

**ACTION:** Correction to final regulations.

**SUMMARY:** This document contains a correction to final regulations (TD 9315) that were published in the **Federal Register** on Monday, March 19, 2007 (72 FR 12902) regarding dual consolidated losses. Section 1503(d) generally provides that a dual consolidated loss of a dual resident corporation cannot reduce the taxable income of any other member of the affiliated group unless, to the extent provided in regulations, the loss does not offset the income of any foreign corporation.

**DATES:** This correction is effective April 25, 2007.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey P. Cowan, (202) 622-3860 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

The correction notice that is the subject of this document is under section 1503(d) of the Internal Revenue Code.

**Need for Correction**

As published, final regulations (TD 9315) contain an error that may prove to be misleading and is in need of clarification.

**Correction of Publication**

Accordingly, the publication of the final regulations (TD 9315), which was the subject of FR Doc. E7-4618, is corrected as follows:

On page 12904, column 1, in the preamble, under the paragraph heading “*C. Elimination of the Consistency Rule*”, third line from the bottom of the paragraph, the language “application of the dual consolidated” is corrected to read “application of the dual consolidated loss”.

**LaNita Van Dyke**

*Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).*

[FR Doc. E7-7780 Filed 4-24-07; 8:45 am]

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**DEPARTMENT OF VETERANS AFFAIRS**

**38 CFR Part 21**

**RIN 2900-AL43**

**Administration of VA Educational Benefits—Centralized Certification**

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** This document adopts as a final rule a proposed rule amending

Department of Veterans Affairs (VA) rules governing certification of enrollment in approved courses for the training of veterans and other eligible persons under the education benefit programs VA administers. Under this rule, educational institutions with multi-state campuses may submit certifications to VA from a centralized location.

**DATES:** This final rule is effective June 25, 2007.

**FOR FURTHER INFORMATION CONTACT:**

Lynn M. Nelson, Education Advisor, Veterans Benefits Administration, Department of Veterans Affairs (225C), 810 Vermont Avenue, NW., Washington, DC 20420, 202-273-7187.

**SUPPLEMENTARY INFORMATION:** In a document published in the **Federal Register** on February 22, 2006 (71 FR 9052), VA proposed a rule that would amend subpart D of 38 CFR part 21 regarding approval criteria for branches and extensions of educational institutions. VA is adopting as final the proposed rule with only minor non-substantive changes. The rule permits educational institutions with multi-state campuses to submit required certifications to VA from a centralized location (centralized certification).

Interested persons were given 60 days to submit comments on the proposed rule. VA addresses the comments below.

**I. Background**

VA initially published a notice of proposed rulemaking (NPRM) in the **Federal Register** on June 30, 2003 (68 FR 38657), proposing to amend VA regulations to permit centralized certification of courses. VA received several comments concerning the NPRM. Many of the comments opposing the proposed amendments came from individual State Approving Agencies (SAA), and a national association of SAAs. VA contracts with SAAs to perform course approval functions under 38 U.S.C. chapter 36. Based on the comments received, VA withdrew the initial NPRM and published a new NPRM taking into consideration all the comments received. (The new NPRM was published in the **Federal Register** on February 22, 2006 (71 FR 9052) for comment.)

**II. Favorable Comments on NPRM Published February 22, 2006**

VA received four favorable comments. Two were from educational institutions, one was from a national association of SAAs, and one was from an individual SAA.

One commenter, the national association, supported the proposed

rule and commended VA for addressing the issues raised in response to the prior NPRM. In addition, the commenter requested that VA amend proposed 38 CFR 21.4266(f)(3) to add a requirement for teaching locations that do not have a certifying official present. Specifically, the commenter requested that VA require the educational institution’s designated employee, who has access to VA’s Internet-based educational certification application for purposes of providing certification information to VA, to also have access to other records the SAA may require. The commenter suggested that the designated employee should also have access to and provide academic records information to veterans, servicemembers, reservists or other eligible persons. (Another SAA individually submitted a similar comment.)

While VA understands the commenter’s concern, we did not make the recommended change in this final rule because VA already has a regulation (38 CFR 21.4209) that requires educational institutions to make certain records available for review by VA and duly authorized Government representatives, such as SAAs. Since § 21.4209 presently requires institutions to make the records available, VA believes that the change suggested by the commenter is unnecessary. If the educational institution does not make the required records available, § 21.4209(e) provides that such failure is grounds for discontinuing the payment of educational assistance allowance (or special training allowance). An institution that does not comply would also be subject to losing approval of its courses for veterans’ training.

**III. Unfavorable Comments on the NPRM Published February 22, 2006**

One commenter, a State veterans affairs office, opposed the NPRM speculating that the amendments would be a step backward in maintaining the quality of education and veteran education services and would lead to a decline in service to veterans. As stated in the preamble of the NPRM at 71 FR 9052, 9053-9058, and despite the commenter’s concerns, VA has no evidence that service would diminish if schools submitted certifications from a central location.

In contrast to the above commenter’s critical comment, we also received favorable comments from school officials asserting that centralization would improve service to veteran students. These officials stated that they could maintain a better trained staff if they were permitted to centralize their

certification activities. Employees who serve as certifying officials at smaller campuses often have other duties and, thus, do not specialize in VA certifications. The officials maintained that their designated employees could specialize in those duties and better serve VA beneficiaries if they could centralize the schools' certifications.

In opposing the rule, the State commenter suggested that an SAA's oversight powers might be impaired by the rule. The commenter cited as an example of an oversight issue, an educational institution with interstate campuses that used inappropriate teaching methods and unqualified faculty. The SAA withdrew approval for the courses in the State and notified other SAAs that had campuses of the same educational institution in their states. The other SAAs conducted reviews and also withdrew approval for VA educational beneficiaries' training. SAAs use current law to appropriately disapprove courses upon discovering problems that cannot be corrected by an educational institution. Under this rule, the SAA would still be able to oversee and provide assistance to the various teaching locations within the State. If the educational institution in the commenter's example submitted certifications from one central location or separately from each State, the SAA could still withdraw approval of the teaching locations in the State and notify the other SAAs just as they have in the past under current law. This rule does not remove or change an institution's present ability to approve or disapprove courses. It merely allows an educational institution the flexibility of submitting VA certifications electronically from one central location.

The commenter also expressed concern that certification documents would not be available to the SAA if an educational institution submitted certifications for campuses in the State from another State. In 38 CFR 21.4266(f)(3), we require that educational institutions, which centralize their certifying official functions, must designate employees at teaching locations without a certifying official to provide certification information to eligible persons, VA, and SAAs using VA's Internet-based education certification application. If an educational institution in Texas, with branches in Wisconsin and Maryland, submits all certifications from Texas, the educational institution's designated employees in each of those States, will have access to the relevant certification information.

Another commenter expressed concern that administrative records

would not be available to the centralized certifying official. However, § 21.4266(f)(3)(iv) provides that the certifying official has full access to the administrative records and accounts required by § 21.4209 for each student attending the teaching location(s) for which the certifying official has been designated responsibility. The State commenter also suggested that the State's SAA cannot be held contractually accountable for operations outside its borders. However, nothing in this rule would hold any SAA accountable for actions at a branch in another state. The only new provision is that an educational institution may submit VA certifications from a central location if it chooses to do so.

VA made no substantive changes to the NPRM published February 22, 2006, based on the comments.

#### *Paperwork Reduction Act*

This final rule contains provisions that constitute collections of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) in § 21.4266(f). The collections are approved under Office of Management and Budget control number 2900–0073. We display the control number under the applicable regulation text in this final rule.

#### *Unfunded Mandates*

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate or by the private sector, of \$100 million or more (adjusted annually for inflation) in any given year. This proposed rule would have no such effect on State, local, or tribal governments, or the private sector.

#### *Executive Order 12866*

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Executive Order classifies a "significant regulatory action," requiring review by the Office of Management and Budget (OMB) unless OMB waives such review, as any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition,

jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The economic, interagency, budgetary, legal, and policy implications of this final rule have been examined and it has been determined to be a significant regulatory action under the Executive Order because it is likely to result in a rule that may raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

#### *Regulatory Flexibility Act*

The Secretary of Veterans Affairs hereby certifies that this 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. Existing VA regulations do not permit educational institutions with multi-state campuses to centralize their certifying official functions. Some educational institutions with multi-state campuses requested VA expand current regulations to permit them to centralize their certifying official functions. Since this rule will affect only those educational institutions that choose to centralize their certifying official functions, centralizing such functions would be at the option of the educational institution that wants to consolidate its certifying functions. Those institutions believe centralizing their functions will allow them to better manage and allocate their resources.

The economic effect on small entities would essentially entail a cost savings associated with the consolidation of certifying functions. By centralizing the functions, the institutions desiring this option say they could dedicate less full-time employees to the centralizing duties and at the same time have those employees specialize. According to officials of educational institutions interested in centralizing, their training costs would be reduced by having a centralized staff dedicated to VA certification and serving veterans. The option in this rule, which would liberalize current regulations to permit centralized certification functions, would not impact a substantial number

of small entities. Of the 6,900 post-secondary educational institutions approved by Department of Education for Title IV funds, only three of those institutions commented on the proposed rule. Less than 10 educational institutions have expressed interest in centralized certification, but those that have are very interested in the change that would allow them the option. Pursuant to 5 U.S.C. 605(b), this rule, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

#### *Catalog of Federal Domestic Assistance*

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this rule are: 64.117, Survivors and Dependents Educational Assistance; 64.120, Post-Vietnam Era Veterans' Educational Assistance; and 64.124, All-Volunteer Force Educational Assistance. This proposed rule also affects the Montgomery GI Bill-Selected Reserve program and the Reserve Educational Assistance program. There are no Catalog of Federal Domestic Assistance numbers for the Montgomery GI Bill-Selected Reserve or the Reserve Educational Assistance program.

#### **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: March 19, 2007.

#### **R. James Nicholson,**

*Secretary of Veterans Affairs.*

■ For the reasons stated in the preamble, the Department of Veterans Affairs amends 38 CFR part 21 (subpart D) as follows:

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

#### **Subpart D—Administration of Educational Assistance Programs**

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

**Authority:** 10 U.S.C. 2141 note, ch. 1606; 38 U.S.C. 501(a), chs. 30, 32, 34, 35, 36, unless otherwise noted.

■ 2. Revise § 21.4266 to read as follows:

#### **§ 21.4266 Approval of courses at a branch campus or extension.**

(a) *Definitions.* The following definitions apply to the terms used in this section.

(1) *Administrative capability* means the ability to maintain all records and accounts that § 21.4209 requires.

(2) *Certifying official* means a representative of an educational institution designated to provide VA with the reports and certifications that §§ 21.4203, 21.4204, 21.5810, 21.5812, 21.7152, and 21.7652 require.

(3) *Main campus* means the location where the primary teaching facilities of an educational institution are located. If an educational institution has only one teaching location, that location is its main campus. If it is unclear which of the educational institution's teaching facilities is primary, the main campus is the location of the primary office of its Chief Executive Officer.

(4) *Branch campus* means a location of an educational institution that—

(i) Is geographically apart from and operationally independent of the main campus of the educational institution;

(ii) Has its own faculty, administration and supervisory organization; and

(iii) Offers courses in education programs leading to a degree, certificate, or other recognized education credential.

(5) *Extension* means a location of an educational institution that is geographically apart from and is operationally dependent on the main campus or a branch campus of the educational institution.

(Authority: 38 U.S.C. 3675, 3676, 3684)

(b) *State approving agency jurisdiction.* (1) The State approving agency for the State where a residence course is being taught has jurisdiction over approval of that course for VA education benefit purposes.

(2) The fact that the location where the educational institution is offering the course may be temporary will not serve to change jurisdictional authority.

(3) The fact that the main campus of the educational institution may be located in another State from that in which the course is being taught will not serve to change jurisdictional authority.

(Authority: 38 U.S.C. 3672)

(c) *Approving a course offered by a branch campus or an extension of an educational institution.* Before approving a course or a program of education offered at a branch campus or an extension of an educational institution, the State approving agency must ensure that—

(1) Except as provided in paragraph (d) of this section, each location where the course or program is offered has administrative capability; and

(2) Except as provided in paragraph (f) of this section, each location where the course or program is offered has a certifying official on site.

(Authority: 38 U.S.C. 3672)

(d) *Exceptions to the requirement that administrative capability exist at each location.* (1) A State approving agency may approve a course or program offered by a branch campus that does not have its own administrative capability if—

(i) The main campus of the educational institution within the same State maintains a centralized recordkeeping system that includes all records and accounts that § 21.4209 requires for each student attending the branch campus without administrative capability. These records may be originals, certified copies, or in an electronically formatted record keeping system; and

(ii) The main campus can identify the records of students at the branch campus for which it maintains centralized records.

(2) The State approving agency may approve a course or program offered by an extension that does not have its own administrative capability if—

(i) The extension and the main campus or branch campus it is dependent on are located within the same State;

(ii) The main campus or branch campus the extension is dependent on has administrative capability for the extension; and

(iii) The State approving agency combines the approval of the course(s) offered by the extension with the approval of the courses offered by the main campus or branch campus the extension is dependent on.

(e) *Combined approval.* The State approving agency may combine the approval of courses offered by an extension of an educational institution with the approval of the main campus or the branch campus that the extension is dependent on, if the extension is within the same State as the campus it is dependent on. Combining the approval of courses offered by an extension, with the approval of courses offered by the main campus or branch campus the extension is dependent on, does not negate the minimum period of operation requirements in § 21.4251 for courses that do not lead to a standard college degree offered by an extension of a proprietary educational institution. The State approving agency will list the

extension and courses approved on the notice of approval sent to the educational institution pursuant to § 21.4258 of this part.

(f) *Exceptions to the requirement that each location where the course or program is offered must have a certifying official on site.* Exceptions to the requirement in paragraph (c) of this section, that each location with an approved course or program of education must have a certifying official on site, will be permitted for—

(1) Extensions of an educational institution when the State approving agency combines the approval of the courses offered by the extension with a branch campus or main campus. (See paragraph (e) of this section.)

(2) Educational institutions with more than one campus within the same State if the main campus—

(i) Maintains a centralized recordkeeping system. (See paragraph (d)(1) of this section.);

(ii) Has administrative capability for the branch campus (or branch campuses) within the same State; and

(iii) Centralizes its certifying official function at the main campus.

(3) Educational institutions with multi-state campuses when an educational institution wants to centralize its certifying official function into one or more locations if:

(i) The educational institution submits all required reports and certifications that §§ 21.4203, 21.4204, 21.5810, 21.5812, 21.7152, and 21.7652 require via electronic submission through VA's Internet-based education certification application;

(ii) The educational institution designates an employee, at each teaching location of the educational institution that does not have a certifying official present, to serve as a point-of-contact for veterans, servicemembers, reservists, or other eligible persons; the certifying official(s); the State approving agency of jurisdiction; and VA. The designated employee must have access (other than to transmit certifications) to VA's Internet-based education certification application to provide certification information to veterans, servicemembers, reservists, or other eligible persons, State approving agency representatives, and VA representatives;

(iii) Each certifying official uses the VA facility code for the location that has administrative capability for the teaching location where the student is training when submitting required reports and certifications to VA; and

(iv) Each certifying official has full access to the administrative records and accounts that § 21.4209 requires for each

student attending the teaching location(s) for which the certifying official has been designated responsibility. These records may be originals, certified copies, or in an electronically formatted record keeping system.

(Authority: 38 U.S.C. 3672)

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900-0073)

[FR Doc. E7-7810 Filed 4-24-07; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 70

[EPA-R03-OAR-2007-0254; FRL-8304-8]

### State Operating Permit Programs; Maryland; Revisions to the Acid Rain Regulations

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the Maryland operating permit program. The revisions amend the Code of Maryland Administrative Regulations' (COMAR) incorporation by reference citations to ensure that future changes to the Federal Acid Rain program will continue to be incorporated into Maryland's regulations. EPA is approving these revisions in accordance with the requirements of the Clean Air Act.

**DATES:** This rule is effective on June 25, 2007 without further notice, unless EPA receives adverse written comment by May 25, 2007. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R03-OAR-2007-0254 by one of the following methods:

A. *www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *E-mail:* [campbell.dave@epa.gov](mailto:campbell.dave@epa.gov).

C. *Mail:* EPA-R03-OAR-2007-0254, David Campbell, Chief, Permits and Technical Assessment Branch, Mailcode 3AP11, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such

deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA-R03-OAR-2007-0254. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket.* All documents in the electronic docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.