

statement of Energy Effects under Executive Order 13211.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

#### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–6, and 160.5; 49 CFR 1.46.

2. A new temporary section 165.T09–920 is added as follows:

#### § 165.T09–920 Safety zone: Maumee River, Toledo, Ohio.

(a) *Location.* All waters and the adjacent shoreline of the Maumee River, Toledo, Ohio, extending from the bow of the museum ship SS WILLIS B. BOYER (41°38'35" N, 083°31'54" W), then north north-east to the south end of the City of Toledo Street (41° 38'51" N, 083°31'50" W), then south-west to the red nun bouy #64 (41°38'48" N, 083°31'58" W), then south south-east to the museum ship SS WILLIS B. BOYER.

(b) *Effective Period.* This regulation is effective from 12:30 p.m. until 11 p.m., July 04, 2001.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port.

Dated: June 5, 2001.

**David L. Scott,**

*Commander, U.S. Coast Guard, Captain of the Port.*

[FR Doc. 01–15047 Filed 6–13–01; 8:45 am]

BILLING CODE 4910–15–U

#### DEPARTMENT OF DEFENSE

#### DEPARTMENT OF VETERANS AFFAIRS

#### 38 CFR Part 21

#### RIN 2900–AK41

#### Veterans Education: Increased Allowances for the Educational Assistance Test Program

**AGENCIES:** Department of Defense and Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** The law provides that rates of subsistence allowance and educational assistance payable under the Educational Assistance Test Program shall be adjusted annually by the Secretary of Defense based upon the average actual cost of attendance at public institutions of higher education in the twelve-month period since the rates were last adjusted. After consultation with the Department of Education, the Department of Defense has concluded that the rates for the 2000–01 academic year should be increased by 4% over the rates payable for the 1999–2000 academic year. The regulations dealing with these rates are amended accordingly.

**DATES:** *Effective Date:* June 14, 2001.

*Applicability Date:* The changes in rates are applied retroactively to October 1, 2000, to conform to statutory requirements.

#### FOR FURTHER INFORMATION CONTACT:

William G. Susling, Jr., Assistant Director for Policy and Program Development, Education Service, Veterans Benefits Administration, 202–273–7187.

**SUPPLEMENTARY INFORMATION:** The law (10 U.S.C. 2145) provides that the Secretary of Defense shall adjust the amount of educational assistance which may be provided in any academic year under the Educational Assistance Test Program and the amount of subsistence allowance authorized under that program. The adjustment is to be based upon the twelve-month increase in the average actual cost of attendance at public institutions of higher education. As required by law, the Department of Defense has consulted with the Department of Education. The Department of Defense has concluded that these costs increased by 4% in the 1999–2000 academic year. Accordingly, this final rule changes 38 CFR 21.5820 and 21.5822 to reflect a 4% increase in the rates payable in the 2000–01 academic year, including changes in § 21.5820 to the adjustments that compensate for rounding. In addition, nonsubstantive changes are made for the purpose of clarification.

#### Administrative Procedure Act

The rates of subsistence allowance and educational assistance payable under the Educational Assistance Test Program are determined based on a statutory formula and, in essence, the calculation of rates merely constitutes a non-discretionary ministerial act. The other changes made by this document are merely nonsubstantive changes for the purpose of clarification. Accordingly, there is a basis for

dispensing with notice-and-comment and a delayed effective date under 5 U.S.C. 552 and 553.

#### Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

#### Executive Order 12866

This document has been reviewed by the Office of Management and Budget under Executive Order 12866.

#### Regulatory Flexibility Act

The Secretary of Veterans Affairs and the Secretary of Defense 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 directly affects only individuals. 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.

There is no Catalog of Federal Domestic Assistance number for the program affected by this final rule.

#### List of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflict of interests, Defense Department, 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: February 6, 2001.

**Anthony J. Principi,**

*Secretary of Veterans Affairs.*

Approved: March 7, 2001.

**P.A. Tracey,**

*Vice Admiral, USN, Deputy Assistant Secretary (Military Personnel Policy), Department of Defense.*

For the reasons set out in the preamble, 38 CFR part 21 (subpart H) is amended as set forth below.

#### PART 21—VOCATIONAL REHABILITATION AND EDUCATION

#### Subpart H—Educational Assistance Test Program

1. The authority citation for part 21, 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.

**§ 21.5820 [Amended]**

2. Section 21.5820 is amended by:

a. In paragraph (b)(1), removing "1999-2000" and adding, in its place, "2000-01"; and by removing "\$3,388" and adding, in its place, "\$3,524";

b. In the introductory text of paragraph (b)(2)(ii), removing "1999-2000" and adding, in its place, "2000-01";

c. In paragraph (b)(2)(ii)(A), removing "\$376.44" and adding, in its place, "\$391.56"; and by removing "\$188.22" and adding, in its place, "\$195.78";

d. In paragraph (b)(2)(ii)(B), removing "\$12.55" and adding, in its place, "\$13.05"; and by removing "\$6.27" and adding, in its place, "\$6.53";

e. In paragraph (b)(2)(ii)(C), removing "increased by 4¢" and adding, in its place, "decreased by 4¢"; and by removing "increased by 2¢" and adding, in its place, "decreased by 2¢".

f. In the introductory text of paragraph (b)(3)(ii), removing "1999-2000" and adding, in its place, "2000-01";

g. In paragraph (b)(3)(ii)(A), removing "\$376.44" and adding, in its place, "\$391.56"; and by removing "\$188.22" and adding, in its place, "\$195.78";

h. In paragraph (b)(3)(ii)(B), removing "\$12.55" and adding, in its place, "\$13.05"; and by removing "\$6.27" and adding, in its place, "\$6.53";

i. In paragraph (b)(3)(ii)(C), removing "increased by 4¢" and adding, in its place, "decreased by 4¢"; and by removing "increased by 2¢" and adding, in its place, "decreased by 2¢".

j. Removing "shall" each place in which it appears and adding, in its place, "will".

**§ 21.5822 [Amended]**

3. Section 21.5822 is amended by:

a. In paragraph (b)(1)(i), removing "\$844" and adding, in its place, "\$878"; and by removing "1999-2000" and adding, in its place, "2000-01";

b. In paragraph (b)(1)(ii), removing "\$422" and adding, in its place, "\$439"; and by removing "1999-2000" and adding, in its place, "2000-01";

c. In paragraph (b)(2)(i), removing "1999-2000" and adding, in its place, "2000-01"; and by removing "\$844" and adding, in its place, "\$878";

d. In paragraph (b)(2)(ii), removing "1999-2000" and adding, in its place, "2000-01"; and by removing "\$422" and adding, in its place, "\$439".

e. Removing "shall" each place in which it appears and adding, in its place, "will".

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**DEPARTMENT OF VETERANS AFFAIRS**

**38 CFR Part 21**

**RIN 2900-AK44**

**Increase in Rates Payable Under the Montgomery GI Bill—Active Duty and Survivors' and Dependents' Educational Assistance**

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** This document amends the regulations governing rates of educational assistance payable under the Montgomery GI Bill—Active Duty and the regulations governing rates of Survivors' and Dependents' Educational Assistance to reflect increases required by statutory provisions.

**DATES:** *Effective Date:* This final rule is effective June 14, 2001.

*Applicability Dates.* The changes in rates are applied retroactively to conform to statutory requirements. For more information concerning the dates of applicability, see the **SUPPLEMENTARY INFORMATION** section.

**FOR FURTHER INFORMATION CONTACT:**

William G. Susling, Jr., Assistant Director for Policy and Program Development, Education Service, Veterans Benefits Administration, (202) 273-7187.

**SUPPLEMENTARY INFORMATION:** Under the formula mandated by 38 U.S.C. 3015(g) (as in effect on October 1, 2000) for fiscal year 2001, the rates of basic educational assistance under the Montgomery GI Bill—Active Duty (MGIB) payable to students pursuing a program of education full time must be increased by 3.0%, which is the percentage by which the total of the monthly Consumer Price Index-W (CPI-W) for July 1, 1999, through June 30, 2000, exceeds the total of the monthly CPI-W for July 1, 1998, through June 30, 1999.

In addition, the rates for the months during fiscal year 2001 that follow October 2000 were further increased by the Veterans Benefits and Health Care Improvement Act of 2000 (Pub. L. 106-419). That Act provides that beginning on November 1, 2000, the rates of basic educational assistance under the MGIB must be increased beyond the increase that went into effect on October 1, 2000.

Changes are made to the regulations governing rates payable under MGIB to reflect both rate increases.

Moreover, Pub. L. 106-419 requires an increase in the monthly rate of Survivors' and Dependents' Educational Assistance (DEA), effective November 1, 2000. Changes are made to the regulations governing DEA rates and entitlement charges to reflect the statutory changes.

It should be noted that neither the increase attributable to the CPI-W nor the increase attributable to the Act affects all educational assistance payable under MGIB. The increases don't apply to additional amounts payable by the Secretary of Defense to individuals with skills or a specialty in which there is a critical shortage of personnel (so-called "kickers"). They don't apply to amounts payable for dependents. Veterans who previously had eligibility under the Vietnam Era GI Bill receive monthly payments that are in part based upon basic educational assistance and in part based upon the rates payable under the Vietnam Era GI Bill. Only that portion attributable to basic educational assistance is increased.

38 U.S.C. 3015(a) and (b) require that the Department of Veterans Affairs (VA) pay part-time students at appropriately reduced rates. Since the first student became eligible for assistance under the MGIB in 1985, VA has paid three-quarter-time students and one-half-time students at 75% and 50% of the full-time institutional rate, respectively. Students pursuing a program of education at less than one-half but more than one-quarter-time have had their payments limited to 50% or less of the full-time institutional rate. Similarly, students pursuing a program of education at one-quarter-time or less have had their payments limited to 25% or less of the full-time institutional rate. Changes are made consistent with the authority and formula described in this paragraph.

In addition, 38 U.S.C. 3032(c) requires that monthly rates payable to veterans in apprenticeship or other on-the-job training must be set at a given percentage of the full-time rate. Hence, there are raises effective October 1, 2000, and November 1, 2000, for such training as well.

Nonsubstantive changes also are made for the purpose of clarity.

The changes set forth in this final rule are effective from the date of publication, but the changes in rates are applied retroactively from October 1, 2000, and November 1, 2000, in accordance with the applicable statutory provisions discussed above.