

(e) *Notice to submitters.* SBA will provide a submitter with written notice of a FOIA request or administrative appeal that seeks its business information whenever SBA intends to release that information. The notice will either describe the business information or include copies of the records in the form SBA proposes to release them. SBA will also advise the requester that the submitter is being given the opportunity to object to any proposed disclosure. When notification of a voluminous number of submitters is required, SBA may post or publish the notice in a place reasonably likely to accomplish it.

(f) *Opportunity to object to disclosure.* SBA will give the submitter five working days to submit a detailed written statement specifying all grounds upon which disclosure is opposed. The statement must show why the information is a trade secret or commercial or financial information that is privileged or confidential. If a submitter fails to respond to the notice within the five working days, SBA will presume that the submitter has no objection to disclosure of the information. Information provided by a submitter under this paragraph may itself be subject to disclosure under the FOIA.

(g) *Notice of intent to disclose.* SBA will consider a submitter's objections and specific grounds for nondisclosure. If SBA decides to disclose business information over the objection of a submitter, SBA will give the submitter written notice, telling the submitter when and what it intends to disclose.

#### § 102.8 Appeals.

(a) If you are dissatisfied with SBA's response to your request, you may appeal an adverse determination denying your request, in any respect, to the Chief, FOI/PA Office, 409 Third St., SW., Washington, DC 20416.

(b) The Chief must receive your signed, written appeal within 45 calendar days of the date of the SBA determination from which you are appealing.

(c) You should include as much information as possible; i.e., identifying the records denied, the reason(s) a fee should be waived, or the reason(s) a request should be expedited. You must identify the denying official and his/her office location.

(d) The Chief will decide your appeal unless the Chief originally made the determination you are appealing. In that case, the Assistant Administrator for Hearings and Appeals will decide your appeal.

(e) SBA will decide your appeal in writing within 20 working days from the date of its receipt. SBA may take an additional 10 working days if unusual circumstances require.

(f) If SBA upholds the initial adverse determination, SBA will tell you why the decision has been upheld and tell you how to obtain judicial review of the decision.

#### § 102.9 Public Index.

(a) The Public Index is a document that provides identifying information about official documents that SBA has issued.

(b) SBA has administratively determined, as permitted by FOIA, that periodic publication and distribution is unnecessary and impracticable.

(c) The Public Index is an appendix to SBA Standard Operating Procedure 40 03. You can obtain the latest edition of SOP 40 03 from SBA's Online Reading Room at <http://www.sba.gov/library> or by requesting it from any SBA office.

Dated: August 20, 2002.

**Hector V. Barreto,**  
*Administrator.*

[FR Doc. 02-22932 Filed 9-10-02; 8:45 am]

BILLING CODE 8025-01-P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[REG-165868-01]

RIN 1545-BA47

#### 10 or More Employer Plans; Hearing

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Change of date and location of public hearing.

**SUMMARY:** This document changes the date and location of a public hearing on proposed regulations relating to 10 or more employer plans under section 419 of the Internal Revenue Code.

**DATES:** The public hearing originally scheduled for Tuesday, November 5, 2002, at 10 a.m., in room 4718, is rescheduled for Thursday, November 14, 2002, at 10 a.m., in room 2140.

**ADDRESSES:** The public hearing originally scheduled to be in room 4718 of the Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC, will be held in room 2140 of the Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

**FOR FURTHER INFORMATION:** Guy R. Traynor of the Regulations Unit, Associate Chief Counsel, (Income Tax & Accounting), (202) 622-7180 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:** A notice of proposed rulemaking and notice of public hearing appearing in the **Federal Register** on Thursday, July 11, 2002 (67 FR 45933), announced that a public hearing on proposed regulations relating to 10 or more employer plans under section 419 of the Internal Revenue Code would be held on Tuesday, November 5, 2002, beginning at 10 a.m. in room 4718 of the Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

The date and location of the public hearing has changed. The hearing is scheduled for Thursday, November 14, 2002, beginning at 10 a.m. in room 2140, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. We must receive requests to speak and outlines of oral comments by October 24, 2002. Because of the controlled access restrictions, attendees are not admitted beyond the lobby of the Internal Revenue Building until 9:30 a.m. The Service will prepare an agenda showing the scheduling of the speakers after the outlines are received from the persons testifying and make copies available free of charge at the hearing.

**Cynthia E. Grigsby,**

*Chief, Regulations Unit, Associate Chief Counsel, (Income Tax & Accounting).*

[FR Doc. 02-23100 Filed 9-10-02; 8:45 am]

BILLING CODE 4830-01-P

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 21

RIN 2900-AL22

#### Accelerated Payments Under the Montgomery GI Bill—Active Duty Program

**AGENCY:** Department of Veterans Affairs.  
**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to amend the regulations governing various aspects of the educational assistance programs the Department of Veterans Affairs (VA) administers in order to implement some of the provisions of the Veterans Education and Benefits Expansion Act of 2001. These provisions include accelerated payments to individuals under the Montgomery GI Bill—Active Duty program who are enrolled in approved training programs that lead to

employment in high tech industries and whose charged tuition and fees exceed an amount equal to 200 percent of the monthly rate of basic educational assistance allowance otherwise payable. This document also proposes to amend the regulation defining educational institution to include certain private technology entities.

**DATES:** Comments must be received on or before November 12, 2002.

**ADDRESSES:** Mail or hand-deliver written comments to: Director, Office of Regulations Management (O2D), Department of Veterans Affairs, 810 Vermont Avenue, NW., Room 1154, Washington, DC 20420; or fax comments to (202) 273-9289; or e-mail comments to [OGCRegulations@mail.va.gov](mailto:OGCRegulations@mail.va.gov). Comments should indicate that they are submitted in response to "RIN 2900-AL22". All written comments received will be available for public inspection at the above address in the Office of Regulations Management, room 1158 between the hours of 8:00 a.m. to 4:30 p.m., Monday through Friday (except holidays).

**FOR FURTHER INFORMATION CONTACT:** Lynn M. Cossette, Education Advisor, Education Service, Veterans Benefits Administration, 202-273-7294.

**SUPPLEMENTARY INFORMATION:** The Veterans Education and Benefits Expansion Act of 2001 (Pub. L. 107-103) (the "Act") contains provisions that allow the Department of Veterans Affairs (VA) to make accelerated payments under the Montgomery GI Bill—Active Duty program. Individuals can elect to receive an accelerated payment only when they are enrolled in an approved program of education that leads to employment in a high technology industry (as determined by the Secretary) and are charged tuition and fees for enrollment that exceed 200 percent of the monthly rate of basic educational assistance allowance otherwise payable.

Public Law 107-103 directs VA to prescribe regulations to carry out the provisions allowing accelerated payments. Since the term "high technology industry" is not defined in the statute, VA must define by regulation what industries qualify as high technology industries. This definition is included in this proposed rule. To arrive at its proposed definition of "high technology industry," VA considered how other federal agencies determine what industries are considered high technology industries. For instance, in a June 1999 Monthly Labor Review Report, "High-technology employment; a broader view," Dr. Daniel Hecker, an economist in the

Office of Employment Projections, Bureau of Labor Statistics (BLS), considered an industry to be "high tech" if employment in both research and development and in all technology-oriented occupations accounted for a proportion of employment that was at least twice the average for all industries in the Occupational Employment Statistics survey. This resulted in 29 industries being identified as high technology industries. Ten of the 29 are considered to be high technology intensive industries because the ratios of employment in both research and development and in all technology oriented occupations is at least 5 times the average for all industries. We spoke to Dr. Hecker. He indicated that a report by the National Science Foundation (NSF), "Science and Engineering Indicators 2000," includes a good list of 10 advanced technology industries that are high tech. He stated the NSF list is similar to the 10 high technology intensive industries identified in his report.

The NSF list of advanced technologies is based on the U.S. Bureau of the Census classification system for exports and imports of products that embody new or leading-edge technologies.

VA also considered the pertinent legislative history of Pub. L. 107-103 regarding accelerated MGIB payments. For instance, Chairman Rockefeller (D-WV), Senate Veterans Affairs Committee, original sponsor of the bill (S. 1088) enacted as Pub. L. 107-103, explained that the accelerated payment provision "would allow veterans to use their Montgomery GI Bill educational benefits to pay for short-term, high technology courses that would allow veterans to earn the credentials they need to gain entry to today's civilian-sector careers." 147 Cong. Rec. S12,395 (daily ed. Dec. 5, 2001) (statement of Chairman Rockefeller). He further stated, "many veterans are pursuing forms of nontraditional training, such as short-term courses that lead to certification in a technical field. These courses often last just a few weeks or months, and can cost many of thousands of dollars." *Id.*

The Committee report (S. Rep. No. 107-86) (2001) accompanying S. 1088 does not define which technology fields would be covered by the bill, but indicates that the bill authorizes the Secretary of Veterans Affairs to determine which courses are applicable. The report makes reference to Microsoft, Cisco, and other technical training. Additionally, it reflects that the Congressional Budget Office estimated the bill's costs based on short-term,

high-cost, information technology courses.

Nevertheless, the Act itself does not contain language limiting accelerated payment to short-term high-cost information technology courses. Nor does it limit accelerated payment to nontraditional training, or to programs or courses that lead to certification in a technical field.

After considering all the above information, including especially Dr. Hecker's recommendation, we propose to use the listing in the Science and Engineering Indicators 2000 report to define the industries that will be considered "high-tech" for accelerated payment purposes. We believe this listing is the most accurate on leading-edge technologies. The list includes the following industries:

- Biotechnology;
- Life Science Technologies;
- Opto-Electronics;
- Computers and Telecommunications;
- Electronics, Computer-Integrated Manufacturing;
- Material Design;
- Aerospace;
- Weapons; and
- Nuclear Technology.

We further propose the list of industries that we define as high technology industries include any advanced technologies listed in future Science and Engineering Indicators reports published by the NSF. The National Science Board (the governing board of the National Science Foundation) is responsible, by law, to publish the Science and Engineering Indicators Report on a biennial basis. By using the list in this biennial report, VA will stay current in our definition of high technology industries.

Moreover, our proposed regulations define "employment in a high technology industry". We are doing so because the Act states that, in order to be eligible for accelerated payment, the individual's program of education must lead to employment in a high technology industry. Of the numerous employment positions that may be found in a high technology industry, many are common to all industries, not just high technology industries. We believe, however, that the Act, by its terms in their context, reasonably should be read as limiting accelerated payments to pursuit of programs that lead to high-technology-specific occupations. Thus, to give meaning to the term "employment in a high technology industry" as used in the Act, we propose to define that term to mean employment in a high technology

occupation specific to a high technology industry.

The Act further provides that VA will prescribe regulations to include the requirements, conditions, and methods for the request, issuance, delivery, certification of receipt and use, and recovery of overpayment of an accelerated payment.

In our proposed rule, we propose to make accelerated payments similar to the way we currently make advance payments under section 3680(d)(4) of title 38, United States Code. Using this method, payment is drawn in the student's name and VA mails the payment directly to the educational institution for delivery to the student. We propose that upon delivery of payment, the educational institution shall submit certification of delivery to the Secretary. VA will provide a form for this certification. We further propose that the educational institution shall return the accelerated payment to VA within 30 days if the payment is not delivered to the student.

If the educational institution does not agree to accept accelerated payments, we propose that the educational institution must wait until the student begins classes before it submits enrollment information to VA. In this instance, VA proposes to make payment directly to the student via electronic funds transfer (EFT) to the eligible individual's bank account. By using EFT, recipients will receive the accelerated payment sooner than by regular mail, with minimal risk of it being lost or stolen. If the student does not have a bank account or objects to payment by EFT, VA will issue a check to the student's mailing address.

In our proposed rule, we propose requiring that the individual requesting the accelerated payment must verify that payment was received and used, and that the course was (or courses were) completed. We propose collecting this information by a certification form to be submitted by the individual at the end of the term, quarter, semester, or the end of the enrollment period for those courses not on a term, quarter, or semester basis. The proposed rule requires that VA must receive the information within 60 days of the end of the enrollment period or VA will establish and collect an overpayment equal to the accelerated payment amount. We propose that no further education benefits will be paid until VA receives the required certification.

If an individual fails to complete the course(s) for which an accelerated payment has been made and received, and the individual does not have mitigating circumstances for such

failure, the proposed rule provides that VA will establish an overpayment equal to the accelerated payment. If mitigating circumstances are shown, VA will determine the amount of education benefits to which the individual is entitled for the enrollment period by prorating the accelerated payment amount in proportion to the number of days from the beginning of the enrollment period through the date of last attendance. VA will establish an overpayment against the individual for the difference between the amount so determined and the accelerated payment amount. Mitigating circumstances, for this purpose, are circumstances beyond the individual's control that prevent him or her from continuously pursuing a program of education.

The Act also contains a provision that includes certain private technology entities in the definition of educational institution. This provision allows a private entity that offers, either directly or under an agreement with another entity, a course or courses to fulfill requirements for the attainment of a license or certificate generally recognized as necessary to obtain, maintain, or advance in employment in a profession or vocation in a high technology occupation. The proposed rule defines "high technology" occupation for VA purposes.

To identify those occupations that VA defines as high technology occupations, we used the following reports:

- Bureau of Labor Statistics, Monthly Labor Review, June 1999, "High-technology employment; a broader view" by Dr. Daniel Hecker; and
- The Digital Work Force, June 1999, by the Office of Technology, U.S. Department of Commerce.

The Digital Work Force report identifies only information technology occupations while the BLS Monthly Labor Review report identifies all high technology occupations including those in information technology. Consequently, we propose to use the occupations BLS identified as high technology occupations. BLS defines high technology occupations as scientific, technical, and engineering occupations that include the following occupational groups and detailed occupations:

- Life and physical scientists;
- Engineers;
- Mathematical specialists;
- Engineering and science technicians;
- Computer specialists; and
- Engineering, scientific, and computer managers.

We further propose to define the term "computer specialists". To do this we looked at various information technology programs approved for veterans' training, and courses currently offered by computer training centers. We also considered the core information technology occupations as listed in the Digital Workforce 2000 report by Office of Technology Policy. After reviewing this material, we propose to include the following occupations as computer specialists in our proposed definition:

- Database, system, and network administrators;
- Database, system, and network developers;
- Computer and network engineers;
- Systems analysts;
- Programmers;
- Computer, database, and network support specialists;
- Computer scientists;
- Web site designers;
- Computer and network service technicians;
- Computer and network electronics specialists; and
- Certified professionals, certified associates, and certified technicians in the information technology field.

#### **Paperwork Reduction Act of 1995**

Comments on the proposed collection of information should be submitted to the Office of Management and Budget, Attention: Desk Officer for the Department of Veterans Affairs, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies mailed or hand-delivered to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, NW., Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to "RIN 2900-AL22." Comments must be received on or before November 12, 2002.

The Office of Management and Budget (OMB) has determined that the proposed new paragraphs 38 CFR 21.7151(c)(1)(i), (c)(2)(ii), and 21.7154(d)(1) would constitute collections of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520). Accordingly, under section 3507(d) of the Act, VA has submitted a copy of this rulemaking action to OMB for review.

*Title:* Request for Accelerated Payment.

*Summary of Collection of Information:* The collection of information in § 21.7151(c)(1)(i) of this rulemaking proceeding is necessary to apply provisions of section 104 of Pub. L. 107-103. The Act provides that certain individuals may elect to receive

an accelerated payment of the basic educational assistance allowance otherwise payable.

*Description of need for information and proposed use of information:* The information collection required in § 21.7151(c)(1)(i) is needed because the law requires an individual to elect an accelerated payment.

*Description of likely respondents:* Respondents are veterans and service members who wish to receive an accelerated payment of educational assistance under the MGIB for courses leading to employment in a high technology industry.

*Estimated number of respondents:* 34,633.

*Estimated frequency of responses:* When a claimant wishes to receive an accelerated payment of educational assistance, the claimant must file a statement with VA or the educational institution requesting an accelerated payment. Some claimants will file just one request for an accelerated payment while others will file several a year if they are enrolled in more than one term. Thus, we estimate 1½ responses per respondent.

*Estimated total annual reporting and record keeping burden:* 2,597 hours of reporting burden. VA estimates there will be no record keeping burden.

*Estimated average burden per respondent:* .05 hour.

*Title:* Agreement with Educational Institution.

*Summary of Collection of Information:* The collection of information in § 21.7151(c)(2)(ii) of this rulemaking proceeding is necessary to apply provisions of section 104 of Pub. L. 107–103. The Act requires VA to prescribe regulations to carry out provisions of section 104 regarding the requirements, conditions, and methods for the request, issuance, deliver, certification of receipt and use of an accelerated payment.

*Description of need for information and proposed use of information:* Section 21.7151(c)(2)(ii) requires an educational institution to enter into an agreement with VA to receive accelerated payments on behalf of veterans and servicemembers. Generally educational assistance allowance is paid directly to a claimant. VA will release an accelerated payment in advance of the start date of the course if the payment goes directly to the educational institution. By signing the agreement required in § 21.7151(c)(2)(ii), the educational institution is agreeing to accept an accelerated payment on behalf of a veteran or servicemember and to deliver the payment to him or her. VA

requires the agreement before we release an accelerated payment to an educational institution to ensure proper handling of payments.

*Description of likely respondents:* Respondents are educational institutions that request to receive an accelerated payment on behalf of a veteran or servicemember.

*Estimated number of respondents:* 3,454.

*Estimated frequency of responses:* Educational institutions would apply just once.

*Estimated total annual reporting and record keeping burden:* 172 hours of reporting burden. VA estimates that there will be no record keeping burden for respondents.

*Estimated average burden per respondent:* .05 hour.

*Title:* Certifications Required from Individuals Electing Accelerated Payments.

*Summary of Collection of Information:* The collection of information required in § 21.7154(d)(1) of this rulemaking is necessary to apply provisions of section 104 of Pub. L. 107–103. The law requires VA to prescribe regulations to carry out provisions of section 104 regarding the delivery, certification of receipt and use of accelerated payments.

*Description of need for information and proposed use of information:* The information collection required in § 21.7154(d)(1) is needed to collect information required by law. The information collected verifies that the proper individual received the accelerated payment, that the course was completed, and shows how the recipient used the payment. We are responsible for determining proper payment. Generally individuals are not eligible for payment if they do not complete a course. In addition to the above information, we need to know if and when a person withdraws from a course. We also need to know the reason they withdrew. This information is necessary to determine if an individual has been overpaid benefits. Most accelerated payments are paid before the completion of the course and represent payment for the entire course.

*Description of likely respondents:* Respondents are veterans and servicemembers who receive an accelerated payment under the MGIB program.

*Estimated number of respondents:* 34,633.

*Estimated frequency of responses:* Some individuals will file just one request for an accelerated payment. Those who enrolled in more than one term may request an accelerated

payment for each term. We estimate 1½ responses per respondent.

*Estimated total annual reporting and record keeping burden:* 4,329 hours.

*Estimated average burden per respondent:* .083 hour.

The Department considers comments by the public on proposed collections of information in—

- Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility;
- Evaluating the accuracy of the Department's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collections of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

#### 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 section, of \$100 million or more in any given year. This proposed rule would have no consequential effect on State, local, or tribal governments.

#### 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 hereby certifies that this proposed 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 proposed rule will directly affect only individuals and will not directly affect small entities. Pursuant to 5 U.S.C. 605(b), this proposed rule, therefore, is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

#### Catalog of Federal Domestic Assistance Program Numbers

The Catalog of Federal Domestic Assistance numbers for the programs

affected by this proposed rule are 64.117, 64.120, and 64.124.

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

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflicts 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: June 6, 2002.

**Anthony J. Principi,**

*Secretary of Veterans Affairs.*

For the reasons set out in the preamble, 38 CFR part 21 (subparts D and K) is proposed to be amended as set forth below.

### 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. Section 21.4138 is amended by:

a. In paragraph (f)(1)(v), removing “basis. or” and adding, in its place, “basis;”.

b. In paragraph (f)(1)(vi), removing “basis.” and adding, in its place, “basis; or”.

c. Adding paragraph (f)(1)(vii).

The addition reads as follows:

#### § 21.4138 Certifications and release of payments.

\* \* \* \* \*

(f) \* \* \*

(1) \* \* \*

(vii) The veteran receives an accelerated payment for the term, quarter, semester, or summer session preceding the interval.

\* \* \* \* \*

3. Section 21.4200 is amended by:

a. In paragraph (a)(4), removing “section; or” and adding, in its place, “section;”;

b. In paragraph (a)(5), removing “program.” and adding, in its place, “program; or”; and

c. Adding paragraph (a)(6); and paragraphs (aa) through (dd) immediately after the authority citation at the end of paragraph (z).

d. Revising the authority citation at the end of paragraph (a).

The revisions and additions read as follows:

#### § 21.4200 Definitions.

(a) \* \* \*

(6) Any private entity that offers, either directly or indirectly under an agreement with another entity, a course or courses to fulfill requirements for the attainment of a license or certificate generally recognized as necessary to obtain, maintain, or advance in employment in a profession or vocation in a high technology occupation.

(Authority: 38 U.S.C. 3452, 3501(a)(6), 3689(d))

\* \* \* \* \*

(aa) *High technology industry:* The term *high technology industry* includes the following industries:

- (1) Biotechnology;
- (2) Life science technologies;
- (3) Opto-electronics;
- (4) Computers and telecommunications;
- (5) Electronics;
- (6) Computer-integrated manufacturing;
- (7) Material design;
- (8) Aerospace;
- (9) Weapons;
- (10) Nuclear technology; and
- (11) Any other identified advanced technologies in the biennial Science and Engineering Indicators report published by the National Science Foundation.

(Authority: 38 U.S.C. 3014A, 3452(c), 3501(a)(6))

(bb) *Employment in a high technology industry.* *Employment in a high technology industry* means employment in a high technology occupation specific to a high technology industry.

(Authority: 38 U.S.C. 3014A)

(cc) *High technology occupation.* The term *high technology occupation* means an occupation that leads to employment in a high technology industry. These occupations consist of:

- (1) Life and physical scientists;
- (2) Engineers;
- (3) Mathematical specialists;
- (4) Engineering and science technicians;
- (5) Computer specialists; and
- (6) Engineering, scientific, and computer managers.

(Authority: 38 U.S.C. 3014A, 3452(c), 3501(a)(6))

(dd) *Computer specialists.* The term *computer specialists* includes the following occupations:

- (1) Database, system, and network administrators;

(2) Database, system, and network developers;

(3) Computer and network engineers;

(4) Systems analysts;

(5) Programmers;

(6) Computer, database, and network support specialists;

(7) All computer scientists;

(8) Web site designers;

(9) Computer and network service technicians;

(10) Computer and network electronics specialists; and

(11) All certified professionals, certified associates and certified technicians in the information technology field.

(Authority: 38 U.S.C. 3014A, 3452(c), 3501(a)(6))

\* \* \* \* \*

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

4. 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.

5. Section 21.7020 is amended by adding paragraphs (b)(47) through (b)(51) at the end of the section.

The additions read as follows:

#### § 21.7020 Definitions.

\* \* \* \* \*

(b) \* \* \*

(47) *High technology industry.* The term *high technology industry* has the same meaning as provided in § 21.4200(aa).

(Authority: 38 U.S.C. 3014A, 3452(c), 3501(a)(6))

(48) *Employment in a high technology industry.* *Employment in a high technology industry* has the same meaning as provided in § 21.4200(bb).

(Authority: 38 U.S.C. 3014A)

(49) *High technology occupation.* The term *high technology occupation* has the same meaning as provided in § 21.4200(cc).

(Authority: 38 U.S.C. 3014A, 3452(c), 3501(a)(6))

(50) *Computer specialist.* The term *computer specialist* has the same meaning as provided in § 21.4200(dd).

(Authority: 38 U.S.C. 3014A, 3452(c), 3501(a)(6))

(51) *Accelerated payment.* An *accelerated payment* is a lump sum payment of a maximum of 60 percent of the charged tuition and fees for an individual's enrollment for a term, quarter, or semester in an approved program of education leading to

employment in a high technology industry. In the case of a program of education not offered on a term, quarter, or semester basis, the accelerated payment is a lump sum payment of a maximum of 60 percent of the charged tuition and fees for the entire such program.

(Authority: 38 U.S.C. 3014A)

6. Section 21.7076 is amended by revising paragraphs (a), (b)(1) introductory text, and (b)(7) to read as follows:

**§ 21.7076 Entitlement charges.**

(a) *Overview.* VA will make charges against entitlement as stated in this section.

(1) Charges will be made against the entitlement the veteran or servicemember has to educational assistance under 38 U.S.C. chapter 30 as the assistance is paid.

(2) There will be a charge (for record purposes only) against the remaining entitlement, under 38 U.S.C. chapter 34, of an individual who is receiving the educational assistance under § 21.7137 of this part. The record-purpose 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 service member may be entitled. (See § 21.4020(a) of this part).

(3) Generally, VA will base those entitlement charges on the principle that a veteran or service member who trains full time for one day should be charged one day of entitlement. However, this general principle does not apply to a veteran or servicemember who:

- (i) Is pursuing correspondence training;
- (ii) Is pursuing flight training;
- (iii) Is pursuing an apprenticeship or other on-job training; or
- (iv) Is paid an accelerated payment.

(4) The provisions of this section apply to:

(i) Veterans and service members training under 38 U.S.C. chapter 30; and

(ii) Veterans training under 38 U.S.C. chapter 31 who make a valid election under § 21.21 of this part to receive educational assistance equivalent to that paid to veterans under 38 U.S.C. chapter 30.

(Authority: 38 U.S.C. 3013, 3014(A), 3014(b))

(b) \* \* \*

(1) Except for those pursuing correspondence training, flight training, apprenticeship or other on-the-job training, those who are receiving tutorial assistance, and those who

receive an accelerated payment, VA will make a charge against entitlement:

\* \* \* \* \*

(7) When a veteran or servicemember is paid an accelerated payment, VA will make a charge against entitlement for each accelerated 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 accelerated payment by an amount equal to the rate of basic educational assistance otherwise applicable to him or her for full-time institutional training. If the rate of basic educational assistance increases during the enrollment period, VA will charge entitlement for the periods covered by the initial rate and the increased rate, respectively.

(Authority: 38 U.S.C. 3014A)

\* \* \* \* \*

7. Section 21.7140 is amended by:

a. Redesignating paragraphs (b) through (f) as paragraphs (c) through (g), respectively.

b. Adding a new paragraph (b).

c. Revising newly redesignated paragraph (c)(1) introductory text.

The addition and revision read as follows:

**§ 21.7140 Certifications and release of payments.**

\* \* \* \* \*

(b) *Accelerated payments.* VA will apply the provisions of §§ 21.7151(a), (c), (d), and 21.7154(c) in making accelerated payments.

(c) \* \* \*

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

\* \* \* \* \*

**§ 21.7142 [Redesignated as § 21.7143]**

8. Section 21.7142 is redesignated as § 21.7143.

9. A new § 21.7142 is added to read as follows:

**§ 21.7142 Accelerated payments.**

The accelerated payment will be the lesser of—

(a) The amount equal to 60 percent of the charged tuition and fees for the term, quarter or semester (or the entire program of education for those programs not offered on a term, quarter, or semester basis), or

(b) The aggregate amount of basic education assistance to which the

individual remains entitled under this chapter at the time of the payment.

(Authority: 38 U.S.C. 3014A)

10. Section 21.7151 is amended by:

- a. Revising the section heading.
- b. Adding paragraph (c) immediately following the authority citation at the end of the section.

The revision and additions read as follows:

**§ 21.7151 Advance payment and accelerated payment certifications.**

\* \* \* \* \*

(c) *Accelerated payments.* (1) A veteran or servicemember is eligible for an accelerated payment only if—

(i) The veteran or servicemember submits a signed statement to the school or to VA that states “I request accelerated payment”;

(ii) The veteran or servicemember is enrolled in a course or program of education or training beginning on or after October 1, 2002;

(iii) The veteran is enrolled in an approved program as defined in § 21.4200 (aa);

(iv) The charged tuition and fees for the term, quarter, or semester (or entire program for those programs not offered on a term, quarter or semester basis) divided by the number of months (and fractions thereof) in the enrollment period, exceeds the amount equal to 200 percent of the monthly rate of basic educational assistance allowance otherwise payable under §§ 21.7136 or 21.7137, as applicable; and

(v) The veteran or servicemember requesting the accelerated payment has not received an advance payment under § 21.7140(a) for the same enrollment period.

(2) Except as provided in paragraph (c)(5) of this section, VA will make the accelerated payment directly to the educational institution, in the veteran's or servicemember's name, for delivery to the veteran or servicemember if:

(i) The educational institution submits the enrollment certification required under § 21.7152 before the actual start of the term, quarter or semester (or the start of the program for a program not offered on a term, quarter or semester basis); and

(ii) The educational institution at which the veteran or servicemember is accepted or enrolled agrees to—

(A) Provide for the safekeeping of the accelerated payment check before delivery to the veteran or servicemember;

(B) Deliver the payment to the veteran or servicemember no earlier than the start of the term, quarter or semester (or the start of the program if the program

is not offered on a term, quarter or semester basis);

(C) Certify the enrollment of the veteran or servicemember and the amount of tuition and fees therefor; and

(D) Certify the delivery of the accelerated payment to the veteran or servicemember.

(3) VA will make accelerated payments directly to the veteran or servicemember if the enrollment certification required under § 21.7152 is submitted on or after the first day of the enrollment period. VA will electronically deposit the accelerated payment in the veteran's or servicemember's bank account unless—

(i) The veteran or servicemember does not have a bank account; or

(ii) The veteran or servicemember objects to payment by electronic funds transfer.

(4) VA must make the accelerated payment no later than the last day of the month immediately following the month in which VA receives a certification from the educational institution regarding—

(i) The veteran's or servicemember's enrollment in the program of education; and

(ii) The amount of the charged tuition and fees for the term, quarter or semester (or for a program that is not offered on a term, quarter, or semester basis, the entire program).

(5) The Director of the VA field station of jurisdiction may direct that accelerated payments not be made in advance of the first day of the enrollment period in the case of veterans or servicemembers attending an educational institution that demonstrates its inability to discharge its responsibilities for accelerated payments. In such a case, the accelerated payment will be made directly to the veteran or servicemember as provided in paragraph (c)(3) of this section.

(Authority: 38 U.S.C. 3014A)

11. Section 21.7154 is amended by:

a. Revising the authority citation at the end of paragraph (a).

b. Adding paragraph (a)(4) immediately following the authority citation at the end of paragraph (a)(3); and by adding paragraph (d) immediately following the authority citation at the end of the section.

The revision and additions read as follows:

**§ 21.7154 Pursuit and absences.**

\* \* \* \* \*

(a) \* \* \*

(4) Has received an accelerated payment for the enrollment period.

(Authority: 38 U.S.C. 3014A, 3034, 3684)

\* \* \* \* \*

(d) *Additional requirements for individuals receiving an accelerated payment.*

(1) When an individual receives an accelerated payment as provided in § 21.7151(c) and (d), he or she must certify the following information within 60 days of the end of the term, quarter or semester (or entire program when the program is not offered on a term, quarter, or semester basis) for which the accelerated payment was made:

(i) The course or program was successfully completed, or if the course was not completed—

(A) The date the veteran or servicemember last attended; and

(B) An explanation why the course was not completed;

(ii) If the veteran or servicemember increased or decreased his or her training time—

(A) The date the veteran or servicemember increased or decreased training time; and

(B) The number of credit/clock hours pursued before and after each such change in training time; and

(iii) The accelerated payment was received and used.

(2) VA will establish an overpayment equal to the amount of the accelerated payment if the required certifications in paragraph (c)(1) of this section are not timely received.

(3) VA will determine the amount of the overpayment of benefits for courses not completed in the following manner—

(i) For a veteran or servicemember who does not complete the full course, courses, or program for which the accelerated payment was made, and who does not substantiate mitigating circumstances for not completing, VA will establish an overpayment equal to the amount of the accelerated payment.

(ii) For a veteran or servicemember who does not complete the full course, courses, or program for which the accelerated payment was made, but who substantiates mitigating circumstances for not completing, VA will prorate the amount of the accelerated payment to which he or she is entitled based on the number of days from the beginning date of the enrollment period through the date of last attendance. VA will determine the prorated amount by dividing the accelerated payment amount by the number of days in the enrollment period, and multiplying the result by the number of days from the beginning date of the enrollment period through the date of last attendance. The result of this calculation will equal the amount the individual is due. The

difference between the accelerated payment and the amount the individual is due will be established as an overpayment.

(Authority: 38 U.S.C. 3014A(g))

\* \* \* \* \*

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[IN141-1b; FRL-7273-6]

**Approval and Promulgation of Implementation Plans; Indiana; Volatile Organic Compound Regulations**

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

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing to approve, through a direct final procedure, a revision to the Indiana State Implementation Plan (SIP) to add Volatile Organic Compound (VOC) capture efficiency testing procedures to the existing VOC emission control regulations. The Indiana Department of Environmental Management (IDEM) submitted the adopted rule revision as a requested SIP revision on August 8, 2001. Control system capture efficiency requirements are components of several State VOC control rules, particularly the rules covering the control of VOC emissions from coating and graphic arts sources. The existing State VOC rules specify minimum capture efficiencies for some source categories, and some sources may seek VOC emission reduction credits through increases in capture efficiency.

In a separate action in the "Rules and Regulations" section of this **Federal Register**, EPA is approving the State's capture efficiency testing rule revision to the SIP through a direct final rule without prior proposal because EPA views this action as noncontroversial and anticipates no adverse comments. The rationale for approval is set forth in the preamble to the direct final rule. If EPA receives no written adverse comments, EPA will take no further action on this proposed rule. If EPA receives meaningful written adverse comment, we 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. In that event, EPA will address all relevant public comments in a subsequent final rule based on this proposed rule. In either event, EPA will not institute a