

impaired by heavy weather, defective steering equipment, defective main propulsion machinery, or other damage, may not enter the Regulated Navigation Area without the permission of the Captain of the Port.

(ii) After entry. A vessel over 100 gross tons, which is underway in the Regulated Navigation Area, that has its ability to maneuver become impaired for any reason, shall, as soon as possible, report the impairment to the Captain of the Port.

(6) *Requirements for navigation charts, radars, and pilots.* No vessel over 100 gross tons may enter the Regulated Navigation Area, unless it has on board:

(i) Corrected charts of the Regulated Navigation Area. Instead of corrected paper charts, warships or other vessels owned, leased, or operated by the United States Government and used only in government noncommercial service may carry electronic charting and navigation systems that have met the applicable agency regulations regarding navigation safety.

(ii) An operative radar during periods of reduced visibility;

(iii) When in inland waters, a pilot or other person on board with previous experience navigating vessels on the waters of the Regulated Navigation Area.

(7) *Emergency procedures.*

(i) Except as provided in paragraph (d)(7)(ii) of this section, in an emergency any vessel may deviate from the regulations in this section to the extent necessary to avoid endangering the safety of persons, property, or the environment.

(ii) A vessel over 100 gross tons with an emergency that is located within two nautical miles of the CBBT or I-664 Bridge Tunnel shall notify the Captain of the Port of its location and the nature of the emergency, as soon as possible.

(8) *Vessel speed limits.*

(i) *Little Creek.* A vessel may not proceed at a speed over five knots between the Route 60 bridge and the mouth of Fishermans Cove (Northwest Branch of Little Creek).

(ii) *Southern Branch of the Elizabeth River.* A vessel may not proceed at a speed over six knots between the junction of the Southern and Eastern Branches of the Elizabeth River and the Norfolk and Portsmouth Belt Line Railroad Bridge between Chesapeake and Portsmouth, Virginia.

(iii) *Norfolk Harbor Reach.* Nonpublic vessels of 300 gross tons or more may not proceed at a speed over 10 knots between the Elizabeth River Channel Lighted Gong Buoy 5 of Norfolk Harbor Reach (southwest of Sewells Point) at

approximately 36°58'00" N, 076°20'00" W, and gated Elizabeth River Channel Lighted Buoys 17 and 18 of Craney Island Reach (southwest of Norfolk International Terminal at approximately 36°54'17" N, and 076°20'11" W).

(9) *Port security requirements.* Vessels in excess of 300 gross tons, including tug and barge combinations in excess of 300 gross tons (combined), shall not enter the Regulated Navigation Area, move within the Regulated Navigation Area, or be present within the Regulated Navigation Area, unless they comply with the following requirements:

(i) Obtain authorization to enter the Regulated Navigation Area from the designated representative of the Captain of the Port prior to entry. All vessels entering or remaining in the Regulated Navigation Area may be subject to a Coast Guard boarding.

(ii) Ensure that no person who is not a permanent member of the vessel's crew, or a member of a Coast Guard boarding team, boards the vessel without a valid purpose and photo identification.

(iii) Report any departure from or movement within the Regulated Navigation Area to the designated representative of the Captain of the Port prior to getting underway.

(iv) The designated representative of the Captain of the Port shall be contacted on VHF-FM channel 12, or by calling (757) 444-5209, (757) 444-5210, or (757) 668-5555.

(v) In addition to the authorities listed in this part, this paragraph is promulgated under the authority under 33 U.S.C. 1226.

(e) *Waivers.*

(1) The Captain of the Port may, upon request, waive any regulation in this section.

(2) An application for a waiver must state the need for the waiver and describe the proposed vessel operations.

(f) *Control of vessels within the regulated navigation area.*

(1) When necessary to prevent damage, destruction or loss of any vessel, facility or port infrastructure, the Captain of the Port may direct the movement of vessels or issue orders requiring vessels to anchor or moor in specific locations.

(2) If needed for the maritime, commercial or security interests of the United States, the Captain of the Port may order a vessel to move from the location in which it is anchored to another location within the Regulated Navigation Area.

(3) The master of a vessel within the Regulated Navigation Area shall comply with any orders or directions issued to

the master's vessel by the Captain of the Port.

Dated: June 5, 2003.

Sally Brice-O'Hara,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 03-14866 Filed 6-11-03; 8:45 am]

BILLING CODE 4910-15-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: Final rule.

SUMMARY: This document adopts as a final rule, with a minor non-substantive change, a proposed rule amending the regulations governing various aspects of the educational assistance programs the Department of Veterans Affairs (VA) administers. The final rule implements 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 rule also amends the regulation defining educational institution to include certain private technology entities.

DATES: This final rule is effective June 12, 2003.

Applicability Dates: The revisions to the various sections of the Code of Federal Regulations amended in this final rule are applied retroactively to October 1, 2002, to conform to statutory requirements.

FOR FURTHER INFORMATION CONTACT: Lynn M. Cossette, Education Advisor, Education Service (225C), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, 202-273-7294.

SUPPLEMENTARY INFORMATION: In a document published in the **Federal Register** on September 11, 2002 (67 FR 57543), VA published a proposed rule amending subparts D and K of 38 CFR part 21, regarding criteria for accelerated

payment of Montgomery GI Bill benefits as stated in the **SUMMARY** portion of this document.

Interested persons were given 60 days to submit comments on the proposed rule and the proposed information collections. VA received one comment concerning the proposed rule. The comment came from a director of a company that has a financial interest in a construction trade school. He requested that VA include "Construction Trades" or "Construction Crafts" in the list of industries an individual must intend to seek employment in to qualify for the accelerated payment provisions. The Veterans Education and Benefits Expansion Act of 2001 (Public Law 107-103) allows an accelerated payment only for courses leading to employment in a "high technology" industry. Although the construction trade does offer jobs in technical fields, the construction trade industry did not appear as a "high technology" industry in the data we reviewed. The

SUPPLEMENTARY INFORMATION section of the proposed rule shows the data we used in arriving at the list of "high technology" industries. Because the law specifically states the training must lead to employment in a "high technology" industry, VA cannot offer accelerated payment for courses leading to employment in other industries. Thus, we did not amend the proposed rule based on the comment received.

Based on the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposed rule as a final rule, except as stated below.

We amended proposed § 21.7151(c) to include information inadvertently omitted. The amendment, located at § 21.7151(c)(1)(vi), applies when an individual who received an accelerated payment applies for a subsequent accelerated payment. This amendment states that an individual must make all certifications required in § 21.7154(d) for any previous accelerated payment before we make a subsequent accelerated payment. The purpose of this amendment is to ensure proper payment of benefits by avoiding overpayments. Generally, Montgomery GI Bill payments are paid at the end of each month after students certify their attendance for that month. However, under the accelerated payment provisions individuals can receive the payment at the start of a course but their certification is not required until the end of the course. An individual could receive a payment of \$6,000 at the start of the course. After receiving payment he or she might drop out of the course

and therefore may not be entitled to the full \$6,000 payment. The certification shows whether the individual completed the course or not. If he or she dropped the course, the certification will show the date last attended. VA uses the certification information to recalculate the payment and determine if an overpayment of benefits occurred. Before we release another accelerated payment, we must be certain that an overpayment has not occurred. If an overpayment has occurred, we would notify the individual of the amount owed VA and, if necessary reduce the subsequent accelerated payment by that amount.

Additionally, paragraph (b) of § 21.7140 has been changed to correct typographical errors that were published in the proposed rule on September 11, 2002, at 67 FR 57543. The first error was an incorrect cite to § 21.7151(d), which does not exist. The second error was an incorrect cite to § 21.7154(c), which should have read § 21.7154(d). This document corrects those errors.

Paperwork Reduction Act

The final rule contains new reporting requirements. We described the new reporting requirements in the preamble of the proposed rule and provided a comment period. We did not receive any comments concerning the new reporting requirements. The Office of Management and Budget assigned control number 2900-0636 to the new reporting requirements.

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 final rule has 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 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 affects only individuals and will not directly affect small entities. Pursuant to 5 U.S.C. 605(b), this 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: March 12, 2003.

Anthony J. Principi,

Secretary of Veterans Affairs.

■ For the reasons set out in the preamble, 38 CFR part 21 (subparts D and K) is amended to read 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. 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) immediately following the authority citation 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), and 21.7154(d) 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) and the information parenthetical 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;

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

(vi) The veteran or servicemember has submitted all certifications required under § 21.7154(d) for any previous accelerated payment he or she received.

(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 (a)(3).

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

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900–0636.)

■ 11. Section 21.7154 is amended by:

■ a. Revising the authority citation at the end of paragraph (a) and the information parenthetical at the end of the section.

■ 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))

* * * * *

(The Office of Management and Budget has approved the information collection requirements in this section under control numbers 2900-0465 and 2900-0636.)

[FR Doc. 03-14860 Filed 6-11-03; 8:45 am]

BILLING CODE 8320-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[IN156-1a; FRL-7512-4]

Approval and Promulgation of State Plans for Facilities and Pollutants: Indiana; Plan for Controlling Emissions from Existing Commercial and Industrial Solid Waste Incinerators

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving the plan submitted by the Indiana Department of Environmental Management (IDEM) on December 20, 2002, under sections 111(d) and 129 of the Clean Air Act (Act). This plan is designed to implement and enforce the federal Emission Guidelines (EG) applicable to existing Commercial and Industrial Solid Waste Incineration units (CISWI) for which construction commenced on or before November 30, 1999.

DATES: This rule is effective on August 11, 2003 without further notice unless EPA receives significant adverse written comment by July 14, 2003. If EPA receives such comments, 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.

ADDRESSES: Comments must be submitted to J. Elmer Bortzer, Chief,

Regulation Development Section, Air and Radiation Division (AR-18J) Region 5, U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. You may examine copies of materials relevant to this action during normal business hours, by appointment at the following locations: Environmental Protection Agency, Region 5, 18th Floor Docket Room, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

FOR FURTHER INFORMATION CONTACT: John Paskevicz, Engineer, at (312) 886-6084, or e-mail at paskevicz.john@epa.gov, if you intend to visit the Region 5 office.

SUPPLEMENTARY INFORMATION:

Throughout this document, the terms “you” refer to the reader of this rule and/or to sources subject to the State rule, and the terms “we”, “us”, or “our” refers to EPA.

Table of Contents

- I. Background
- II. What does the State plan contain?
- III. Does the State plan meet EPA requirements?
- IV. What action is EPA taking today?
- V. Statutory and Executive Order Reviews

I. Background

On December 1, 2000, in accordance with sections 111 and 129 of the Act, the EPA promulgated CISWI EGs and compliance schedules for the control of emissions from CISWI units. See 65 FR 75362. EPA codified these regulations at 40 CFR part 60, subpart DDDD. Under section 129(b)(2) of the Act and the regulations at subpart DDDD, states with subject sources must submit to EPA plans that implements the EGs. These plans must be at least as protective as the EGs, which are not federally enforceable until EPA approves a State plan (or adopts a federal plan for implementation and enforcement).

On February 23, 2001, Region 5, EPA sent a letter to Indiana, as well as other States in the Region, informing the State of the need to develop a CISWI plan for its subject sources. We also identified the nine elements necessary for an approvable CISWI plan, as contained in 40 CFR 60.2515.

On December 20, 2002, IDEM submitted to EPA its CISWI plan. This submission followed public hearings on February 6, 2002 and public notice of the State plan on October 7, 2002. The State adopted the rule in final form on May 1, 2002; it became effective on September 6, 2002. The plan includes State rule 326 IAC 11-8, which establishes emission standards for existing CISWI consistent with 40 CFR part 60, subpart DDDD.