The reporting burden is merely the time attributable to the Montgomery GI Bill—Active Duty. It does not include hours associated with the form when the form is used to collect information for the other education programs VA administers.

Section No.	Form No.	Title	OMB Control No.	Reporting burden per response
21.7151	22-1999v	Certification of Delivery of Advance Payment and Enrollment	2900-0325	5 Min.
21.7152	22-1999 22-1999-1 22-1999-2	Enrollment Certification	2900-0073	10 Min.
21.7154(a)	22-6553a	Certification of Attendance for a Course Leading to a Standard College Degree	2900-0465	5 Min.
21.7154(b)	22-6553a	Certification of Attendance (for Courses Not Leading to a Standard College Degree and Farm Cooperative Courses under Chap. 30, 32, 34 & 35, Title 38, U.S. Code, Chap. 106, Title 10, U.S. Code).	2900-0354	10 Min.
21.7154(c)	22-6553d	Monthly Certification of On-the-Job and Apprenticeship Training	2900-0178	10 Min.
21.7156	22-1999b	Notice of Change in Student Status	2900-0156	5 Min.

If you should have comments or on the burden estimates, or any other aspects of these collections of information, including suggestions for reducing the burden send them to Patti Viers, VA Clearance Officer (723), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233-3172 and to VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503 (202) 395-7316. Do not send requests for benefits to this address.

List of Subjects in 38 CFR Part 21

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

Approved: April 5, 1990.

Edward J. Derwinski,

Secretary of Veterans Affairs.

38 CFR Part 21, Vocational Rehabilitation and Education, is amended as follows:

PART 21—[AMENDED]

1. In § 21.7000, paragraphs (b) (2) and (3) and the authority citation following paragraph (b) are revised and paragraphs (b) (4), (5), and (6) are added to read as follows:

§ 21.7000 Establishment of educational assistance program.

* * * * *

(b) * * *

(2) To extend the benefits of a higher education to qualifying men and women who might not otherwise be able to afford such an education;

(3) To provide for vocational readjustment and to restore lost educational opportunities to those servicemen and women who served on active duty after June 30, 1985.

(4) To promote and assist the All-Volunteer Force program and the Total Force Concept of the Armed Forces by establishing a new program of educational assistance based upon service on active duty or a combination of service on active duty and in the Selected Reserve (including the National Guard) to aid in the recruitment and retention of highly qualified personnel for both the active and reserve components of the Armed Forces;

(5) To give special emphasis to providing educational assistance benefits to aid in the retention of personnel in the Armed Forces; and

(6) To enhance the nation's competitiveness through the development of a more highly educated and productive work force.

(Authority: 38 U.S.C. 1401; Pub L. 98-525, Pub. L. 100-48)

2. In § 21.7020, paragraphs (b)(2) and (b)(23) and their authority citations are revised, paragraph (b)(25)(i) is revised, and paragraphs (b)(35) through (37) are added to read as follows:

§ 21.7020 Definitions.

* * * * *

(b) * * *

(2) *Attendance* The term "attendance" means the presence of a veteran or servicemember—

(i) In the class where the approved course is being taught in which he or she is enrolled, or

(ii) At a training establishment, or

(iii) Any other place of instruction, training or study designated by the educational institution or training establishment where the veteran or servicemember is enrolled and is pursuing a program of education.

(Authority: 38 U.S.C 1434, 1780(g))

* * * * *

(23) *Program of education.* A program of education—

(i) Is any unit course or subject or combination of courses or subjects which is pursued by a veteran or servicemember at an educational institution, and which is required by the Secretary of the Small Business Administration as a condition to obtaining financial assistance under the provisions of 15 U.S.C. 636; or

(ii) Is a combination of subjects or unit courses pursued at an educational institution. The combination generally is accepted as necessary to meet requirements for a predetermined educational, professional or vocational objective. It may consist of subjects or courses which fulfill requirements for more than one objective if all objectives pursued are generally recognized as being related to a single career field; and

(iii) Includes an approved full-time program of apprenticeship or of other on-job training.

(Authority: 38 U.S.C. 1402(3), 1652(b); Pub L 98-525, Pub. L 99-576)

* * * * *

(25) *Pursuit.* (i) The term "pursuit" means to work, while enrolled, towards the objective of a program of education. This work must be in accordance with approved institutional policy and regulations, and applicable criteria of title 38, United States Code; must be necessary to reach the program's objective; and must be accomplished through—

(A) Resident courses (including teacher training courses and similar courses which VA considers to be resident training),

(B) Independent study courses,

(C) Correspondence courses,

(D) An apprenticeship or other on-job training program,

(E) A graduate program of research in absentia, or

(F) Medical-dental internships and residencies, nursing courses and other medical-dental specialty courses.

* * * * *

(35) *Established charge.* The term "established charge" means the lesser of—

(i) The charge for the correspondence course or courses determined on the basis of the lowest extended time payment plan offered by the educational institution and approved by the appropriate State approving agency, or

(ii) The actual cost to the servicemember or veteran.

(Authority: 38 U.S.C. 1434, 1786(a)(1))

(36) *Date of affirmance.* The term "date of affirmance" means the date (after the expiration of ten days after a veteran or servicemember signs an enrollment agreement for a correspondence course), on which the veteran or servicemember signs and submits to VA a written agreement affirming the enrollment agreement.

(Authority: 38 U.S.C. 1434, 1786)

(37) *Training establishment.* The term "training establishment" means any establishment providing apprentice or other on-job training, including those under the supervision of a college or university or any State department of education, or any State apprenticeship agency or any State board of vocational education, or any joint apprenticeship committee, or the Bureau of Apprenticeship and Training established in accordance with 29 U.S.C. chapter 4C, or any agency of the Federal Government authorized to supervise such training.

(Authority: 38 U.S.C 1434, 1787)

3. In § 21.7040, paragraph (a) is revsied to read as follows:

§ 21.7040 Eligibility for basic educational assistance.

* * * * *

(a) Some individuals who first become members of the Armed Forces or who first enter on active duty as a member of the Armed Forces after June 30, 1985, and

* * * * *

4. In § 21.7042, paragraphs (a)(1), (a)(5)(iii) and its authority citation, (b)(1), (c) and its authority citation, (d)(1)(i), and (e)(1) are revised to read as follows:

§ 21.7042 Basic eligibility requirements.

* * * * *

(a) * * *

(1) The individual must after June 30, 1985, either—

* * * * *

(5) * * *

(iii) For convenience of the Government—

(A) After completing at least 20 continuous months of active duty if his or her initial obligated period of active duty is less than three years, or

(B) After completing 30 continuous months of active duty if his or her initial obligated period of duty is at least three years.

(Authority: 38 U.S.C. 1411, 1412; Pub. L. 100-48)

(b) * * *

(1) The individual must, after June 30, 1985, either—

* * * * *

(c) *Dual eligibility.*

(1) An individual who has established eligibility under paragraph (a) of this section through serving at least two years of continuous active duty of an initial obligated period of active duty of less than three years, as provided in paragraph (a)(2) of this section, may attempt to establish eligibility under paragraph (b) of this section through service in the Selected Reserve. If this veteran fails to establish eligibility under paragraph (b) of this section, he or she will retain eligibility established under paragraph (a) of this section.

(2) An individual must elect whether or not he or she wishes service in the Selected Reserve to be credited towards establishing eligibility under 38 U.S.C. chapter 30 or under 10 U.S.C. chapter 106 when—

(i) The individual is—

(A) A veteran who has established eligibility for basic educational assistance through meeting the provisions of paragraph (b)(b) of this section, and

(B) Also a reservist who has established eligibility for benefits under 10 U.S.C. chapter 106 through meeting the requirements of § 21.7540 of this part, or

(ii) The individual is a member of the National Guard or Air National Guard who has established eligibility for basic educational assistance provided under 38 U.S.C. chapter 30 through activation under a provision of law other than 32 U.S.C. 316, 502, 503, 504 or 505.

(3) A veteran may revoke his or her election provided he or she has not negotiated a check for benefits under either 38 U.S.C. chapter 30 or 10 U.S.C. chapter 106. Once the veteran has negotiated a check under either chapter, the election is irrevocable.

(Authority: 38 U.S.C. 1433(c), 10 U.S.C. 2132; Pub L. 98-525, Pub L. 99-576)

(d) * * *

(1) * * *

(i) After June 30, 1985, either—

* * * * *

(e) * * *

(1) An individual who, after June 30, 1985, first becomes a member of the Armed Forces or first enters on active duty as a member of the Armed Forces, may elect not to receive educational assistance under 38 U.S.C. chapter 30. This election must be made at the time the individual initially enters on active duty as a member of the Armed Forces. An individual who makes such an election is not eligible for educational assistance under 38 U.S.C. chapter 30.

* * * * *

5. In § 21.7044, paragraph (a)(5)(vi) is revised, paragraph (a)(6) is added, the authority citation at the end of paragraph (a) is revised, and paragraph (c)(1)(i) introductory text is revised to read as follows:

§ 21.7044 Persons with 38 U.S.C. Chapter 34 eligibility.

* * * * *

(a) * * *

(5) * * *

(vi) Be released from active duty for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service;

(6) The individual must have been on active duty on October 19, 1984, and without a break in service since October 19, 1984.

(Authority: 38 U.S.C. 1411; Pub. L. 98-525, Pub. L. 99-145, Pub L. 90-576)

* * * * *

(c) * * *

(1) * * *

(i) After June 30, 1985, either—

* * * * *

6. In § 21.7050, paragraphs (b) and (c) are redesignated as paragraphs (c) and (d) respectively, the introductory text of pargraph (a) and its authority citation are revised and new paragraph (b) and its authority citation are added to read as follows:

§ 21.7050 Ending dates of eligibility.

(a) *Ten-year time limitation.* Except as provided in paragraph (b) of this section and in § 21.7051 of this part, VA will not provide basic educational assistance or supplemental educational assistance to a veteran or servicemember after the later of the following:

* * * * *

(Authority: 38 U.S.C. 1431 (a) and (e); Pub. L. 98-525, Pub. L. 100-323)

(b) *Reduction of ten-year eligibility period.* A veteran who had eligibility for educational assistance under 38 U.S.C. chapter 34 and who is eligible for educational assistance under 38 U.S.C. chapter 30 as provided in § 21.7044 of this part shall have his or her ten-year

period of eligibility reduced by the number of days he or she was not on active duty during the period beginning on January 1, 1977, and ending on October 18, 1984.

(Authority: 38 U.S.C. 1431(e); Pub. L. 99-576)

* * * * *

7. In § 21.706, the introductory text and the authority citation for paragraph (a) are revised, paragraph (b)(1) introductory text is revised, and paragraphs (b)(3) through (b)(6) are added, and the authority citation at the end of paragraph (b) is revised to read as follows:

§ 21.7076 Entitlement charges.

(a) *Overview:* VA will make charges against entitlement as stated in this section. Charges will be made against the entitlement the veteran or servicemember has to educational assistance under 38 U.S.C. chapter 30. After December 31, 1989, there will be a charge (for record purposes only) against the entitlement, if any, which he or she may have under 38 U.S.C. chapter 34. The charges against entitlement under 38 U.S.C. chapter 34 will not count against the 48 months of total entitlement under both 38 U.S.C. chapters 30 and 34 to which the veteran or servicemember may be entitled. (See § 21.4020(a) of this part.) Except for those pursuing correspondence training or apprenticeship or other on-job training, charges are based upon the principle that a veteran or servicemember who trains full time for one day should be charged one day of entitlement. The provisions of this section apply to—

* * * * *

(Authority: 38 U.S.C. 1413; Pub. L. 98-525, Pub. L. 99-576)

(b) *Determining entitlement charge.* (1) Except for those pursuing correspondence training or apprenticeship or other on-job training, VA will make a charge against entitlement—

* * * * *

(3) For each month that a veteran is paid a monthly educational assistance allowance while undergoing apprenticeship or other on-job training, VA will make a charge against chapter 30 entitlement of—

(i) .75 of a month in the case of payments made during the first six months of the veteran's pursuit of the program of apprenticeship or other on-job training,

(ii) .55 of a month in the case of payments made during the second six months of the veteran's pursuit of the program of apprenticeship or other on-job training, and

(iii) .35 of a month in the case of payments made following the first twelve months of the veteran's pursuit of apprenticeship or other on-job training.

(4) For each month that a veteran is paid a monthly educational assistance allowance while undergoing apprenticeship or other on-job training, VA will make a record purpose charge against chapter 34 entitlement, if any, of one month for each month of benefits paid to him or her.

(5) When a veteran or servicemember is pursuing a program of education by correspondence, VA will make a charge against entitlement for each payment made to him or her. The charge—

(i) Will be made in months and decimal fractions of a month, and

(ii) Will be determined by dividing the amount of the payment by an amount equal to the rate of educational assistance otherwise applicable to him or her for full-time training (disregarding in the case of a servicemember the cost of course comparison).

(6) When a veteran or servicemember is pursuing a program of education partly in residence and partly by correspondence, VA will make a charge against entitlement—

(i) For the residence portion of the program as provided in paragraphs (b)(1) and (2) of this section, and

(ii) For the correspondence portion of the program as provided in paragraph (b)(5) of this section.

(Authority: 38 U.S.C. 1432(c), 1434(c); Pub. L. 99-576)

* * * * *

8. In § 21.7100, paragraphs (b) and (d) and their authority citations are revised to read as follows:

§ 21.7100 Counseling.

* * * * *

(b) Required counseling. (1) In any case in which VA has rated the veteran as being incompetent, the veteran must be counseled before selecting a program of education or training. The requirement that counseling be provided is met when—

(i) The veteran has had one or more personal interviews with the counselor;

(ii) The counselor has jointly developed with the veteran recommendations for selecting a program; and

(iii) These recommendations have been reviewed with the veteran.

(2) The veteran may follow the recommendations developed in the course of counseling, but is not required to do so.

(3) VA will take no further action on a veteran's application for assistance under 38 U.S.C. chapter 30 when he or she—

(i) Fails to report;

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

(iii) Does not complete counseling to the extent required under paragraph (b)(1) of this section.

(4) Counseling is not required for any other individual eligible for educational assistance established under 38 U.S.C. chapter 30.

(Authority: 38 U.S.C. 1432, 1663; Pub. L. 98-525, Pub. L. 99-576)

* * * * *

(d) *Provision of counseling.* VA shall provide counseling as needed for the purposes identified in paragraphs (a) and (c) of this section upon request of the individual. In addition, VA shall provide counseling as needed for the purposes identified in paragraph (b) of this section following the veteran's request for counseling, the veteran's initial application for benefits or any communication from the veteran or guardian indicating that the veteran wishes to change his or her program. VA shall take appropriate steps (including individual notification where feasible) to acquaint all participants with the availability and advantages of counseling services.

(Authority: 38 U.S.C. 1434, 1663; Pub. L. 98-525, Pub. L. 99-576)

9. Section 21.7103 is revised and a cross-reference added to read as follows:

§ 21.7103 Travel expenses.

(a) *Travel for veterans and servicemembers.*

(1) Except as provided in paragraph (a)(2) of this section, VA shall determine and pay the necessary cost of travel to and from the place of counseling for individuals who are required to receive counseling if—

(i) VA determines that the individual is unable to defray the cost based upon his or her annual declaration and certification; or

(ii) The individual has a compensable service-connected disability.

(2) VA shall not pay for the travel expenses for a veteran who is not residing in a State.

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

(b) *Travel for attendants.*

(1) VA will authorize payment of travel expenses for an attendant while the individual is traveling when—

(i) The individual, because of a severe disability requires the services of an attendant when traveling, and

(ii) VA is paying the necessary cost of the individual's travel on the basis of the criteria stated in paragraph (a) of this section.

(2) VA will not pay the attendant a fee for travel expenses if he or she is a relative as defined in § 21.374 of this part.

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

(c) *Payment of travel expenses prohibited for most veterans.* VA shall not pay for any costs of travel to and from the place of counseling for anyone who requests counseling under 38 U.S.C. Chapter 30.

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

Cross-Reference: 21.374, Authorization for travel of attendants.

10. Section 21.7112 is amended by removing the introductory text of paragraph(s), and by revising paragraph (a)(1) and by adding an authority citation for paragraph (a)(1) to read as follows:

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

* * * * *

(a) *Concurrent enrollment.* (1) When a veteran or servicemember cannot successfully schedule his or her complete program at one educational institution, VA may approve a program of concurrent enrollment. When requesting such a program, the veteran or servicemember must show that his or her complete program of education is not available at the educational institution in which he or she will pursue the major portion of his or her program (the primary educational institution), or that it cannot be scheduled successfully within the period in which he or she plans to complete his or her program. When the standards for measurement of the courses pursued concurrently in the two educational institutions are different, the concurrent enrollment shall be measured by converting the measurement of courses being pursued at the second educational institution under the standard applicable to such institution to its equivalent measurement under the standard required for full-time courses applicable to the primary educational institution. For a complete discussion of measurement of concurrent enrollments see § 21.7172 of this part.

(Authority: 38 U.S.C. 1434, 1788; Pub. L. 99-576)

* * * * *

11. In § 21.7122, paragraph (e)(6) is removed and paragraph (e)(7) is redesignated as paragraph (e)(6); paragraph (e)(5) and the authority citation for paragraph (e) are revised to read as follows:

§ 21.7122 Courses precluded.

* * * * *

(e) * * *

(5) A course from which the veteran or servicemember withdrew without mitigating circumstances, or

* * * * *

(Authority: 38 U.S.C. 1402(3), 1434, 1772(a), 1780(a); Pub. L. 99-576)

12. In § 21.7131, paragraph (c) and its authority citation are revised to read as follows:

§ 21.7131 Commencing dates.

* * * * *

(c) *Certification by educational institution or training establishment—course does not lead to a standard college degree.*

(1) When a veteran or servicemember enrolls in a course which does not lead to a standard college degree and which is offered in residence, the commencing date of the award of educational assistance shall be the first date of the veteran's or servicemember's class attendance.

(2) When a veteran or servicemember enrolls in a course which is offered by correspondence, the commencing date of the award of educational assistance shall be the later of—

(i) The date the first lesson was sent, or

(ii) The date of affirmance.

(3) When a veteran enrolls in a program of apprenticeship or other on-the-job training, the commencing date of the award of educational assistance shall be the first date of employment in the training position.

(Authority: 38 U.S.C. 1414, 1423; Pub. L. 98-525, Pub. L. 99-576)

* * * * *

13. In § 21.7135, paragraph (e)(2)(ii) is revised, paragraphs (e) (3) and (4) are added, and the authority citation for paragraph (e) is revised to read as follows:

§ 21.7135 Discontinuance dates.

* * * * *

(e) * * *

(2) * * *

(ii) Independent study: official date of change in status under the practices of the educational institution.

(3) When a veteran or servicemember withdraws from a correspondence course, VA will terminate educational assistance effective the date the last lesson is serviced.

(4) When a veteran or servicemember withdraws from an apprenticeship or other on-the-job training, VA will terminate educational assistance effective the date of last training.

(Authority: 38 U.S.C. 1434, 1780(a); Pub. L. 98-525, Pub. L. 99-576)

* * * * *

14. Section 21.7136 is revised to read as follows:

§ 21.7136 Rates of payment of basic educational assistance.

(a) *Rates.* (1) Except as otherwise provided in this section and § 21.7137 of this part, the monthly rate of basic educational assistance payable to a veteran is the rate stated in this table. The rates in this table also apply to a veteran who formerly was eligible under 38 U.S.C. chapter 34, and who has received a record-purpose charge against his or her entitlement under that chapter equal to the entitlement he or she had remaining on December 31, 1989.

Training	Monthly rate
Full-time	$300.
¾ time	$225.
½ time	$150.
Less than ½ but more than ¼ time.	$150 (See § 21.7136(d).
¼ time or less	$75 (See § 21.7136(d).

(Authority: 38 U.S.C. 1415(c); Pub. L. 98-525)

(2) Except as otherwise provided in this section the monthly rate of basic educational assistance payable to a veteran who is pursuing an apprenticeship or other on-job training is the rate stated in this table. The rates in this table also apply to a veteran pursuing such training who formerly was eligible under 38 U.S.C. chapter 34, and who has received a record-purpose charge against his or her entitlement under that chapter equal to the entitlement he or she had remaining on December 31, 1989.

Training period	Monthly rate
First six months of pursuit of program	$225.00
Second six months of pursuit of program	165.00
Remaining pursuit of program	105.00

(Authority: 38 U.S.C. 1432(c); Pub. L. 99-576)

(b) *Rates for veterans whose initial obligated period of active duty is less than three years.*

(1) Except as otherwise provided in this section, the monthly rate of basic educational assistance payable to a veteran whose initial obligated period of active duty is less than three years and who has not served and is not committed to serve in the Selected

Reserve for a period of four years is the amount stated in this table.

Training period	Monthly rate
Full-time	$250.00.
¾ time	$187.50.
½ time	$125.00.
Less than ½ but more than ¼ time.	$125.00 (See § 21.7136(d)).
¼ time or less	$62.50 (See § 21.7136(d)).

(Authority: 38 U.S.C. 1415(c); Pub. L. 98–525)

(2) Except as otherwise provided in this section, the monthly rate of educational assistance payable to a veteran whose initial obligated period of active duty is less than three years and who has not served and is not committed to serve in the Selected Reserve for a period of four years, and who is pursuing an apprenticeship or other on-job training is the rate stated in this table.

Training period	Monthly rate
First six months of pursuit of program	$187.50
Second six months of pursuit of program	137.50
Remaining pursuit of program	87.50

(Authority: 38 U.S.C. 1432(c); Pub. L. 99–576)

(c) *Increase in basic educational assistance rates ("kicker").* The Secretary concerned may increase the amount of basic educational assistance payable to an individual who has a skill or specialty which the Secretary concerned designates as having a critical shortage of personnel or for which it is difficult to recruit. The amount of the increase is set by the Secretary concerned, but—

(1) For individuals other than those pursuing an apprenticeship or other on-job training program, it may not exceed—

(i) $400 per month for full-time training,

(ii) $300 per month for three-quarter-time training,

(iii) $200 per month for one-half-time training or for training which is less than one-half, but more than one-quarter-time, or

(iv) $100 per month for one-quarter-time training or less.

(2) For individuals pursuing an apprenticeship or other on-job training it may not exceed—

(i) $300 per month during the first six months of training,

(ii) $220 per month during the second six months of training, and

(iii) $140 per month during the remaining months of training.

(Authority: 38 U.S.C. 1415(c), 1432(c))

15. In § 2.7137, paragraphs (a), (b), and (d) and their authority citations are revised to read as follows:

§ 21.7137 Rates of payment of basic educational assistance for individuals with remaining entitlement under 38 U.S.C. chapter 34

(a) *Minimum rates.* Effective January 1, 1990, VA will pay basic educational assistance at an increased rate to veterans who were eligible for educational assistance allowance under 38 U.S.C. chapter 34. The veterans must establish eligibility for educational assistance under § 21.7044, of this part, and must still have remaining entitlement under 38 U.S.C. chapter 34.

(1) Except as otherwise provided in this section the monthly rate of basic educational assistance will be the rate taken from the following table.

Training	Monthly rate			
	No dependents	One dependent	Two dependents	Additional for each additional dependent
Full-time	$488.00	$524.00	$555.00	$16.00
¾ time	366.50	393.00	416.50	12.00
½ time	244.00	262.00	277.50	8.50
Less than ½ but more than ¼ time	[1] 244.00			
¼ time or less	[1] 122.00			

[1] See § 21.3137(b).

(Authority: 38 U.S.C. 1415(c); Pub. L. 98–525).

(2) For veterans pursuing an apprenticeship or other on-job training, the monthly rate of basic educational assistance will be the rate taken from the following table.

Training period	Monthly rate			
	No dependents	One dependent	Two dependents	Additional amount for additional dependents
1st 6 mos. of pursuit of program	$327.75	$340.13	$351.00	$5.25
2d 6 mos. of pursuit of program	221.38	230.73	238.43	3.85
3d 6 mos. of pursuit of program	128.80	134.93	139.65	2.45
Remaining pursuit of program	116.90	122.68	127.93	2.45

(Authority: 38 U.S.C. 1415(c), 1434, 1786(a)(2); Pub. L. 99–576)

(b) *Less than one-half-time training.* The monthly rate for a veteran who is pursuing a course on a less than one-half-time basis is the lesser of—

(1) The monthly rate in paragraph (a)(1) of this section, or

(2) The monthly rate of the cost of the course.

(Authority: 38 U.S.C. 1432; Pub. L. 98–525, Pub. L. 99–576)

* * * * *

(d) *Increase in basic educational assistance rates ("kicker").* The Secretary concerned may increase the

amount of basic educational assistance payable to an individual who has a skill or specialty which the Secretary concerned designates as having a critical shortage of personnel or for which it is difficult to recruit. The increase may not be applied to a servicemember whose monthly rate is determined by paragraph (c)(1) of this section, but it can serve to raise the ceiling on monthly rates stated in paragraphs (b)(1) and (c)(2) of this section. The amount of the increase is set by the Secretary concerned, but—

(1) For individuals other than those pursuing an apprenticeship or other on-job training program, it may not exceed—

(i) $400 per month for full-time training,

(ii) $300 per month for three-quarter-time training.

(iii) $200 per month for one-half-time training or for training which is less than one-half but more than one-quarter-time, or

(iv) $100 per month for one-quarter-time training or less.

(2) For individuals pursuing an apprenticeship or other on-job training it may not exceed—

(i) $300 per month for the first six months of training.

(ii) $220 per month for the second six months of training, and

(iii) $140 per month for the remaining months of training.

(Authority: 38 U.S.C. 1415, 1432)

* * * * *

16. In § 21.7138, paragraphs (a) and (b) and their authority citations and the heading for paragraph (c) are revised to read as follows:

§ 21.7138 Rates of supplemental educational assistance.

* * * * *

(a) *Rates of supplemental educational assistance for veterans.*

(1) Except for a veteran pursuing an apprenticeship or other on-job training program, the rate of supplemental educational assistance payable to a veteran is the rate stated in this table.

Training	Monthly rate
Full-time	$300.
¾ time	$225.
½ time	$150.
Less than ½ but more than ¼ time.	$150 (See § 21.7138(c)).
¼ time or less	$75 (See § 21.7138(c)).

(Authority: 38 U.S.C. 1415(c); Pub. L. 98–525)

(2) For a veteran pursuing apprenticeship or other on-job training the rate of supplemental educational assistance payable to a veteran is as provided in this table.

Training period	Monthly rate
First 6 months of pursuit of program	$225.00
Second 6 months of pursuit of program	165.00
Remaining pursuit of program	105.00

(Authority: 38 U.S.C. 1415(c), 1432(c); Pub. L. 99–576)

(b) *Increase in supplemental educational assistance rates ("kicker").* The Secretary concerned may increase the amount of supplemental educational assistance payable to an individual who has a skill or specialty which the Secretary concerned designates as having a critical shortage of personnel or for which it is difficult to recruit. The amount of the increase is set by the Secretary concerned, but—

(1) For an individual other than one pursuing an apprenticeship or other on-job training it may not exceed—

(i) $300 per month for full-time training.

(ii) $225 per month for three-quarter-time training,

(iii) $150 per month for one-half-time training and for training which is less than one-half-time, but more than one-quarter-time, or

(iv) $75 per month for one-quarter-time training or less.

(2) For an individual pursuing an apprenticeship or other on-job training it may not exceed—

(i) $225 per month for the first six months of training,

(ii) $165 per month for the second six months of training, and

(iii) $105 per month for the remaining months of training.

(Authority: 38 U.S.C. 1422(b), 1432(c); Pub. L. 99–576)

(c) *Rates of supplemental educational assistance for less than one-half-time training and for servicemembers.*

* * * * *

17. In § 21.7139, the introductory text for paragraph (a) and the authority citation for paragraph (a) are revised and paragraphs (i) and (j) are added to read as follows:

§ 21.7139 Conditions which result in reduced rates.

* * * * *

(a) *Absences.* A veteran or servicemember enrolled in a course not leading to a standard college degree (other than one to which § 21.4270(a), footnote 6 applies) will have his or her educational assistance reduced for any day of absence which exceeds the maximum allowable absences permitted in this paragraph.

(Authority: 38 U.S.C. 1434, 1780; Pub. L. 99–576)

* * * * *

(i) *Payment for correspondence courses.* The amount of payment due a veteran or servicemember who is pursuing a correspondence course or the correspondence portion of a correspondence-residence course is 55 percent of the established charge which the educational institution requires nonveterans to pay for the lessons that the veteran or servicemember has had completed and serviced and for which payment is due.

(Authority: 38 U.S.C. 1434, 1786(a)(2))

(j) *Failure to work sufficient hours of apprenticeship and other on-job training.*

(1) For any month in which an eligible veteran pursuing an apprenticeship or other on-job training program fails to complete 120 hours of training VA shall reduce the rates specified in §§ 21.7136(a)(2), 21.7136(b)(2) and 21.7137(b)(2) of this part proportionally. In this computation VA shall round the number of hours worked to the nearest multiple of eight.

(2) For the purpose of this paragraph "hours worked" include only—

(i) The training hours the veteran worked, and

(ii) All hours of the veteran's related training which occurred during the standard workweek and for which the veteran received wages. (See § 21.4270(b), footnote 5, as to the requirements for full-time training.)

(Authority: 38 U.S.C. 1434, 1787(b)(3)

18. In § 21.7140, paragraph (b) is redesignated as paragraph (d); paragraph (c) is redesignated as paragraph (e); paragraph (a) is revised; new paragraphs (b), (c), and (f) are added to read as follows:

§ 21.7140 Certifications and release of payments.

(a) Advance payments.

(1) VA shall make payments of educational assistance in advance when—

(i) The veteran or servicemember has specifically requested such a payment;

(ii) The educational institution at which the veteran or servicemember is accepted or enrolled has agreed to, and can satisfactorily carry out, the provisions of 38 U.S.C. 1780(d) (4) (B) and (C) and (5) pertaining to receipt, delivery or return of checks and certifications of delivery and enrollment;

(iii) The Director of the VA field facility of jurisdiction has not acted under paragraph (a)(4) of this section to prevent advance payments being made

to the veteran's or servicemember's educational institution;

(iv) There is no evidence in the veteran's or servicemember's claim file showing that he or she is not eligible for an advance payment;

(v) The period for which the veteran or servicemember has requested a payment either is preceded by an interval of nonpayment for 30 days or more or is the beginning of a school year; and

(vi) The educational institution or the veteran has submitted the certification required by § 21.7151 of this part.

(2) The amount of advance payment is the educational assistance for the month or fraction thereof in which the term or course will begin plus the educational assistance for the following month.

(3) Advance payments will be mailed to the educational institution for delivery to the veteran or servicemember. The educational institution shall not deliver the advance payment check more than 30 days in advance of the first date of the period for which the advance payment is made.

(4) The Director of the VA field facility of jurisdiction may direct that advance payments not be made to individuals attending an educational institution if—

(i) The educational institution demonstrates an inability to comply with the requirements of paragraph (a)(3) of this section, or

(ii) The educational institution fails to provide adequately for the safekeeping of the advance payment checks before delivery to the veteran or servicemember or return to VA, or

(iii) The Director determines, based on compelling evidence, that the educational institution has demonstrated its inability to discharge its responsibilities under the advance payment program.

(Authority: 38 U.S.C. 1434, 1780(d))

(b) *Lump-sum payments.*

(1) A certfication of enrollment from an educational institution will be suffidient to release payment of educational assistance to a veteran or servicemember for an entire quarter, semester or term no later than the last day of the month following the month in which VA received the certification when the veteran or servicemember is training on a less than half-time basis.

(2) VA will make lump-sum payments of educational assistance when the veteran's or servicemember's enrollment or attendance is first certified after he or she completes his or her enrollment period.

(Authority: 38 U.S.C. 1434, 1780(f))

(c) *Other payments.* An individual must be pursuing a program of education in order to receive payments. To ensure that this is the case the provisions of this paragraph must be met.

(1) VA will pay educational assistance to a veteran or servicemember (other than one pursuing a program of apprenticeship or other on-job training or a correspondence course, one who qualifies for an advance payment or one who qualifies for a lump-sum payment) only after—

(i) The educational institution has certified his or her enrollment as provided in § 21.7152 of this part;

(ii) VA has received from the individual a verification of the enrollment; and

(iii) In the case of a veteran or servicemember pursuing a course not leading to a standard college degree, other than one to which § 21.4270(a), footnote 6 applies, a report from the veteran or servicemember of each day of absence from scheduled attendance. The report will be endorsed by the educational institution. If the veteran is enrolled concurrently in more than one educational institution, the primary educational institution will endorse the report. For a discussion of each of these certifications, see §§ 21.7152 and 21.7154 of this part.

(2) VA will pay educational assistance to a veteran pursuing a program of apprenticeship or other on-job training only after-

(i) The training establishment has certified his or her enrollment in the training program as provided in § 21.7152 of this part; and

(ii) VA has received from the veteran and the training establishment a certification of hours worked

(3) VA will pay educational assistance to a veteran or servicemember who is pursuing a correspondence course only after-

(i) The educational institution has certified his or her enrollment;

(ii) VA has received from the veteran or servicemember a certification as to the number of lessons completed and serviced by the educational institution; and

(iii) VA has received from the educational institution a certification or an endorsement on the veteran's or servicemember's certificate, as to the number of lessons completed by the veteran or servicemember and serviced by the educational institution.

(Authority: 38 U.S.C. 1434, 1780(b))

* * * * *

(f) *Limitations on payments.* VA will not apportion educational assistance.

(Authority: 38 U.S.C. 1434, 1780)

19. In § 21.7142, paragraph (a) and its authority citation are revised to read as follows:

§ 21.7142 Nonduplication of educational assistance.

(a) *Payments of educational assistance shall not be duplicated.* An individual, entitled to educational assistance under 38 U.S.C. chapter 34, who establishes entitlement under 38 U.S.C. chapter 30, shall not be eligible to receive educational assistance under 38 U.S.C. chapter 30 before January 1, 1990. An individual who is entitled to educational assistance under 38 U.S.C. chapter 30 and any of the provisions of law listed in this paragraph must elect which benefit he or she will receive for the program of education he or she wishes to pursue. The provisions of law are:

(1) 38 U.S.C. chapter 31,

(2) 38 U.S.C. chapter 32,

(3) 38 U.S.C. chapter 35,

(4) 10 U.S.C. chapter 106,

(5) 10 U.S.C. chapter 107, and

(6) The Hostage Relief Act of 1980, (Pub. L. 96–499 and 5 U.S.C. 5561 note).

(Authority: 38 U.S.C. 1433)

* * * * *

20. Section 21.7145 is added to read as follows:

§ 21.7145 Veteran-student services.

(a) *Eligibility.* Veterans pursuing full-time programs of education or training under chapter 30 are eligible to receive a work-study allowance.

(Authority: 38 U.S.C. 1434, 1685; Pub. L. 99–576)

(b) *Selection criteria.* Whenever feasible VA will give priority in selection for this allowance to veterans with service-connected disabilities rated at 30 percent or more. VA shall consider the following additional selection criteria:

(1) Need of the veteran to augment his or her educational assistance allowance;

(2) Availability to the veteran of transportation to the place where his or her services are to be performed;

(3) Motivation of the veteran; and

(4) Compatibility of the work assignment to the veteran's physical condition.

(Authority: 38 U.S.C. 1434, 1685; Pub. L. 99–576)

(c) *Utilization.* Veteran-student services may be utilized in connection with—

(1) Outreach services programs as carried out under the supervision of a VA employee;

(2) Preparation and processing of necessary papers and other documents at educational institutions or regional offices or facilities of VA;

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

(4) Any other appropriate activity of VA.

(Authority: 38 U.S.C. 1434, 1685; Pub. L. 99-576)

(d) *Rate of payment.*

(1) In return for the veteran's agreement to perform services for VA totaling 250 hours during an enrollment period, VA will pay an allowance in an amount equal to the higher of—

(i) The hourly minimum wage in effect under section 6(a) of the Fair Labor Standards Act of 1938 times 250, or

(ii) $625.

(2) VA will pay proportionately less to veterans who agree to perform a lesser number of hours of services.

(Authority: 38 U.S.C. 1434, 1685; Pub. L. 99-576)

(e) *Payment in advance.* VA will pay in advance an amount equal to 40 percent of the total amount payable under the contract.

(Authority: 38 U.S.C. 1434, 1685; Pub. L. 99-576)

(f) *Veteran reduces rate of training.* In the event the veteran ceases to be a full-time student before completing an agreement, the veteran, with the approval of the Director of the VA field facility, or designee, may be permitted to complete the portions of an agreement in the same or immediately following term, quarter or semester in which the veteran ceases to be a full-time student.

(Authority: 38 U.S.C. 1434, 1685; Pub. L. 99-576)

(g) *Veteran terminates training.*

(1) If the veteran terminates all training before completing an agreement, the Director of the VA field facility or designee—

(i) May permit him or her to complete the portion of the agreement represented by the money VA has advanced the veteran for which he or she has performed no service, but

(ii) Will not permit him or her to complete that portion of an agreement for which no advance has been made.

(2) The veteran must complete the portion of an agreement in the same or immediately following term, quarter or semester in which the veteran terminates training.

(Authority: 38 U.S.C. 1434, 1685; Pub. L. 99-576)

(h) *Indebtedness for unperformed service.*

(1) If the veteran has received an advance for hours of unperformed service, and VA has evidence that he or she does not intend to perform that service, the advance—

(i) Will be a debt due the United States, and

(ii) Will be subject to recovery the same as any other debt due the United States.

(2) The amount of indebtedness for each hour of unperformed service shall equal the hourly wage that formed the basis for the contract.

(Authority: 38 U.S.C. 1434, 1685; Pub. L. 99-576)

(i) *Survey.* VA will conduct an annual survey of its regional offices to determine the number of veterans whose services can be utilized effectively.

(Authority: 38 U.S.C. 1434, 1685; Pub. L. 99-576)

21. Section 21.7151 is added to read as follows:

§ 21.7151 Advance payment certifications.

All certifications required by this paragraph shall be in a form and shall contain such information as specified by the Secretary.

(a) *Certification needed before an advance payment can be made.* In order for a veteran or service member to receive an advance payment of educational assistance, the application or other document must be signed by the veteran or the enrollment certification must be signed by an authorized official of the educational institution.

(Authority: 38 U.S.C. 1434, 1780(d))

(b) *Advance payments.* All verifications required by this paragraph shall be in a form and shall contain such information as specified by the Secretary.

(1) For each individual receiving an advance payment an educational institution must—

(i) Verify enrollment for the individual; and

(ii) Verify the delivery of the advance payment check to the individual.

(2) Once the educational institution has initially verified the enrollment of the individual, the individual, not the educational institution, must make subsequent verifications in order to release further payment for that enrollment as provided in § 21.7154(a) of this part.

(Authority: 38 U.S.C. 1434, 1780(d))

22. In § 21.7152, paragraph (a) and its authority citation are revised to read as follows:

§ 21.7152 Certification of enrollment.

* * * * *

(a) *Certification of enrollment is required.* Except as provided in § 21.7151 of this part, the educational institution must certify the veteran's or servicemember's enrollment before he or she may receive educational assistance. This certification shall be in a form and shall contain such information as specified by the Secretary.

(Authority: 38 U.S.C. 1432, 1434, 1682(g), 1780, 1787)

* * * * *

23. Sections 21.7154 and 21.7156 are revised to read as follows:

§ 21.7154 Pursuit and absences.

As stated in § 21.7140(a) of this part except when an individual is pursuing a correspondence course an individual must submit a verification to VA each month of his or her enrollment during the period for which the individual is to be paid. This verification shall be in a form specified by the Secretary.

(a) *Requirements for all veterans and servicemembers.*

(1) The monthly verification for all veterans and servicemembers will include a report on the following items when applicable:

(i) Actual attendance,

(ii) Continued enrollment in and pursuit of the course,

(iii) The individual's unsatisfactory conduct or progress,

(iv) Date of interruption or termination of training,

(v) Changes in the number of credit hours or in the number of clock hours of attendance,

(vi) Nonpunitive grades, and

(vii) Any other changes or modifications in the course as certified at enrollment.

(2) The verification of enrollment must—

(i) Contain the information required for release of payment,

(ii) Be signed by the veteran or servicemember on or after the final date of the reporting period, and

(iii) Clearly show the date on which it was signed.

(Authority: 38 U.S.C. 1434, 1784; Pub. L. 98-525, Pub. L. 99-576)

(b) *Additional requirements when the course does not lead to a standard college degree.*

(1) The veteran or servicemember must certify attendance monthly by reporting each day of absence from scheduled attendance as defined in § 21.7139(a) of this part when—

(i) The course in which he or she is enrolled does not lead to a standard college degree;

(ii) The course does not qualify for measurement on a credit-hour basis as provided in § 21.4270(a), footnote 6.

(2) For the purposes of this certification the educational institution must—

(i) Convert partial days of absence to full days of absence as provided in § 21.7139(a) of this part

(ii) Verify the full days of absence reported, and

(iii) Endorse the report.

(c) *Additional requirements for apprenticeships and other on-job training programs.*

(1) When a veteran is pursuing an apprenticeship or other on-job training he or she must certify training monthly by reporting the number of hours worked.

(2) The information provided by the veteran must be verified by the training establishment.

(Authority: 38 U.S.C. 1434, 1780(a))

§ 21.7156 Other required reports from educational institutions.

Each veteran or servicemember must report without delay to the Department of Veterans Affairs any change in his or her hours of credit or attendance, any change in his or her pursuit and any interruption or termination of his or her attendance. Each educational institution must report without delay such information on the entrance, reentrance, change in hours of credit or attendance, pursuit, interruption and termination of attendance of each veteran or servicemember enrolled in an approved course as the Secretary may require and using a form specified by the Secretary.

(a) *Interruptions, terminations and changes in hours of credit or attendance.* When a veteran or servicemember interrupts or terminates his or her training for any reason, including unsatisfactory conduct or progress, or when he or she changes the number of hours of credit or attendance, the educational institution must report this fact to VA.

(1) If the change in status or change in number of hours of credit or attendance occurs on a day other than one indicated by paragraph (a) (2) or (3) of this section, the educational institution will initiate a report of the change in time for VA to receive it within 30 days of the date on which the change occurs. If the veteran or servicemember is enrolled in a course which does not lead to a standard college degree and for which a monthly certification of attendance is required, the educational institution instead may report the change on the monthly certification of attendance for the month in which the change occurred.

(2) If the educational institution has certified the veteran's or servicemember's enrollment for more than one term, quarter or semester and the veteran or servicemember interrupts his or her training at the end of a term, quarter or semester within the certified enrollment period, the educational institution shall report the change in status to VA in time for VA to receive the report within 30 days of the last officially scheduled registration date for the next term, quarter or semester. If the veteran or servicemember is enrolled in a course which does not lead to a standard college degree and for which a monthly certification of attendance is required, the educational institution instead may report the change on the monthly certification of attendance for the month in which the change occurred.

(3) If the change in status or change in the number of hours of credit or attendance occurs during the 30 days of a drop-add period, the educational institution must report the change in status or change in the number of hours of credit or attendance to VA in time for VA to receive the report within 30 days from the last date of the drop-add period or 60 days from the first day of the enrollment period, whichever occurs first.

(Authority: 38 U.S.C. 1434, 1784)

(b) *Nonpunitive grades.*

(1) An educational institution may assign a nonpunitive grade for a course or subject in which the veteran or servicemember is enrolled even though the veteran or eligible person does not withdraw from the course or subject. When this occurs, the educational institution must report the assignment of the nonpunitive grade in a form prescribed by the Secretary in time for VA to receive it before the earlier of the following dates is reached:

(i) Thirty days from the date on which the educational institution assigns the grade, or

(ii) Sixty days from the last day of the enrollment period for which the nonpunitive grade is assigned.

(2) If the veteran or servicemember is enrolled in a course which does not lead to a standard college degree and for which a monthly certification of attendance is required, the educational institution may use the monthly certification of attendance to report nonpunitive grades provided VA will receive the report within the time period stated in paragraph (b)(1) of this section.

(Authority: 38 U.S.C. 1434, 1784)

(c) *Attendance records.* Nothing in this section or in any section in 38 CFR part 21 shall be construed as requiring any institution of higher learning to maintain daily attendance records for any course leading to a standard college degree.

(Authority: 38 U.S.C. 1434, 1785)

24. In § 21.7158, paragraph (b) and its authority citation are revised to read as follows:

§ 21.7158 False, late, or missing reports.

* * * * *

(b) *Educational institution or training establishment.*

(1) VA may hold an educational institution or training establishment liable for overpayments which result from the educational institution's or training establishment's willful or negligent failure to report excessive absences from a course or discontinuance or interruption of a course by a veteran or servicemember or from willful or negligent false certification by the educational institution or training establishment. See § 21.744(b).

(2) When an educational institution or training establishment willfully and knowingly submits a false report or certification, VA may disapprove a course for further enrollments and may discontinue educational assistance to veterans and servicemembers already enrolled. VA will apply the provisions of §§ 21.4202(b), 21.4207 and 21.4208 of this part in the same manner as they are applied in making similar determinations regarding enrollments under 38 U.S.C. chapter 34.

(Authority: 38 U.S.C. 1434, 1790; Pub. L. 98-525, Pub. L. 99-576)

25. Section 21.7159 and its authority citation are revised to read as follows:

§ 21.7159 Reporting fee.

In determining the amount of the reporting fee payable to educational institutions or joint apprenticeship training committees acting as training establishments for furnishing required reports, VA will apply the provisions of § 21.4206 of this part in the same manner as they are in the administration of 38 U.S.C. chapters 34 and 36.

(Authority: 38 U.S.C. 1434, 1784; Pub. L. 98-525, Pub. L. 99-576)

26. In § 21.7170, paragraph (a) is revised and an authority citation is added to read as follows:

§ 21.7170 Course measurement.

* * * * *

(a) § 21.4270 (except those portions of paragraph (a) and footnotes dealing with high school, cooperative and farm cooperative training)—Measurement of courses.

(Authority: 38 U.S.C. 1434, 1788)

27. Section 21.7172 is added to read as follows:

§ 21.7172 Measurement of concurrent enrollments.

(a) *Conversion of units of measurement required.* Where a veteran enrolls concurrently in courses offered by two schools and the standards for the measurement of the courses pursued concurrently in the two schools are different, VA will measure the veteran's enrollment by converting the units of measurement for courses in the second school to their equivalent in units of measurement required for the courses in the program of education which the veteran is pursuing at the primary institution. This conversion will be accomplished as follows:

(1) If VA measures the course at the primary institution on a credit-hour basis (including a course which does not lead to a standard college degree, which is being measured on a credit-hour basis as provided in footnote 6 to § 21.4270(a)) of this part, and

(i) VA measures the course in the second school on a mixed basis as provided in § 21.4270(b) of this part, VA will add to the credit hours the veteran is pursuing at the primary institution the credit hours attributable to any course the veteran is pursuing at the second school which VA could measure on a credit-hour basis. The clock hours attributable to the other courses pursued at the second school will be converted to credit hours; or

(ii) VA measures the courses at the second school on a clock-hour basis, the clock hours will be converted to credit hours.

(2) If VA measures the course at the primary institution on a mixed basis as provided in § 21.4270(b) of this part, and

(i) VA measures the course at the second school on a credit-hour basis, the credit hours pursued at the second school will be added to the credit hours the veteran is pursuing at the primary institution and the resulting credit hours will be used in making the calculations required by § 21.4270(b) of this part; or

(ii) VA measures the courses at the second school on a clock-hour basis, the clock hours being pursued at the second school will be added to those pursued at the primary institution before making the calculations required by § 21.4270(b) of this part.

(3) If VA measures the courses pursued at the primary institution on a clock-hour basis, and

(i) VA measures the courses pursued at the second school on a mixed basis, the courses pursued at the second school which VA can measure on credit-hour basis for at least one program at the second school will be converted to clock hours and the resulting clock hours added to determine the veteran's training time; or

(ii) VA measures the courses pursued at the second school on a credit-hour basis, including courses which qualify for credit-hour measurement on the basis of footnote 6 to § 21.4270(a) of this part, VA will convert the credit hours to clock hours to determine the veteran's training time.

(Authority: 38 U.S.C. 1434, 1788)

(b) *Conversion of clock hours to credit hours.* If the provisions of paragraph (a) of this section require VA to convert clock hours to credit hours, it will do so by—

(1) Dividing the number of credit hours which VA considers to be full-time at the educational institution whose courses are measured on a credit-hour basis by the number of clock hours which are full-time at the educational institution whose courses are measured on a clock-hour basis; and

(2) Multiplying each clock hour of attendance by the decimal determined in paragraph (b)(1) of this section. VA will drop all fractional hours.

(Authority: 38 U.S.C. 1434, 1788)

(c) *Conversion of credit hours to clock hours.* If the provisions of paragraph (a) of this section require VA to convert credit hours to clock hours, it will do so by—

(1) Dividing the number of clock hours which VA considers to be full-time at the educational institution whose courses are measured on a clock-hour basis by the number of credit hours which are full-time at the educational institution whose courses are measured on a credit-hour basis; and

(2) Multiplying each credit hour by the number determined in paragraph (c)(1) of this section. VA will drop all fractional hours.

(Authority: 38 U.S.C. 1434, 1788)

(d) *Standards for measurement the same.* Where the standards for measurement of the courses pursued concurrently in the two schools are the same, VA will measure the veteran's enrollment by adding together the units of measurement for the courses in the second school and the units of measurement for the courses in the primary institution. The standard for full time will be the full-time standard for the courses at the primary institution. If courses at both schools are measured on a mixed basis so that the provisions of § 21.4270(b) of this part must be applied to the enrollment, VA will separately add the credit hours and the clock hours first, and then apply the provisions of § 21.4270(b) of this part. In applying these provisions VA will use the standard for full time at the primary institution.

(Authority: 38 U.S.C. 1434, 1788)

28. In § 21.7220, paragraphs (b)(1), (b)(6), and (b)(9) are revised to read as follows:

§ 21.7220 Course approval.

* * * * *

(b) * * *

(1) Section 21.4250 (except paragraphs (a) and (c)(1))—Approval of courses.

* * * * *

(6) Section 21.4258—Notice of approval.

* * * * *

(9) Section 21.4265 (except paragraph (f)(1))—Practical training approved as institutional training.

* * * * *

29. In § 21.7222, paragraphs (h) and (i) are removed and paragraphs (d), (e), (f), and (g) and the authority citation for the section are revised to read as follows:

§ 21.7222 Courses and enrollments which may not be approved.

* * * * *

(d) A course, or combination of courses, consisting of instruction offered by an educational institution alternating with instruction in a business or industrial establishment, commonly called a cooperative course;

(e) A course, or a combination of courses consisting of institutional agricultural courses and concurrent agricultural employment, commonly called a farm cooperative course;

(f) An independent study course which does not lead to standard college degree; or

(g) A refresher, remedial or deficiency course.

(Authority: 38 U.S.C. 1434, 1673; Pub. L. 98-525, Pub. L. 99-576)

30. In § 21.7310, paragraph (b)(3) is revised to read as follows:

§ 21.7310 Civil rights

* * * * *

(b) * * *

(3) Section 21.4302—Proprietary vocational schools and training establishments.

* * * * *

[FR Doc. 90-15461 Filed 7-6-90; 8:45 am]
BILLING CODE 6320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 61

[FRL 3806-6]

Delegation of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS); San Diego County Air Pollution Control District in the State of California, et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Authority delegation.

SUMMARY: The EPA hereby places the public on notice of its delegation of NSPS and NESHAPS authority to the California Air Resources Board (CARB) on behalf of the San Diego County, Madera County, Siskiyou County, San Luis Obispo County, and Santa Barbara County Air Pollution Control Districts (APCDs). This action is necessary to bring the NSPS and NESHAPS program delegations up to date with recent EPA promulgations and amendments of these categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift the primary program responsibility for the affected NSPS and NESHAPS categories from EPA to State and local governments.

EFFECTIVE DATE: September 26, 1989, except for San Diego County APCD which was effective July 18, 1989.

ADDRESSES:

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92009.

Madera County Air Pollution Control District, 135 W. Yosemite Avenue, Madera, CA 93637.

Siskiyou County Air Pollution Control District, 525 S. Foothill Drive, Yreka, CA 96097.

San Luis Obispo County Air Pollution Control District, 2156 Sierra Way, Suite B, San Luis Obispo, CA 93401.

Santa Barbara County Air Pollution Control District, 26 Castiliar Drive, B-23, Goleta, CA 93117.

FOR FURTHER INFORMATION CONTACT: Cynthia G. Allen, State Implementation Plan Section, (A-2-3), Air Programs Branch, Air and Toxics Division, EPA, Region 9, 1235 Mission Street, San Francisco, CA 94103, Tel: (415) 556-5262 or FTS: 556-5262.

SUPPLEMENTARY INFORMATION: The CARB has requested authority for delegation of certain NSPS and NESHAPS categories on behalf of the San Diego County, Madera County, Siskiyou County, San Luis Obispo County, and Santa Barbara County APCD's. Delegations were granted by letter and are reproduced in their entirety as follows:

San Diego County APCD

July 18, 1989.

Mr. James D. Boyd
Executive Officer, California Air Resources Board, 1102 "Q" Street, P.O. Box 2815, Sacramento, CA 95812

Dear Mr. Boyd: In response to your request on June 7, 1989, I am pleased to inform you that we are delegating to your agency authority to implement and enforce certain categories of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) on behalf of the San Diego County Air Pollution Control District (SDCAPCD). We have reviewed your request for delegation and have found the SDCAPCD's programs and procedures to be acceptable. This delegation includes authority for the following source categories:

NSPS	40 CFR Part 60 Subpart
Industrial-Commercial-Institutional Steam Generating Units.	Db
Storage Vessels for Petroleum Liquids	K
Storage Vessels for Petroleum Liquids	Ka
Volatile Organic Liquid Storage	Kb
Rubber Tire Manufacturing	BBB
Petroleum Dry Cleaners	JJJ

NESHAPS	40 CFR part 61 subpart
Asbestos	M

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR parts 60 and 61 including use of EPA's test methods and procedures. As of the effective date of this delegation, SDCAPCD will have primary authority to enforce the above standards. EPA will retain independent enforcement authority, and will exercise such authority in a manner consistent with EPA's timely and appropriate guidance, and our enforcement agreement. As such, all notifications and reports required of sources by the above standards should be sent to you, with a copy to our office. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you or the District of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the Federal Register in the near future.

Sincerely,

Daniel W. McGovern,

Regional Administrator.

cc: Richard Sommerville, APCO, San Diego County APCD; Dick Smith, San Diego County APCD.

Madera County APCD

Mr. James D. Boyd, Executive Officer, California Air Resources Board, 1102 "Q" Street, P.O. Box 2815, Sacramento, CA 95812

September 26, 1989.

Dear Mr. Boyd:

In response to your request of August 15, 1989, I am pleased to inform you that we are delegating to your agency authority to implement and enforce certain categories of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) on behalf of the Madera County Air Pollution Control District (MCAPCD). We have reviewed your request for delegation and have found the MCAPCD's programs and procedures to be acceptable. This delegation includes authority for the following source categories:

NSPS	40 CFR part 60 subpart
Industrial-Commercial-Institutional Steam Generating Units.	Db
Petroleum Storage Vessels (Constructed after July 23, 1984).	Kb
Rubber Tire Manufacturing Industry	BBB
Onshore Natural Gas Processing; SO_2 Emissions.	LLL
Non-metallic Mineral Processing	OOO

NESHAPS	40 CFR part 61 subpart
Inorganic Arsenic Emissions from Glass Manufacturing Plant.	N
Inorganic Arsenic Emissions from Primary Copper Smelters.	O
Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic; Arsenic Production Facilities.	P

In addition, we are redelegating the following NSPS and NESHAPS categories since the MCAPCD's revised programs and procedures are acceptable:

NSPS	40 CFR part 60 subpart
General Provisions	A
Fossil-Fuel Fired Steam Generators	D
Electric Utility Steam Generating Units	Da
Incinerators	E
Portland Cement Plants	F
Nitric Acid Plants	G