

an unscheduled closure due to component failure.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: July 20, 2001.

**G.N. Naccara,**

*Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.*

[FR Doc. 01-18922 Filed 7-27-01; 8:45 am]

**BILLING CODE 4910-15-U**

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 21

RIN 2900-AK06

#### Montgomery GI Bill—Active Duty

**AGENCIES:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** This document amends the educational assistance regulations of the Department of Veterans Affairs (VA). The amendments reflect statutory changes contained in the Veterans Millennium Health Care and Benefits Act of 1999 and statutory interpretations. This document also makes changes for the purpose of clarification.

**DATES:** *Effective Date:* July 30, 2001.

*Applicability Date:* The changes are applied retroactively to November 30, 1999, to conform to statutory requirements. For more information concerning the date of applicability, see the **SUPPLEMENTARY INFORMATION** section.

**FOR FURTHER INFORMATION CONTACT:**

William G. Susling, Jr., Assistant Director for Policy and Program Development, Education Service (225), Veterans Benefits Administration, Department of Veterans Affairs, 202-273-7187.

**SUPPLEMENTARY INFORMATION:** This document amends the educational assistance regulations found in 38 CFR part 21, subpart K, regarding the Montgomery GI Bill—Active Duty (ch. 30, title 38, United States Code) (MGIB).

The regulations are amended by expanding the definition of a “program of education” to include a preparatory course for a test that is required or used for admission to an institution of higher education or to a graduate school. This would allow individuals who are eligible for the MGIB to receive benefits

for taking a residence course designed to prepare the individual for such tests as the ACT Admissions test (ACT) and the Law School Admissions Test (LSAT). The regulations are also amended to provide that when an enlisted service member or warrant officer attends officer training school, and then is discharged to accept a commission as an officer, the enlisted period of active duty and first period of active duty as a commissioned officer may be combined for determining eligibility for the MGIB. These changes are made to reflect statutory changes made by the Veterans Millennium Health Care and Benefits Act of 1999 (Pub. L. 106-117). Also, as indicated in the text portion of this document, we are amending 38 CFR 21.7020 to include definitions of the terms “institution of higher education” and “graduate school”. We believe these definitions reflect the statutory intent. The changes made by this final rule are effective from the date of publication but the changes are applied retroactively to November 30, 1999, the date of enactment of the applicable statutory provisions discussed above.

#### Administrative Procedure Act

Under 5 U.S.C. 553, there is a basis for dispensing with a 30-day delay of the effective date since the changes made by this final rule are restatements of statute, interpretive rules, and nonsubstantive changes for the purpose of clarity.

#### Paperwork Reduction Act

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

#### Unfunded Mandates

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing 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 in any given year. This rule would have no consequential effect on State, local, or tribal governments.

#### Executive Order 12866

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

#### Regulatory Flexibility Act

The Secretary of Veterans Affairs hereby certifies 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 will not cause educational institutions to make changes in their activities and has minuscule monetary effects, if any. Pursuant to 5 U.S.C. 605(b), this final rule, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of §§ 603 and 604.

(The Catalog of Federal Domestic Assistance number for program that this final rule affects is 64.124.)

#### 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: May 31, 2001.

**Anthony J. Principi,**

*Secretary of Veterans Affairs.*

For the reasons set forth above, 38 CFR part 21 (subpart K) is amended as set forth below.

## PART 21—VOCATIONAL REHABILITATION AND EDUCATION

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

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

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

2. Section 21.7020 is amended by:
  - a. Redesignating paragraphs (b)(6)(v) and (b)(6)(vi) as paragraphs (b)(6)(vi) and (b)(6)(vii), respectively;
  - b. In paragraph (b)(6)(iv), removing “(b)(6)(v)” and adding, in its place “(b)(6)(vi)”;
  - c. Adding a new paragraph (b)(6)(v);
  - d. In newly redesignated paragraph (b)(6)(vi), removing “(b)(6)(iv)” and adding, in its place, “(b)(6)(iv) or (b)(6)(v)”;
  - e. In paragraph (b)(23)(ii), removing “field; and” and adding, in its place, “field;”;
  - f. In paragraph (b)(23)(iii), removing “training.” and adding, in its place, “training; and”;
  - g. Adding paragraph (b)(23)(iv);
  - h. Revising the authority citation for paragraph (b)(23); and
  - i. Adding paragraphs (b)(45) and (b)(46).

The revision and additions read as follows:

§ 21.7020 Definitions.

\* \* \* \* \*

(b) \* \* \*

(6) \* \* \*

(v) VA will not consider an individual to have an interruption of service when he or she:

(A) Serves a period of active duty without interruption (without a complete separation from active duty), as an enlisted member or warrant officer;

(B) While serving on such active duty is assigned to officer training school; and

(C) Following successful completion of the officer training school is discharged to accept, without a break in service, a commission as an officer in the Armed Forces for a period of active duty.

\* \* \* \* \*

(23) \* \* \*

(iv) Effective November 30, 1999, includes a preparatory course for a test that is required or used for admission to—

(A) An institution of higher education; or

(B) A graduate school.

(Authority: 38 U.S.C. 3002(3), 3452(b)).

\* \* \* \* \*

(45) *Institution of higher education.* The term *institution of higher education* means either:

(i) An educational institution, located in a State, that—

(A) Admits as regular students only persons who have a high school diploma, or its recognized equivalent, or persons who are beyond the age of compulsory school attendance in the State in which the educational institution is located;

(B) Offers postsecondary level academic instruction that leads to an associate or baccalaureate degree; and

(C) Is empowered by the appropriate State education authority under State law to grant an associate or baccalaureate degree, or where there is no State law to authorize the granting of a degree, is accredited for associate or baccalaureate degree programs by a recognized accrediting agency; or

(ii) An educational institution, not located in a State, that—

(A) Offers a course leading to an undergraduate standard college degree or the equivalent; and

(B) Is recognized as an institution of higher education by the secretary of education (or comparable official) of the country or other jurisdiction in which the educational institution is located.

(Authority: 38 U.S.C. 3002(3)).

(46) *Graduate school.* The term *graduate school* means either:

(i) An educational institution, located in a State, that—

(A) Admits as regular students only persons who have a baccalaureate degree or the equivalent in work experience;

(B) Offers postsecondary level academic instruction that leads to a master's degree, doctorate, or professional degree; and

(C) Is empowered by the appropriate State education authority under State law to grant a master's degree, doctorate, or professional degree, or, where there is no State law to authorize the granting of a degree, is accredited for master's degree, doctorate, or professional degree programs by a recognized accrediting agency; or

(ii) An educational institution, not located in a State, that—

(A) Offers a course leading to a master's degree, doctorate, or professional degree; and

(B) Is recognized as an institution of higher education by the secretary of education (or comparable official) of the country or other jurisdiction in which the educational institution is located.

(Authority: 38 U.S.C. 3002(3)).

3. Section 21.7050 is amended by:

a. Redesignating paragraphs (d) and (e) as paragraphs (e) and (f), respectively;

b. In paragraph (a)(1), removing "(b)" and (c) and adding, in its place, "(c) or (d)"; and

c. Adding a new paragraph (d).

The addition reads as follows:

§ 21.7050 Ending dates of eligibility.

\* \* \* \* \*

(d) *Individual is eligible due to combining active duty as an enlisted member or warrant officer with active duty as a commissioned officer.* If a veteran would not be eligible but for the provisions of § 21.7020(b)(6)(v), VA will not pay basic educational assistance or supplemental educational assistance to that veteran beyond 10 years after the veteran's last discharge or release from a period of active duty of 90 days or more of continuous service, or November 30, 2009, whichever is later.

(Authority: 38 U.S.C. 3011(f), 3031(a)).

\* \* \* \* \*

4. In § 21.7131, paragraph (d) is added to read as follows:

§ 21.7131 Commencing dates.

\* \* \* \* \*

(d) *Individual is eligible due to combining active duty as an enlisted member or warrant officer with active*

*duty as a commissioned officer.* If a veteran served in the Armed Forces both as an enlisted member or warrant officer and as a commissioned officer, and that service was such that he or she is eligible only through application of § 21.7020(b)(6)(v), the commencing date of the award of educational assistance will be no earlier than November 30, 1999.

(Authority: Sec. 702(c), Pub. L. 106-117, 113 Stat. 1583).

\* \* \* \* \*

[FR Doc. 01-18852 Filed 7-27-01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-7019-8]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Direct final notice of deletion of the Sussex County Landfill No. 5 Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region III is publishing a direct final notice of deletion of the Sussex County Landfill No. 5, Superfund Site (Site), located in Laurel, Delaware from the National Priorities List (NPL).

The NPL, promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is Appendix B of 40 CFR Part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final notice of deletion is being published by EPA with the concurrence of the State of Delaware, through the Department of Natural Resources and Environmental Control, because EPA has determined that all appropriate response actions under CERCLA have been completed and, therefore, further remedial action pursuant to CERCLA is not appropriate.

DATES: This direct final deletion will be effective September 28, 2001 unless EPA receives adverse comments by August 29, 2001. If adverse comments are received, EPA will publish a timely withdrawal of the direct final deletion in the Federal Register informing the public that the deletion will not take effect.