

accompanying argument and discussion) be granted.

Order of the Librarian

Having duly considered the recommendation of the Register of Copyrights regarding the Report of the Copyright Arbitration Royalty Panel in the matter of the adjustment of the royalty rates for the satellite carrier compulsory license, 17 U.S.C. 119, the Librarian of Congress fully endorses and adopts here recommendation to accept the Panel's decision in part and reject it in part. For the reasons stated in the Register's recommendation, the Librarian is exercising his authority under 17 U.S.C. 802(f) and is issuing this order, and amending the rules of the Library and the Copyright Office, announcing the new royalty rates for the section 119 compulsory license.

The Librarian is also dismissing the petition to modify filed by EchoStar, and is dismissing the affidavits contained in attachment A of SBCA's petition to modify, and the accompanying discussion and argument.

List of Subjects in 37 CFR Part 258

Copyright, Satellites, Television.

Final Regulation

In consideration of the foregoing, the Library of Congress amends part 258 of 37 CFR as follows:

PART 258—ADJUSTMENT OF ROYALTY FEE FOR SECONDARY TRANSMISSIONS BY SATELLITE CARRIERS

1. The authority citation for part 258 continues to read as follows:

Authority: 17 U.S.C. 702, 802.

2. Section 258.3 is revised to read as follows:

§ 258.3 Royalty fee for secondary transmission of broadcast stations by satellite carriers.

(a) Commencing May 1, 1992, the royalty rate for the secondary transmission of broadcast stations for private home viewing by satellite carriers shall be as follows:

- (1) 17.5 cents per subscriber per month for superstations.
- (2) 14 cents per subscriber per month for superstations whose signals are syndex-proof, as defined in § 258.2.
- (3) 6 cents per subscriber per month for network stations and noncommercial educational stations.

(b) Commencing January 1, 1998, the royalty fee for secondary transmission of broadcast stations for private home viewing by satellite carriers shall be as follows:

- (1) 27 cents per subscriber per month for distant superstations.
- (2) 27 cents per subscriber per month for distant network stations.
- (3) No royalty rate (zero) for a superstation secondarily transmitted within the station's local market, as defined in 17 U.S.C. 119(d)(11).
- (4) No royalty rate (zero) for a network station secondarily transmitted within the station's local market, as defined in 17 U.S.C. 119(d)(11), to subscribers residing in unserved households, as defined in 17 U.S.C. 119(d)(10).

Dated: October 23, 1997.

So Ordered.

James H. Billington,

The Librarian of Congress.

[FR Doc. 97-28543 Filed 10-27-97; 8:45 am]

BILLING CODE 1410-33-M

DEPARTMENT OF DEFENSE

DEPARTMENT OF TRANSPORTATION

Coast Guard

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900-AI69

Miscellaneous Educational Revisions

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

ACTION: Final rule.

SUMMARY: This document amends the educational assistance and educational benefit regulations of the Department of Veterans Affairs (VA). It removes a number of provisions that no longer apply or otherwise have no substantive effect, and makes other changes for the purpose of clarification.

DATES: This final rule is effective October 28, 1997.

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

SUPPLEMENTARY INFORMATION: This document affects 38 CFR part 21,

subparts C, D, G, H, K, and L. It removes provisions that are obsolete, duplicative, or otherwise without substantive effect, and makes changes for the purpose of clarification. This document makes no substantive changes. Accordingly, there is a basis for dispensing with prior notice and comment and delayed effective date provisions of 5 U.S.C. 552 and 553.

The Department of Defense (DOD) and VA are jointly issuing this final rule insofar as it relates to the Post-Vietnam Era Educational Assistance Program (VEAP) and the Educational Assistance Test Program (EATP). These programs are funded by DOD and administered by VA. DOD, the Department of Transportation (Coast Guard), and VA are jointly issuing this final rule insofar as it relates to the Montgomery GI Bill—Selected Reserve program. This program is funded by DOD and the Coast Guard, and is administered by VA. The remainder of this final rule is issued solely by VA.

The Secretary of Defense, the Commandant of the Coast Guard, and Acting Secretary of Veterans Affairs hereby certify that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. This final rule makes no substantive changes. Pursuant to 5 U.S.C. 605(b), this final rule, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

The Catalog of Federal Domestic Assistance numbers for programs affected by this final rule are 64.117, 64.120, and 64.124. This document also affects the Montgomery GI Bill—Selected Reserve program which has no Catalog of Federal Domestic Assistance number.

List of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflict of interests, Education, Employment, Grant programs-education, Grant programs-veterans, Health care, Loan programs-education, Loan programs-veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: July 22, 1997.

Hershel W. Gober,

Acting Secretary of Veterans Affairs.

Approved: October 2, 1997.

Allan L. Brendsel,

Colonel USA, Principal Deputy, Deputy Assistant Secretary (Military Personnel Policy).

Approved: October 9, 1997.

G.E. Woolever,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Human Resources.

For the reasons set forth in the preamble, 38 CFR part 21, subparts C, D, G, H, K, and L, is amended as set forth below.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart C—Survivors' and Dependents' Educational Assistance under 38 U.S.C. Chapter 35

1. The authority citation for part 21, subpart C, continues to read as follows:

Authority: 38 U.S.C. 501(a), 512, 3500–3566, unless otherwise noted.

§ 21.3041 [Amended]

2. In § 21.3041, paragraph (e)(3) is amended by removing “§ 21.4135(o)” and adding, in its place, “§ 21.3135(h)”; and paragraph (e)(4) is amended by removing “§ 21.4135(o)” and adding, in its place, “§ 21.3135(i)”.

3. In § 21.3045, paragraph (i)(3)(ii) is amended by removing “paragraph (h)(3)(i)” and adding in its place, “paragraph (i)(3)(i)”; and paragraph (f) is revised to read as follows:

§ 21.3045 Entitlement charges.

* * * * *

(f) *Entitlement charge for pursuit solely by independent study.* For enrollments in terms, quarters, or semesters that begin after June 30, 1993, VA will make charges against the entitlement of an eligible person in the manner prescribed by paragraph (e) of this section, if he or she is pursuing a program of education solely by independent study. For all other enrollments where the eligible person is pursuing a program of education solely by independent study, the computation will be made as though the eligible person's training were one-quarter time. (Authority: 38 U.S.C. 3482(b), 3532(a))

* * * * *

Subpart D—Administration of Educational Assistance Programs

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

Authority: 10 U.S.C. ch. 1606; 38 U.S.C. 501(a), chs. 30, 32, 34, 35, 36, unless otherwise noted.

§ 21.4009 [Amended]

5. In § 21.4009, paragraph (b)(1) introductory text, is amended by removing “in potentially” and adding, in its place, “is potentially”.

6. In § 21.4200, paragraph (g) is revised to read as follows:

§ 21.4200 Definitions.

* * * * *

(g) *Standard class session.* The term *standard class session* means the time an educational institution schedules for class each week in a regular quarter or semester for one quarter or one semester hour of credit. It is not less than 1 hour (or one 50-minute period) of academic instruction, 2 hours (or two 50-minute periods) of laboratory instruction, or 3 hours (or three 50-minute periods) of workshop training.

(Authority: 38 U.S.C. 3688(c))

* * * * *

§ 21.4201 [Amended]

7. In § 21.4201, paragraph (h) introductory text is amended by removing “Vocational Rehabilitation and” both times it appears; and paragraph (h)(2) is amended by removing “Vocational Rehabilitation and”.

§ 21.4233 [Amended]

8. In § 21.4233, paragraph (b)(3) introductory text is amended by removing “(b)(1)” and adding, in its place, “(b)(2)”; paragraph (b)(3)(ii) is amended by removing “(b)(2)(i)” and adding, in its place, “(b)(3)(i)”; paragraph (b)(4) introductory text is amended by removing “(b)(1)” and adding, in its place, “(b)(2)”; and paragraph (b)(4)(ii) is amended by removing “(b)(3)(i)” and adding, in its place, “(b)(4)(i)”.

§ 21.4250 [Amended]

9. In § 21.4250, paragraph (a)(1) is amended by removing “Chapter” and adding, in its place, “38 U.S.C. chapter”, and by removing “Chapters 34 and” and adding, in its place, “38 U.S.C. chapter”; paragraph (a)(2) is amended by removing “Chapter” each place it appears, and adding, in its place, “38 U.S.C. chapter”; paragraph (c)(1) is amended by removing “Director” and adding, in its place, “Director,”, by removing “Education” and adding, in its place, “Counseling”, and by removing “Chapter” and adding, in its place, “38 U.S.C. chapter”; paragraph (c)(2) is amended by removing “Vocational Rehabilitation and”; paragraph (c)(2)(ii) is amended by removing “34, 35” and adding, in its place “35.”; paragraph (c)(2)(iii) is amended by removing “38 U.S.C. Chapter 32, 34 or 35” and adding, in its

place, “10 U.S.C. chapter 1606 or 38 U.S.C. chapter 30, 32, or 35”; and paragraph (c)(2)(iv) is amended by removing “Chapter” and adding, in its place, “chapter”.

10. In § 21.4270, the heading for paragraph (c) and paragraph (c), footnote 2 are revised to read as follows:

§ 21.4270 Measurement of courses.

* * * * *

(c) *Undergraduate, graduate, professional, and on-the-job training courses.* * * *

² When the institution certifies that all undergraduate students enrolled for a minimum of 12 or 13 semester hours or the equivalent are charged full-time tuition, or considered full time for other administrative purposes, such minimum hours will establish the criteria for full-time measurement. When 12 hours is properly certified as full time, VA will measure 9 through 11 hours as ¾ time, 6 through 8 hours as ½ time, 4 through 5 hours as less than ½ time and more than ¼ time, and 1 through 3 hours as ¼ time or less. VA will measure all other undergraduate courses as indicated in the table for undergraduate or professional courses, as appropriate, but when 13 credit hours or the equivalent is certified as full time, ¾ time will be 10 through 12 hours. When, in accordance with § 21.4273(a), a responsible official of a school certifies that a lesser number of hours constitute full time, ¾ time, ½ time, less than ½ time and more than ¼ time, or ¼ time or less, VA will accept the certification for measurement purposes.

To meet criteria for full-time measurement in standard collegiate courses which include required noncredit deficiency courses, in the absence of a certification under § 21.4272(k), VA will convert the noncredit deficiency courses on the basis of the applicable measurement criteria, as follows: 18 or 22 clock hours, 4 “Carnegie Units,” or 12, 13, or 14 (as appropriate) semester hours equal full time. The credit-hour equivalent of such noncredit courses may constitute any portion of the required hours for full-time measurement.

* * * * *

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

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

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

§ 21.5270 [Amended]

12. In § 21.5270, paragraph (a) is amended by removing “of this part” and by removing “chapter” and adding, in its place, “38 U.S.C. chapter”; paragraph (g) is amended by removing “progress and conduct” and adding, in its place,

“progress, conduct, and attendance”; and paragraph (i) is amended by removing “correspondence; residence” and adding, in its place “correspondence-residence”.

Subpart H—Educational Assistance Test Program

13. The authority citation for subpart H is revised to read as follows:

Authority: 10 U.S.C. ch. 107; 38 U.S.C. 501(a), 3695, 5101, 5113, 5303A; 42 U.S.C. 2000; sec. 901, Pub. L. 96-342, 94 Stat. 1111-1114, unless otherwise noted.

§ 21.5901 [Amended]

14. In § 21.5901, paragraph (a) is amended by removing “Chief Benefits Director of VA” and adding, in its place, “Under Secretary for Benefits”, by removing “Vocational Rehabilitation and”, and by removing “Chapter” and adding, in its place, “chapter”; and paragraph (b) is amended by removing “Chief Benefits Director” and adding, in its place, “Under Secretary for Benefits”.

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

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

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

16. In § 21.7020, the introductory text is amended by removing “of this part”; paragraph (a)(1)(i) is amended by removing “of this part”; paragraph (a)(2)(i) is amended by removing “§ 21.7042 or § 21.7044 of this part” and adding, in its place, “§ 21.7042, § 21.7044, or § 21.7045”; and paragraph (b)(25)(i)(G) is revised to read as follows:

§ 21.7020 Definitions.

* * * * *
 (b) * * *
 (25) * * *
 (i) * * *

(G) A flight training course beginning on or after September 30, 1990.

* * * * *

§ 21.7044 [Amended]

17. In § 21.7044, paragraph (c) is removed; and paragraphs (d) and (e) are redesignated as paragraphs (c) and (d), respectively.

18. In § 21.7140, paragraph (c)(1)(iii) is removed; paragraph (c)(1)(i) is amended by removing “§ 21.7152;” and adding, in its place, “§ 21.7152; and”; paragraph (c)(1)(ii) is amended by removing “enrollment; and” and adding, in its place, “enrollment.”; paragraph (d)(1) is amended by removing “Ch.” and adding, in its place,

“chapter”, and by removing “in the same manner as they are applied in the administration of chapter 34”; paragraph (e)(2) is amended by removing, “in the same manner as they are applied in the administration of chapters 34 and 36”; and the authority citations for paragraphs (c)(1), (d), (e), and (g) are revised to read as follows:

§ 21.7140 Certifications and release of payments.

* * * * *
 (c) * * *
 (1) * * *

(Authority: 38 U.S.C. 3680(g))

* * * * *
 (d) * * *

(Authority: 38 U.S.C. 3034, 3680)

(e) * * *

(Authority: 38 U.S.C. 3034, 3680)

(g) * * *

(Authority: 38 U.S.C. 5121)

19. Section 21.7144 is revised to read as follows:

§ 21.7144 Overpayments.

(a) *Prevention of overpayments.* In administering benefits payable under 38 U.S.C. chapter 30, VA will apply the provisions of § 21.4008. See § 21.7133. (Authority: 38 U.S.C. 3034, 3690(b))

(b) *Liability for overpayments.* (1) The amount of the overpayment of educational assistance paid to a veteran or servicemember constitutes a liability of that veteran or servicemember.

(2) The amount of the overpayment of educational assistance paid to a veteran or servicemember constitutes a liability of the educational institution if VA determines that the overpayment was made as the result of willful or negligent:

- (i) False certification by the educational institution; or
- (ii) Endorsement of a veteran’s or servicemember’s false certification of his or her actual attendance.

(Authority: 38 U.S.C. 3034, 3685)

(c) *Recovery of overpayments.* In determining whether an overpayment should be recovered from an educational institution, VA will apply the provisions of § 21.4009 (except paragraph (a)(1)) to overpayments of educational assistance under 38 U.S.C. chapter 30.

(Authority: 38 U.S.C. 3034, 3685)

Cross reference: Entitlement charges. See § 21.7076(c).

21. Section 21.7170 is revised to read as follows:

§ 21.7170 Course measurement.

In administering benefits payable under 38 U.S.C. chapter 30, VA will apply the following sections:

- (a) § 21.4270 (except paragraphs (a)(2) and (a)(3) and those portions of paragraph (c) and footnotes dealing with farm cooperative training)—Measurement of courses;
- (b) § 21.4272—Collegiate course measurement;
- (c) § 21.4273—Collegiate graduate;
- (d) § 21.4274—Law courses; and
- (e) § 21.4275—Practical training courses; measurement.

(Authority: 38 U.S.C. 3034, 3688)

21. In § 21.7172, paragraph (a)(3)(ii) is revised to read as follows:

§ 21.7172 Measurement of concurrent enrollments.

* * * * *
 (a) * * *
 (3) * * *

(ii) VA measures the courses pursued at the second school on a credit-hour basis, VA will convert the credit hours to clock hours to determine the veteran’s training time.

(Authority: 38 U.S.C. 3034, 3688)

* * * * *

22. Section 21.7305 is revised to read as follows:

§ 21.7305 Conflicting interests.

In administering benefits payable under 38 U.S.C. chapter 30, VA will apply the provisions of § 21.4005.

(Authority: 38 U.S.C. 3034, 3036)

23. Section 21.7307 is revised to read as follows:

§ 21.7307 Examination of records.

In administering benefits payable under 38 U.S.C. chapter 30, VA will apply the provisions of § 21.4209.

(Authority: 38 U.S.C. 3034, 3690)

24. Section 21.7310 is revised to read as follows:

§ 21.7310 Civil rights.

(a) *Delegation of authority concerning Federal equal opportunity laws.* The Under Secretary for Benefits is delegated the responsibility to obtain evidence of voluntary compliance with Federal equal opportunity laws from educational institutions and from recognized national organizations whose representatives are afforded space and office facilities under his or her jurisdiction. See part 18 of this chapter. These equal opportunity laws are:

- (1) Title VI, Civil Rights Act of 1964;
- (2) Title IX, Education Amendments of 1972, as amended;

(3) Section 504, Rehabilitation Act of 1973; and

(4) The Age Discrimination Act of 1975.

(b) *Role of State approving agencies.* In obtaining evidence from educational institutions of compliance with Federal equal opportunity laws, the Under Secretary for Benefits may use the State approving agencies as provided in § 21.4258(d).

(Authority: 42 U.S.C. 2000)

Subpart L—Educational Assistance for Members of the Selected Reserve

25. The authority citation for part 21, subpart L, continues to read as follows:

Authority: 10 U.S.C. ch. 1606; 38 U.S.C. 501(a), ch. 36, unless otherwise noted.

26. In § 21.7622, paragraph (c) is revised to read as follows:

§ 21.7622 Courses precluded.

* * * * *

(c) *Erroneous, deceptive, misleading practices.* VA will not pay educational assistance for an enrollment in any courses offered at an educational institution that uses advertising, sales, or enrollment practices that are erroneous, deceptive, or misleading by actual statement, omission, or intimation. VA will apply the provisions of § 21.4252(h) in making these decisions with regard to enrollments under 10 U.S.C. chapter 1606.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3696)

* * * * *

§ 21.7639 [Amended]

27. In § 21.7639, paragraph (b) introductory text is amended by removing "As is the case with reservists who are not incarcerated,".

28. Section 21.7659 is revised to read as follows:

§ 21.7659 Reporting fee.

In determining the amount of the reporting fee payable to educational institutions for furnishing required reports, VA will apply the provisions of § 21.4206.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3684)

§ 21.7670 [Amended]

29. In § 21.7670, paragraph (d) is amended by removing "§ 21.4272(a), (b), (d), (e) (except paragraph (e)(4)), (f), (g), and (k)" and adding, in its place, "§ 21.4272".

30. In § 21.7720, paragraphs (b)(9), (b)(10), and (b)(11) are redesignated as paragraphs (b)(11), (b)(12), and (b)(13), respectively; paragraph (b)(5) is

amended by removing "policy—nonaccredited" and adding, in its place "policy; nonaccredited"; newly redesignated paragraph (b)(11) is amended by removing "(except paragraphs (a), (e), and (g))"; and paragraphs (b)(9) and (b)(10) are added to read as follows:

§ 21.7720 Course approval.

* * * * *

(b) * * *

(9) § 21.4261—Apprentice courses;

(10) § 21.4262—Other training on-the-job courses;

* * * * *

[FR Doc. 97-28402 Filed 10-27-97; 8:45 am]

BILLING CODE 8320-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 52 and 64

[CC Docket No. 92-237; FCC 97-386]

Administration of the North American Numbering Plan, Carrier Identification Codes (CICs)

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: On October 22, 1997, the Commission released an Order on Reconsideration addressing carrier identification codes (CICs). The Order on Reconsideration determines that by January 1, 1998 all local exchange carriers (LECs) that provide equal access must have completed switch changes to recognize four-digit CICs. The transition during which three and four-digit CICs co-exist will end on June 30, 1998. The Order on Reconsideration is intended to modify in part the decision in the CICs Second Report and Order (62 FR 19056, published April 18, 1997) regarding the length of the transition. The Commission concurrently released an Order on Application for Review and a second further notice of Proposed Rulemaking in the same docket.

DATES: Effective November 28, 1997.

ADDRESSES: Federal Communications Commission, Secretary, Room 222, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Elizabeth Nightingale, Attorney, Network Services Division, Common Carrier Bureau, (202) 418-2352.

SUPPLEMENTARY INFORMATION: This summarizes the Commission's Order on Reconsideration in the matter of Administration of the North American Numbering Plan, Carrier Identification Codes (CICs), CC Docket 92-237,

adopted October 20, 1997, and released October 22, 1997. The file is available for inspection and copying during the weekday hours of 9 a.m. to 4:30 p.m. in the Commission's Reference Center, Room 239, 1919 M St., N.W., Washington D.C., or copies may be purchased from the Commission's duplicating contractor, ITS, Inc., 1231 20th Street, N.W., Washington, D.C. 20036, phone (202) 857-3800.

Analysis of Proceeding

The Order on Reconsideration modifies the Commission's decision in the *CICs Second Report and Order* regarding the length of the transition during which three and four-digit Feature Group D CICs co-exist, and creates a "two-step" end to the transition. By January 1, 1998, the end of the first phase, all LECs that provide equal access must have completed switch changes to recognize four-digit CICs. The second phase, which ends on June 30, 1998, is intended to allow IXCs time to prepare their networks for, and educate their customers about, the replacement of three-digit CICs by four-digit CICs. After that date, only four-digit CICs and seven-digit carrier access codes (CACs) will be recognized. The Commission also affirms its decision in the *CICs Second Report and Order* not to grandfather the use of three-digit CICs and five-digit CACs that are in use during the transition. The Commission rejects arguments that the *CICs Second Report and Order*: (1) Is arbitrary and capricious in violation of the Administrative Procedure Act; (2) violates Fifth Amendment rights; (3) violates First Amendment rights; and (4) violates Section 257 of the Communications Act and the Regulatory Flexibility Act. The Commission's decisions in the Order on Reconsideration are intended to advance the pro-competitive objectives of the Communications Act, as amended.

Ordering Clauses

2. Accordingly, *it is ordered*, pursuant to sections 1, 4(i), 201-205, and 251(e)(1) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 201-205, and 251(e)(1), that the Petition for Reconsideration of VarTec Telecom, Inc., is *denied*.

3. *It is further ordered*, that the Petitions for Reconsideration of the Competitive Telecommunications Association and Telecommunications Group, Inc., are *granted* to the extent stated herein, and, in all other respects, are *denied*.

4. *It is further ordered*, that the Order on Reconsideration and the