

## Indian Tribal Governments

This final rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

## Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

## Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

## Environment

We have analyzed this final rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2-1, paragraph (32)(e), of the Instruction, from further environmental

documentation. It has been determined that this final rule does not significantly impact the environment.

## List of Subjects in 33 CFR Part 117

Bridges.

## Regulations

■ For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

### PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05-1(g); section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

■ 2. On June 18, 2005, from 9 a.m. to 5 p.m., § 117.593 is suspended and a new § 117.T592 is added to read as follows:

#### § 117.T592 Chelsea River.

(a) All drawbridges across the Chelsea River shall open on signal; except that, the P.J. McArdle Bridge, mile 0.3, need not open for the passage of vessel traffic from 9 a.m. to 5 p.m. on June 18, 2005.

(b) The opening signal for each drawbridge is two prolonged blasts followed by two short blasts and one prolonged blast. The acknowledging signal is three prolonged blasts when the draw can be opened immediately and two prolonged blasts when the draw cannot be opened or is open and must be closed.

Dated: May 5, 2005.

**J.L. Grenier,**

*Captain, U.S. Coast Guard, Acting Commander, First Coast Guard District.*

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## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 21

**RIN 2900-AL79**

### Veterans Education: Non-Payment of VA Educational Assistance to Fugitive Felons

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

**SUMMARY:** This document amends Department of Veterans Affairs (VA) regulations to reflect a provision in the Veterans Education and Benefits Expansion Act of 2001 (Act). The Act contains a provision in section 505 that prohibits VA from awarding educational

assistance allowance to individuals during any period that they are fugitive felons. Section 505 further prohibits payment of educational assistance allowance to a dependent of a veteran if the veteran is a fugitive felon. The prohibitions apply to the following VA educational assistance programs: Montgomery GI Bill-Active Duty, Post-Vietnam Era Veteran's Educational Assistance Program, and Survivors' and Dependents' Educational Assistance.

**DATES:** *Effective Date:* This final rule is effective May 16, 2005.

*Applicability Date.* The substantive changes made by this final rule are applied retroactively to December 27, 2001, to conform to statutory requirements.

#### FOR FURTHER INFORMATION CONTACT:

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

**SUPPLEMENTARY INFORMATION:** Section 505 of the Veterans Education and Benefits Expansion Act of 2001, enacted December 27, 2001, prohibits the payment of educational assistance allowance to veterans who are fugitive felons. The Act further prohibits payment of educational assistance allowance to an otherwise eligible dependent of a veteran if the veteran or the dependent is a fugitive felon. The prohibitions apply to the following educational assistance programs.

- Montgomery GI Bill—Active Duty (MGIB), 38 U.S.C. chapter 30;
- Post-Vietnam Era Veteran's Educational Assistance Program (VEAP), 38 U.S.C. chapter 32; and
- Survivors' and Dependents' Educational Assistance (DEA), 38 U.S.C. chapter 35.

The amendments to the regulations include definitions for "fugitive felon" and "felony" as defined in the Act. VA expanded the definition of "fugitive felon" to show that individuals are identified as such by Federal, State, or local law enforcement officials. It is the law enforcement officials, and not VA, who identify an individual as a "fugitive felon."

The amendments include rules showing that educational assistance allowance will be discontinued effective the later of December 27, 2001, or the date of the warrant for the arrest of the felon. In the case of a dependent, when the veteran from whom the dependent derives eligibility is the fugitive felon, the date of discontinuance is the later of December 27, 2001, or the date of the warrant for the arrest of the felon. Payment of educational assistance allowance to an otherwise eligible

individual may begin effective the date the warrant is cleared. The rules are the same for each education program listed above.

#### Administrative Procedure Act

Changes made by this final rule merely reflect statutory requirements. Accordingly, this rule is exempt from the notice-and-comment and delayed-effective-date requirements of 5 U.S.C. 553.

#### Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

#### Unfunded Mandates

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

#### 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 directly affect only individuals and will not directly affect small entities. 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.

#### 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, Conflict of interests, Education, Employment, Grant programs-education, Grant programs-veterans, Health care, Loan programs-education, Loan programs-veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: May 10, 2005.

**R. James Nicholson,**

*Secretary of Veterans Affairs.*

■ For the reasons set out in the preamble, 38 CFR part 21 (subparts C, D, and K) is amended as follows:

### PART 21—VOCATIONAL REHABILITATION AND EDUCATION

#### Subpart C—Survivors' and Dependents' Educational Assistance Under 38 U.S.C. Chapter 35

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

**Authority:** 38 U.S.C. 501(a), 512, 3500–3566, unless otherwise noted.

■ 2. Amend § 21.3135 to add paragraph (j) immediately after the authority citation at the end of paragraph (i) to read as follows:

#### § 21.3135 Reduction or discontinuance dates for awards of educational assistance allowance.

\* \* \* \* \*

(j) *Fugitive felons.* (1) VA will not award educational assistance allowance to an otherwise eligible person for any period after December 26, 2001, during which the—

(i) Eligible person is a fugitive felon; or

(ii) Veteran from whom eligibility is derived is a fugitive felon.

(2) The date of discontinuance of an award of educational assistance allowance to an eligible person is the later of—

(i) The date of the warrant for the arrest of the felon; or

(ii) December 27, 2001.

(Authority: 38 U.S.C. 5313B)

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

■ 3. 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.

■ 4. Amend § 21.4131 to add paragraph (i) immediately after the authority citation at the end of paragraph (h) to read as follows:

#### § 21.4131 Commencing dates.

\* \* \* \* \*

(i) *Fugitive felons.* An award of educational assistance allowance to an otherwise eligible veteran or person will begin effective the date the warrant for the arrest of the felon is cleared by—

(1) Arrest;

(2) Surrendering to the issuing authority;

(3) Dismissal; or

(4) Court documents (dated after the warrant for the arrest of the felon) showing the individual is no longer a fugitive.

(Authority: 38 U.S.C. 5313B)

\* \* \* \* \*

■ 5. Amend § 21.4135 to add paragraph (n) immediately after the authority citation at the end of paragraph (m) to read as follows:

#### § 21.4135 Discontinuance dates.

\* \* \* \* \*

(n) *Fugitive felons: veterans eligible under 38 U.S.C. chapter 32.* VA will not award educational assistance allowance to an otherwise eligible veteran for any period after December 26, 2001, during which the veteran is a fugitive felon. The date of discontinuance of an award of educational assistance allowance to a veteran who is a fugitive felon is the later of—

(1) The date of the warrant for the arrest of the felon; or

(2) December 27, 2001.

(Authority: 38 U.S.C. 5313B)

\* \* \* \* \*

■ 6. Amend § 21.4200 to add and reserve paragraphs (ee) through (jj) immediately after the authority citation at the end of paragraph (dd) and to add paragraphs (kk) and (ll) to read as follows:

#### § 21.4200 Definitions.

\* \* \* \* \*

(ee)–(jj) [*Reserved*]

(kk) *Fugitive felon.* The term *fugitive felon* means an individual identified as such by Federal, State, or local law enforcement officials and who is a fugitive by reason of—

(1) Fleeing to avoid prosecution for an offense, or an attempt to commit an offense, which is a felony under the laws of the place from which the person flees;

(2) Fleeing to avoid custody or confinement after conviction for an offense, or an attempt to commit an offense, which is a felony under the laws of the place from which the person flees; or

(3) Violating a condition of probation or parole imposed for commission of a felony under Federal or State law.

(Authority: 38 U.S.C. 5313B)

(ll) *Felony.* The term *felony* means a major crime or offense defined as such under the law of the place where the offense was committed or under Federal law. It includes a high misdemeanor under the laws of a State which characterizes as high misdemeanors offenses that would be felony offenses under Federal law.

(Authority: 38 U.S.C. 5313B)

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

■ 7. 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.

■ 8. Amend § 21.7020 to add and reserve paragraphs (b)(52) through (b)(55) immediately after the authority citation at the end of paragraph (b)(51) and to add paragraphs (b)(56) and (b)(57) to read as follows:

#### § 21.7020 Definitions.

\* \* \* \* \*

(b) \* \* \*

(52)–(55) [Reserved]

(56) *Fugitive felon*. The term *fugitive felon* has the same meaning as provided in § 21.4200(kk).

(Authority: 38 U.S.C. 5313B)

(57) *Felony*. The term *felony* has the same meaning as provided in § 21.4200(ll).

(Authority: 38 U.S.C. 5313B)

■ 9. Amend § 21.7131 to add paragraph (q) immediately after the information collection requirement approval parenthetical at the end of paragraph (p) to read as follows:

#### § 21.7131 Commencing dates.

\* \* \* \* \*

(q) *Fugitive felons*. (1) An award of educational assistance allowance to an otherwise eligible veteran may begin effective the date the warrant for the arrest of the felon is cleared by—

(i) Arrest;

(ii) Surrendering to the issuing authority;

(iii) Dismissal; or

(iv) Court documents (dated after the warrant) showing the veteran is no longer a fugitive.

(2) An award of educational assistance allowance to a dependent who is otherwise eligible to transferred entitlement may begin effective the date the warrant is cleared by—

(i) Arrest;

(ii) Surrendering to the issuing authority;

(iii) Dismissal; or

(iv) Court documents (dated after the warrant) showing the individual is no longer a fugitive.

(Authority: 38 U.S.C. 5313B)

■ 10. Amend § 21.7135 to add paragraph (aa) immediately after the authority citation at the end of paragraph (z) to read as follows:

#### § 21.7135 Discontinuance dates.

\* \* \* \* \*

(aa) *Fugitive felons*. (1) VA will not award educational assistance allowance

to an otherwise eligible veteran for any period after December 26, 2001, during which the veteran is a fugitive felon. The date of discontinuance of an award of educational assistance allowance to a veteran who is a fugitive felon is the later of—

(i) The date of the warrant for the arrest of the felon; or

(ii) December 27, 2001.

(2) VA will not award educational assistance allowance to a dependent who is otherwise eligible to transferred entitlement if the dependent is a fugitive felon or if the veteran who transferred the entitlement is a fugitive felon. The date of discontinuance of an award of educational assistance allowance to a dependent is the later of—

(i) The date of the warrant; or

(ii) December 27, 2001.

(Authority: 38 U.S.C. 5313B)

\* \* \* \* \*

[FR Doc. 05–9733 Filed 5–13–05; 8:45 am]

BILLING CODE 8320–01–P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

#### 44 CFR Part 64

[Docket No. FEMA–7877]

### Suspension of Community Eligibility

**AGENCY:** Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

**ACTION:** Final rule.

**SUMMARY:** This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date.

**EFFECTIVE DATES:** The effective date of each community's scheduled suspension is the third date ("Susp.") listed in the third column of the following tables.

**ADDRESSES:** If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

#### FOR FURTHER INFORMATION CONTACT:

Michael M. Grimm, Mitigation Division, 500 C Street, SW., Room 412, Washington, DC 20472, (202) 646–2878.

**SUPPLEMENTARY INFORMATION:** The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 *et seq.*; unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59 *et seq.* Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas