

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		$i_1$	$i_2$	$i_3$	$n_1$	$n_2$
* 172	* 02-1-08	* 03-1-08	* 3.25	* 4.00	* 4.00	* 4.00	* 7	* 8

■ 3. In appendix C to part 4022, Rate Set 172, as set forth below, is added to the table.

**Appendix C to Part 4022—Lump Sum Interest Rates for Private-Sector Payments**

\* \* \* \* \*

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		$i_1$	$i_2$	$i_3$	$n_1$	$n_2$
* 172	* 02-1-08	* 03-1-08	* 3.25	* 4.00	* 4.00	* 4.00	* 7	* 8

**PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS**

■ 4. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

■ 5. In appendix B to part 4044, a new entry for February 2008, as set forth below, is added to the table.

**Appendix B to Part 4044—Interest Rates Used to Value Benefits**

\* \* \* \* \*

For valuation dates occurring in the month—	The values of $i_t$ are:					
	$i_t$	for t =	$i_t$	for t =	$i_t$	for t =
* February 2008 .....	* .0550	* 1-20	* .0457	* >20	* N/A	* N/A

Issued in Washington, DC, on this 9th day of January 2008.  
**Vincent K. Snowbarger,**  
 Deputy Director, Pension Benefit Guaranty Corporation.  
 [FR Doc. E8-600 Filed 1-14-08; 8:45 am]  
 BILLING CODE 7709-01-P

**DEPARTMENT OF VETERANS AFFAIRS**

**38 CFR Part 21**  
**RIN 2900-AL28**

**Veterans Education: Incorporation of Miscellaneous Statutory Provisions**

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

**SUMMARY:** This document amends regulations governing various aspects of the education programs administered by the Department of Veterans Affairs. These amendments reflect some of the provisions of the Veterans Education and Benefits Expansion Act of 2001, the Veterans Benefits Act of 2003, and the

Veterans Benefits, Health Care, and Information Technology Act of 2006. The changes include: Restoration of certain education benefits for individuals being ordered to active duty; restoration of Survivors' and Dependents' Educational Assistance to certain full-time National Guard members; an opportunity for certain Vietnam-era veterans to qualify for Montgomery GI Bill education benefits; an increase in the maximum amount an individual can receive under the Senior Reserve Officer Training Corps educational assistance program and still qualify for the Montgomery GI Bill—Active Duty program; establishment of an ending date of the eligibility period for spouses under the Survivors' and Dependents' Educational Assistance program; expansion of special restorative training benefits to certain disabled spouses or disabled surviving spouses; and providing educational benefits for an independent study course that leads to a certificate reflecting educational attainment offered by an institution of higher learning. The document also amends the

education regulations by making changes to reflect current agency organization and nonsubstantive changes for the purpose of readability or clarity.

**DATES: Effective Date:** This final rule is effective January 15, 2008.

**Applicability Dates.** Amendments in this final rule are applied retroactively to conform to the effective date of statutory provisions. For more information concerning the dates of applicability, see the **SUPPLEMENTARY INFORMATION** section.

**FOR FURTHER INFORMATION CONTACT:** Lynn M. Nelson, Assistant Director, Policy and Program Administration (225), Education Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461-9827.

**SUPPLEMENTARY INFORMATION:** The Veterans Education and Benefits Expansion Act of 2001 (Pub. L. 107-103) ("Act") provides eligibility under the Montgomery GI Bill—Active Duty (MGIB) program to some additional Vietnam-era veterans. Previously, only

certain Vietnam-era veterans who were eligible for benefits under the Vietnam-era GI Bill (38 U.S.C. chapter 34) on December 31, 1989, and who met specific active-duty requirements were eligible to convert to the MGIB program. The Act extends an opportunity to gain MGIB eligibility to additional veterans by modifying certain active-duty requirements. The eligibility period for veterans who became eligible under Public Law 107-103 began December 27, 2001. We are amending the regulations to reflect the changes in eligibility requirements.

The Act raised the maximum amount individuals entitled to educational assistance under the Senior Reserve Officer Training Corps (SROTC) program may receive and still remain eligible to elect the MGIB program. Before January 1, 2002, officers commissioned directly from a SROTC program who entered on active duty after September 30, 1996, and who received more than \$2,000 in SROTC scholarship funds for each year of the program, were not eligible for the MGIB program. Under the Act, individuals who entered active duty after September 30, 1996, may become eligible for the MGIB program beginning January 1, 2002, if they received \$3,400 or less in any year they participated in the SROTC scholarship program. We are amending the pertinent regulation to reflect the statutory change.

Section 103 of Public Law 107-103 restored education benefits under 38 U.S.C. chapters 30, 32, and 35 to certain individuals ordered to active duty. This provision applies to individuals ordered, by orders dated on or after September 11, 2001, to active duty under 10 U.S.C. 688, 12301(a), 12301(d), 12301(g), 12302, or 12304. In addition, the Veterans Benefits, Health Care, and Information Technology Act of 2006 (Pub. L. 109-461) permitted restoration of Survivors' and Dependents' Educational Assistance (DEA) entitlement under 38 U.S.C. chapter 35 to certain full-time National Guard members who were involuntarily ordered to full-time duty on or after September 11, 2001. Generally, most individuals are eligible for 36 months of full-time benefits (45 months under the DEA program). We refer to the 36 months of benefits as 36 months of "entitlement". For each day of full-time benefits that we pay, we deduct 1 day of entitlement. If an individual is ordered to duty as indicated above, and has to withdraw from his or her course(s), VA will pay benefits up to the date of withdrawal. Although under these circumstances we pay benefits, the individual's entitlement will not reflect

this, provided the veteran received no credit for the course-work completed up to the point of withdrawal. For example, if someone started a course with 36 months of benefits available, and we paid for 2 months of benefits before he or she dropped the course, we would charge 2 months of entitlement. That individual would have 34 months of benefits remaining. Under the restoration-of-entitlement provisions, we will restore the 2 months of entitlement. So, although an individual received benefits for 2 months, his or her entitlement will not be reduced. We are amending the pertinent regulations to reflect these provisions of Public Law 107-103 and Public Law 109-461.

Section 103 of Public Law 107-103 permits VA to extend the DEA eligibility period for an eligible person who is ordered, by orders dated on or after September 11, 2001, to active duty under 10 U.S.C. 688, 12301(a), 12301(d), 12301(g), 12302, or 12304. The extension is equal to the time served on active duty, plus an additional four months. In addition, section 303 of the Veterans Benefits Act of 2003 (Pub. L. 108-183) permitted a similar extension for eligible persons who are National Guard members and who were involuntarily ordered to full-time duty on or after September 11, 2001.

Before enactment of Public Law 107-103, the U.S. Court of Appeals for Veterans Claims, in *Ozer v. Principi*, 14 Vet. App. 257, 262-264 (2001), decided that 38 U.S.C. 3512 did not contain or authorize a fixed or limited eligibility period for spouses who are entitled to DEA benefits. Section 108 of Public Law 107-103 amended section 3512 to provide that spouses who are entitled to DEA have a 10-year eligibility period to use DEA benefits. Beginning with eligibility determinations (whether administrative or judicial) made on or after December 27, 2001, spouses found eligible for DEA benefits will have 10 years to use those benefits. Under section 108 of Public Law 107-103, spouses whose eligibility determinations were made before December 27, 2001, are subject to this 10-year eligibility period if they are required to reapply for benefits, resulting in a determination on or after December 27, 2001. (Spouses are required to reapply for DEA benefits when they change their educational objective.) We are amending the rules to conform to these provisions of Public Law 107-103.

Section 109 of Public Law 107-103 permits payment of special restorative training (SRT) benefits to disabled spouses and disabled surviving spouses beginning December 27, 2001. The

spouses and surviving spouses must be eligible for DEA benefits in order to qualify for SRT. Prior to the enactment of section 109, only disabled children eligible for DEA were eligible for this benefit. SRT is training that helps to overcome or lessen the effects of a physical or mental disability for the purposes of enabling an eligible person to pursue a program of education, special vocational program, or other appropriate goal. We are amending the pertinent regulations to make them conform to this statutory provision.

The Act also allows VA to pay veterans, servicemembers, and reservists educational assistance benefits for an independent study course that leads to a certificate that reflects educational attainment offered by an institution of higher learning. The independent study provisions in the Act amended 38 U.S.C. 3680A(a)(4). The provision applies to enrollment in courses on or after December 27, 2001. Prior to enactment, VA could provide education benefits only for independent study courses that were part of a standard college degree program. We are amending the pertinent regulations to reflect this change and to show that the new provision does not apply to DEA benefits for survivors and dependents. (Provisions concerning payment and non-payment of DEA for courses taken by independent study are in 38 U.S.C. 3523(a)(4), which was not amended by Pub. L. 107-103.)

In addition, we are amending provisions in the DEA regulations relating to definitions, SRT, and enrollment at the secondary school level for special assistance for the educationally disadvantaged, to reflect current agency organization, including by making changes in the designations of staff handling various functions.

Nonsubstantive changes are also made for the purpose of readability or clarity.

#### **Administrative Procedure Act**

Substantive changes made by this final rule merely reflect statutory requirements. Accordingly, there is a basis for dispensing with prior notice and comment and a delayed effective date under the provisions of 5 U.S.C. 553. Use of those procedures would be impracticable, unnecessary, and contrary to the public interest.

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

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

The Office of Management and Budget (OMB) assigns a control number for

each collection of information it approves. VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

In § 21.3302 (concerning special restorative training), this final rule amends provisions concerning information collection requirements that are currently approved by OMB. The amended provisions remain within the scope of the approved collections of information. We are adding at the end of § 21.3302 an information collection approval parenthetical containing the OMB control numbers for the collections of information in that section, OMB control numbers 2900–0014 (Authorization and Certification of Entrance or Reentrance into Rehabilitation and Certification of Status), 2900–0073 (Enrollment Certification), and 2900–0156 (Notice of Change in Student Status).

#### 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 issuing any rule that may result in the expenditure by State, local, and 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 will have no such effect on State, local, and tribal governments, or on the private sector.

#### Executive Order 12866

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Executive Order classifies a “significant regulatory action,” requiring review by the Office of Management and Budget (OMB) unless OMB waives such review, as any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of

recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in the Executive Order.

The economic, interagency, budgetary, legal, and policy implications of this rule have been examined, and it has been determined to be a significant regulatory action under the Executive Order because it may raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in the Executive Order.

#### 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 primarily affects only individuals. This rule reflects the statutory expansion to add certain disabled spouses and disabled surviving spouses to the categories of persons who may be eligible for training from small entities that choose to provide it. Although some small entities may provide special restorative training, any direct effect of this rule on such entities would be minuscule. This statutory change resulted in only 24 additional individuals receiving such training in the most recent year with available data. 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. Pursuant to 5 U.S.C. 603 and 604, an additional reason that those regulatory flexibility analyses requirements are not applicable to this final rule is that no notice of proposed rulemaking was required by law for this rulemaking.

#### Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this final rule are 64.117, Survivors and Dependents Educational Assistance; 64.120, Post-Vietnam Era Veterans’ Educational Assistance; and 64.124, All-Volunteer Force Educational Assistance. This final rule also affects the Montgomery GI Bill—Selected Reserve program, for which there is no Catalog of Federal Domestic Assistance number.

#### 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: October 5, 2007.

**Gordon H. Mansfield,**

*Deputy Secretary of Veterans Affairs.*

■ For the reasons set out in the preamble, the Department of Veterans Affairs amends 38 CFR part 21 (subparts C, D, G, and K) as follows:

#### PART 21—VOCATIONAL REHABILITATION AND EDUCATION

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

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

**Authority:** 38 U.S.C. 501(a), 512, 3500–3566, and as noted in specific sections.

■ 2. Amend § 21.3021 by redesignating paragraph (m) as paragraph (v), adding and reserving paragraphs (m) through (s), and adding paragraphs (t) and (u).  
The additions read as follows:

#### § 21.3021 Definitions.

\* \* \* \* \*

(t) *Counseling psychologist* means the same as provided in § 21.35(k)(1).

(Authority: 38 U.S.C. 501, 3118(c), 3541, 3543)

(u) *Vocational rehabilitation counselor* means the same as provided in § 21.35(k)(7).

(Authority: 38 U.S.C. 501, 3118(c), 3541, 3543)

\* \* \* \* \*

■ 3. Amend § 21.3045 by:

■ a. In paragraph (d)(1) introductory text, removing “VA finds” and adding, in its place, “the requirements of paragraphs (d)(1)(i) and (ii) of this section are met, by VA finding”.

■ b. Revising paragraph (d)(1)(i) and the authority citation after paragraph (d).

■ c. In paragraph (d)(1)(ii), removing “as described” and adding, in its place, “for a reason described”.

The revisions read as follows:

#### § 21.3045 Entitlement charges.

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

(i) Had to discontinue pursuit of the course or courses as a result of being—  
(A) Ordered, in connection with the Persian Gulf War by orders dated before September 11, 2001, to serve on active

duty under 10 U.S.C. 688, 12301(a), 12301(d), 12301(g), 12302, or 12304, or under former 10 U.S.C. 672(a), 672(d), 672(g), 673, or 673(b) (redesignated effective December 1, 1994, as 10 U.S.C. 12301(a), 12301(d), 12301(g), 12302, and 12304, respectively);

(B) Ordered, by orders dated after September 10, 2001, to serve on active duty under 10 U.S.C. 688, 12301(a), 12301(d), 12301(g), 12302, or 12304; or

(C) Involuntarily ordered, by orders dated after September 10, 2001, to full-time National Guard duty under 32 U.S.C. 502(f).

\* \* \* \* \*

(Authority: 38 U.S.C. 3511(a)(2); sec. 103(e), Pub. L. 107-103, 115 Stat. 980)

\* \* \* \* \*

■ 4. Amend § 21.3046 by revising paragraph (c) to read as follows:

**§ 21.3046 Periods of eligibility; spouses and surviving spouses.**

\* \* \* \* \*

(c) *Ending date of eligibility period*—(1) *Spouses.* (i) If on or after December 27, 2001, VA makes a determination of eligibility for a spouse, the period of eligibility cannot exceed 10 years. The eligibility period can be extended only as provided in paragraph (c)(3) of this section and § 21.3047.

(ii) If before December 27, 2001, VA made a determination of eligibility for a spouse, the eligibility period has no ending date unless the spouse changes his or her program of education. If on or after December 27, 2001, the spouse changes his or her program of education, the eligibility period cannot exceed 10 years. The beginning date of the eligibility period is determined as provided in paragraph (a) of this section. The 10-year eligibility period can be extended only as provided in paragraph (c)(3) of this section and § 21.3047.

(iii) Notwithstanding the provisions of paragraph (c)(1)(i) of this section, if eligibility arises before October 24, 1972, educational assistance will not be afforded later than October 23, 1982, based on a course or program of correspondence, apprentice, or other on-the-job training, approved under the provisions of § 21.4256, § 21.4261, or § 21.4262, except that VA may award educational assistance beyond October 23, 1982, if the eligible spouse qualifies for the extended period of eligibility as provided in paragraph (c)(3) of this section and § 21.3047.

(2) *Surviving spouses.* (i) For surviving spouses, the period of eligibility cannot exceed 10 years and can be extended only as provided in

paragraph (c)(3) of this section and § 21.3047.

(ii) If eligibility arises before October 24, 1972, educational assistance will not be afforded later than October 23, 1982, based on a course or program of correspondence, apprentice, or other on-the-job training approved under the provisions of § 21.4256, § 21.4261, or § 21.4262, except that VA may award educational assistance beyond October 23, 1982, if the eligible surviving spouse qualifies for an extended period of eligibility as provided in paragraph (c)(3) of this section and § 21.3047.

(iii) The eligibility period for a surviving spouse is not reduced by any earlier period during which the surviving spouse was eligible for educational assistance under this chapter as a spouse.

(Authority: 38 U.S.C. 3512; sec. 108(c)(4), Pub. L. 107-103, 115 Stat. 985)

(3) *Extensions due to certain orders dated after September 10, 2001.* Notwithstanding any other provisions of this section, if a spouse or surviving spouse, during the eligibility period otherwise applicable to such individual under this section, serves on active duty pursuant to an order to active duty dated after September 10, 2001, issued under 10 U.S.C. 688, 12301(a), 12301(d), 12301(g), 12302, or 12304, or is involuntarily ordered by an order dated after September 10, 2001, to full-time National Guard duty under 32 U.S.C. 502(f), VA will grant the individual an extension of the ending date of his or her eligibility period. The extension will equal the length of the period of such active duty plus four months.

(Authority: 38 U.S.C. 3512; sec. 303(b), Pub. L. 108-183, 117 Stat. 2659)

\* \* \* \* \*

■ 5. Amend § 21.3104 by:

■ a. After “psychologist” each time that it appears, adding “or vocational rehabilitation counselor”.

■ b. In paragraph (a), removing “a disabled” and adding, in its place, “an eligible person with a disability who is a”, removing “the child’s need for”, removing “if the disabled” and adding, in its place, “if the”, and removing “the disabled child needs”.

■ c. In paragraph (b), removing “eligible child” and adding, in its place, “eligible person” and removing “the child” and adding, in its place, “him or her”.

■ 6. Amend § 21.3130 by:

■ a. At the end of paragraph (d)(2), removing the word “or”.

■ b. At the end of paragraph (d)(3), removing the period and adding, in its place, “; or”.

■ c. Adding paragraph (d)(4) prior to the authority citation at the end of paragraph (d).

The addition reads as follows:

**§ 21.3130 Educational assistance.**

\* \* \* \* \*

(d) \* \* \*

(4) For pursuit of a course offered by independent study, unless the course is accredited, meets the requirements of § 21.4253, and leads to a standard college degree.

\* \* \* \* \*

■ 7. Amend § 21.3300 by:

■ a. In paragraph (a), removing “child” and adding, in its place, “person” and adding an authority citation.

■ b. Redesignating paragraphs (b) through (d) as paragraphs (c) through (e), respectively.

■ c. Adding a new paragraph (b).

■ d. In newly redesignated paragraph (c), adding “or vocational rehabilitation counselor” after “psychologist” and revising its authority citation.

The additions and revision read as follows:

**§ 21.3300 Special restorative training.**

(a) \* \* \*

(Authority: 38 U.S.C. 3540 through 3543)

(b) *Eligible persons.* VA may prescribe special restorative training for an eligible person who is a child, spouse, or surviving spouse except for a spouse whose qualification as an eligible person is under § 21.3021(a)(3)(ii). The special restorative training must begin after December 26, 2001, for a spouse or surviving spouse.

(Authority: 38 U.S.C. 3501, 3540, 3541, 3543; sec. 109, Pub. L. 107-103, 115 Stat. 986)

(c) \* \* \*

(Authority: 38 U.S.C. 3540, 3541, 3543)

\* \* \* \* \*

■ 8. Amend § 21.3301 by:

■ a. In paragraph (a) introductory text, removing “a handicapped child” and adding, in its place, “an eligible person with a disability who is a child, spouse, or surviving spouse”, and adding “or vocational rehabilitation counselor” after “psychologist” both places that it appears.

■ b. Redesignating paragraphs (a)(2), (a)(3), (a)(4), and (a)(5) as paragraphs (a)(5), (a)(2), (a)(3), and (a)(4), respectively.

■ c. In newly redesignated paragraph (a)(2), in the introductory text removing “eligible child’s” and adding, in its place, “child’s, spouse’s, or surviving spouse’s” and removing the authority citation at the end of the paragraph.

■ d. In newly redesignated paragraph (a)(3), removing “and” from the end of the paragraph.

■ e. In newly redesignated paragraph (a)(4), after “child’s”, adding “, spouse’s, or surviving spouse’s”.

■ f. In newly redesignated paragraph (a)(5), removing “It” and adding, in its place, “In the case of a child, whether it”; removing “interests of an eligible” and adding, in its place, “interest of the”; and adding “and” after the semicolon.

■ g. In paragraph (a)(6)(i), removing “handicapped children,” and adding, in its place, “individuals with disabilities;”.

■ h. In paragraph (a)(6)(ii), removing “child’s” and adding, in its place, “eligible person’s” and removing “Chapter 35,” and adding, in its place, “38 U.S.C. chapter 35.”, and revising the authority citation at the end of paragraph (a)(6).

■ i. In paragraph (b), adding “or vocational rehabilitation counselor” after “psychologist”.

■ j. Revising paragraphs (c) and (d).

■ k. In paragraph (e), removing “child” each time that it appears and adding, in its place, “person”, and revising the authority citation at the end of the paragraph.

The revisions read as follows:

**§ 21.3301 Need.**

(a) \* \* \*

(6) \* \* \*

(Authority: 38 U.S.C. 3501, 3540, 3541(a), 3543)

\* \* \* \* \*

(c) *Development and implementation.* Following consultation with the panel and receipt of the panel’s report, the counseling psychologist or vocational rehabilitation counselor will determine the need for and feasibility of special restorative training. If this determination is affirmative, the counseling psychologist or vocational rehabilitation counselor will prepare an individualized written plan comparable to a plan for an extended evaluation under 38 U.S.C. chapter 31. In the case of an eligible person who is a spouse or surviving spouse, or a child who has attained majority under laws applicable in his or her State of residence, the plan will be developed jointly with the spouse or surviving spouse, or the child, respectively. In the case of an eligible person who has a guardian or has not attained majority under laws applicable in his or her State of residence, the plan will be developed jointly with the eligible person and his or her parent or guardian (see § 21.3021(d)).

(Authority: 38 U.S.C. 3501, 3541(a))

(d) *Notification of disallowance.*

When an eligible person, or a parent or guardian on behalf of an eligible person, has requested special restorative training, and the counseling psychologist or vocational rehabilitation counselor finds that this training is not needed or will not materially improve the eligible person’s condition, VA will inform the eligible person, except that VA will inform his or her parent or guardian (see § 21.3021(d)) if the eligible person has a guardian or has not attained majority under laws applicable in his or her State of residence, in writing of the finding and of his or her appeal rights.

(Authority: 38 U.S.C. 3501, 3540, 3543, 5104)

(e) \* \* \*

(Authority: 38 U.S.C. 3501, 3540, 3543)

■ 9. Amend § 21.3302 by:

■ a. In paragraph (a), removing “child” and adding, in its place, “person”.

■ b. In paragraph (b), removing “which may be charged the parent or guardian” and adding, in its place, “charged” and removing “an eligible child” and adding, in its place, “to the eligible person”.

■ c. Revising the section heading and paragraph (c).

■ d. Adding, at the end of the section, an information collection approval parenthetical.

The revisions and addition read as follows:

**§ 21.3302 Special restorative training agreements and reports.**

\* \* \* \* \*

(c) *Reports.* Each educational institution or other provider of a course of special restorative training must report promptly the eligible person’s enrollment in, interruption of, or termination of the course of special restorative training.

(Authority: 38 U.S.C. 501(a), 3543, 3680, 3684)

(The Office of Management and Budget has approved the information collection provisions in this section under control numbers 2900–0014, 2900–0073, and 2900–0156.)

■ 10. Amend § 21.3303 by:

■ a. In paragraph (a), adding “or vocational rehabilitation counselor” after “psychologist”.

■ b. Revising paragraph (b).

■ c. In paragraph (c) introductory text, removing “child” and adding, in its place, “person”.

■ d. In paragraph (c)(1)(i), removing “child’s” and adding, in its place, “person’s”.

■ e. In paragraph (c)(1)(ii), removing “child’s” and adding, in its place, “eligible person’s”.

■ f. Revising the authority citation at the end of paragraph (c).

The revisions read as follows:

**§ 21.3303 Extent of training.**

\* \* \* \* \*

(b) *Ending dates of eligibility.* (1) No child may receive special restorative training after reaching the end of his or her eligibility period as determined under § 21.3041.

(2) No spouse or surviving spouse may receive special restorative training after reaching the end of his or her eligibility period as determined under §§ 21.3046 and 21.3047.

(Authority: 38 U.S.C. 3512)

(c) \* \* \*

(Authority: 38 U.S.C. 3542, 3543)

■ 11. Amend § 21.3304 by:

■ a. Removing “child” each place that it appears and adding, in its place, “person” and removing “vocational rehabilitation specialist” each place that it appears and adding, in its place, “counseling psychologist or vocational rehabilitation counselor”.

■ b. In paragraphs (b) introductory text, (b)(3) introductory text, and (b)(3)(ii), removing “child’s” and adding, in its place, “person’s”.

■ c. In paragraph (b)(2), removing “by the counseling psychologist”.

■ d. Revising the authority citation at the end of the section.

The revision reads as follows:

**§ 21.3304 Assistance during training.**

\* \* \* \* \*

(Authority: 38 U.S.C. 3520, 3541, 3543, 3561)

■ 12. Amend § 21.3305 by:

■ a. Removing “child” each place that it appears and adding, in its place, “person”.

■ b. In paragraph (a), removing “his or her handicap” and adding, in its place, “the effects of his or her disability(ies)”.

■ c. In paragraph (b)(6), removing “child’s” and adding, in its place, “person’s”.

■ 13. Amend § 21.3306 by:

■ a. In the introductory text, removing “child” and adding, in its place, “person”.

■ b. In paragraph (a) introductory text, removing “A vocational rehabilitation specialist” and adding, in its place, “A counseling psychologist or vocational rehabilitation counselor”, and revising the paragraph heading.

■ c. Revising the heading of paragraph (b) and paragraph (b)(1) introductory text.

■ d. In paragraph (b)(2), removing the first sentence, and removing “If he or she” and adding, in its place, “If the counseling psychologist or vocational rehabilitation counselor”.

■ e. In paragraph (b)(3) introductory text, adding “or vocational rehabilitation counselor” after “psychologist”.

■ f. In paragraph (b)(3)(ii), removing “child” and adding, in its place, “eligible person”.

The revisions read as follows:

§ 21.3306 Reentrance after interruption.

\* \* \* \* \*

(a) *Reentrance without corrective action.* \* \* \*

\* \* \* \* \*

(b) *Consultation with Vocational Rehabilitation Panel.* (1) A counseling psychologist or vocational rehabilitation counselor will consult with the Vocational Rehabilitation Panel when special restorative training was interrupted—

\* \* \* \* \*

■ 14. Amend § 21.3307 by:

■ a. In paragraph (a), removing “by a counseling psychologist” and removing “the vocational rehabilitation specialist” and adding, in its place, “a counseling psychologist or vocational rehabilitation counselor”.

■ b. Revising paragraphs (b)(1) and (2).

■ c. In paragraph (c), removing “child” and adding, in its place, “person” and adding “or vocational rehabilitation counselor” after “psychologist”.

The revisions read as follows:

§ 21.3307 “Discontinued” status.

\* \* \* \* \*

(b) \* \* \*

(1) Notify the eligible person of the action taken, except that if the eligible person has a guardian or has not attained majority under laws applicable in his or her State of residence, VA will notify his or her parent or guardian (see § 21.3021(d)) of the action taken.

(2) Inform the eligible person of his or her potential right to a program of education, except that if the eligible person has a guardian or has not attained majority under laws applicable in his or her State of residence, VA will inform his or her parent or guardian (see § 21.3021(d)) of the eligible person’s potential right to a program of education.

(Authority: 38 U.S.C. 3501, 3543(b))

\* \* \* \* \*

■ 15. Amend § 21.3330 by:

■ a. In the introductory text of paragraph (b), removing “child’s” and adding, in its place, “person’s” and

removing “vocational rehabilitation specialist” and adding, in its place, “counseling psychologist or vocational rehabilitation counselor”.

■ b. In paragraph (b)(1), removing “child” and adding, in its place, “person” and removing the period and adding, in its place, “; or”.

■ 16. Amend § 21.3331 by removing “child” and adding, in its place, “person,” adding “or vocational rehabilitation counselor” after “psychologist”, and removing “§ 21.3130(c)” and adding, in its place, “§ 21.4131”.

■ 17. Amend § 21.3332 by:

■ a. In paragraphs (b) and (e), removing “vocational rehabilitation specialist” and adding, in its place, “counseling psychologist or vocational rehabilitation counselor”.

■ b. In paragraph (d), removing “child’s” and adding, in its place, “person’s”.

■ c. In paragraph (f), removing “§ 21.3130(d).” and adding, in its place, “§ 21.4135.”

■ 18. In § 21.3333, amend paragraph (b)(1) introductory text by removing “parent or guardian concurs in having the eligible child’s” and adding, in its place, “eligible person, or his or her parent or guardian (see § 21.3021(d)) if the eligible person has a guardian or has not attained majority under laws applicable in his or her State of residence, concurs in having his or her”.

■ 19. In § 21.3344, amend paragraph (e)(1)(i) by adding “or vocational rehabilitation counselor” after “psychologist”.

Subpart D—Administration of Educational Assistance Programs

■ 20. Revise the authority citation for part 21, subpart D 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, and as noted in specific sections.

■ 21. Amend § 21.4267 by:

■ a. In paragraph (a), removing “21.7120(c)” and adding, in its place, “21.7120(d)”.

■ b. Removing paragraph (b)(2)(i).

■ c. Redesignating paragraphs (b)(2)(ii) through (b)(2)(iv) as paragraphs (b)(2)(i) through (b)(2)(iii), respectively.

■ d. Revising paragraph (f).

■ e. Adding paragraph (g) preceding the authority citation at the end of the section.

The revision and addition read as follows:

§ 21.4267 Approval of independent study.

\* \* \* \* \*

(f) *Course approval.* A State approving agency may approve a course offered by independent study or a combination of independent study and resident training only if the course—

(1) Is accredited;

(2) Meets the requirements of

§ 21.4253; and

(3) Either—

(i) Leads to a standard college degree; or

(ii) For courses approved on or after December 27, 2001, leads to a certificate that reflects educational attainment offered by an institution of higher learning.

(Authority: 38 U.S.C. 3672, 3675, 3680A(a)(4))

(g) *Remedial and deficiency courses.* Remedial and deficiency courses offered by independent study cannot be approved.

\* \* \* \* \*

Subpart G—Post-Vietnam Era Veterans’ Educational Assistance Under 38 U.S.C. Chapter 32

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

Authority: 38 U.S.C. 501(a), chs. 32, 36, and as noted in specific sections.

■ 23. Amend § 21.5072 by:

■ a. In paragraph (d)(3) introductory text, removing “if” and adding, in its place, “if—”.

■ b. In paragraph (d)(3)(i), removing “veteran” and adding, in its place, “veteran’s”.

■ c. Revising paragraph (i).

The revision reads as follows:

§ 21.5072 Entitlement charge.

\* \* \* \* \*

(i) *Entitlement charge may be omitted for course discontinuance due to orders to, or changing, active duty in certain instances.* VA will make no charge against the entitlement of a servicemember or veteran for a payment of educational assistance when—

(1)(i) A veteran not serving on active duty had to discontinue course pursuit as a result of being ordered, in connection with the Persian Gulf War by orders dated before September 11, 2001, to serve on active duty under 10 U.S.C. 688, 12301(a), 12301(d), 12301(g), 12302, or 12304, or former 10 U.S.C. 672(a), 672(d), 672(g), 673, or 673b (redesignated effective December 1, 1994, as 10 U.S.C. 12301(a), 12301(d), 12301(g), 12302, and 12304, respectively); or

(ii) A veteran not serving on active duty had to discontinue course pursuit as a result of being ordered, by orders dated after September 10, 2001, to serve

on active duty under 10 U.S.C. 688, 12301(a), 12301(d), 12301(g), 12302, or 12304; or

(iii) A servicemember serving on active duty had to discontinue course pursuit as a result of being ordered, in connection with the Persian Gulf War by orders dated before September 11, 2001, to a new duty location or assignment or to perform an increased amount of work; or

(iv) A servicemember serving on active duty had to discontinue course pursuit as a result of being ordered, by orders dated after September 10, 2001, to a new duty location or assignment or to perform an increased amount of work; and

(2) The veteran or servicemember failed to receive credit or lost training time toward completion of his or her educational, professional, or vocational objective as a result of having to discontinue course pursuit as described in paragraph (i)(1) of this section.

(Authority: 38 U.S.C. 3231(a)(5)(B)(i); sec. 2, Pub. L. 102-127, 105 Stat. 619-620; sec. 103, Pub. L. 107-103, 115 Stat. 979-980)

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

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

**Authority:** 38 U.S.C. 501(a), chs. 30, 36, and as noted in specific sections.

■ 25. In § 21.7042, revise paragraph (f)(3) to read as follows:

#### § 21.7042 Basic eligibility requirements.

\* \* \* \* \*

(f) \* \* \*

(3) Except as provided in this paragraph and in paragraph (f)(4) of this section, an individual who after December 31, 1976, receives a commission as an officer in the Armed Forces upon completion of a program of educational assistance under 10 U.S.C. 2107 (the Senior Reserve Officers' Training Corps program) is not eligible for educational assistance under 38 U.S.C. chapter 30. This bar to eligibility under 38 U.S.C. chapter 30 does not apply to an individual who entered active duty after September 30, 1996, and received—

(i) \$2,000 or less in educational assistance under 10 U.S.C. 2107 for at least one year of the individual's participation in that program of educational assistance; or

(ii) \$3,400 or less in educational assistance under 10 U.S.C. 2107 for at least one year of the individual's participation in that program of educational assistance. This provision

applies to payment of educational assistance under 38 U.S.C. chapter 30 for months after December 31, 2001.

(Authority: 38 U.S.C. 3011(c), 3012(d))

\* \* \* \* \*

■ 26. Amend § 21.7044 by:

■ a. In paragraph (a)(6), removing the period at the end and adding, in its place “; or”.

■ b. Adding paragraph (a)(7), immediately following the authority citation at the end of paragraph (a)(6).

■ c. Revising paragraph (b)(4).

■ d. Removing paragraph (b)(5).

■ e. Redesignating paragraphs (b)(6) through (b)(12) as paragraphs (b)(5) through (b)(11), respectively.

■ f. In newly redesignated paragraph (b)(7), removing “(b)(5)” each place that it appears and adding, in its place, “(b)(4)”.

■ g. In newly redesignated paragraph (b)(10), removing “(b)(9) or (10)” and adding, in its place, “(b)(8) or (9)”.

The revision and addition read as follows:

#### § 21.7044 Persons with eligibility under 38 U.S.C. chapter 34.

\* \* \* \* \*

(a) \* \* \*

(7) Effective December 27, 2001, an individual must meet the following requirements. He or she—

(i) Was not on active duty on October 19, 1984;

(ii) Reenlists or reenters on a period of active duty after October 19, 1984; and

(iii) Serves at least three years of continuous active duty in the Armed Forces after June 30, 1985. The individual is not required to serve three years if he or she is honorably discharged or released from active duty for one of the reasons shown in paragraphs (a)(4)(ii)(A) through (a)(4)(ii)(F) of this section.

(Authority: 38 U.S.C. 3011(a)(1))

(b) \* \* \*

(4) The individual either—

(i) Must have been on active duty on October 19, 1984, must have served without a break in service from October 19, 1984, through June 30, 1985, and after June 30, 1985—

(A) Except as provided in paragraph (b)(5) of this section, must serve at least two years of continuous active duty in the Armed Forces characterized by the Secretary concerned as honorable service, and

(B) Except as provided in paragraph (b)(6) of this section, after completion of this active duty service, must serve at least four continuous years service in the Selected Reserve, during which the

individual must participate satisfactorily in training as prescribed by the Secretary concerned; or

(ii) Effective December 27, 2001, must not have been on active duty on October 19, 1984, must reenlist or reenter on a period of active duty after October 19, 1984, and after June 30, 1985—

(A) Except as provided in paragraph (b)(5) of this section, must serve at least two years of continuous active duty in the Armed Forces characterized by the Secretary concerned as honorable service, and

(B) Except as provided in paragraph (b)(6) of this section, after completion of this active duty service, must serve at least four continuous years service in the Selected Reserve, during which the individual must participate satisfactorily in training as prescribed by the Secretary concerned.

(Authority: 38 U.S.C. 3012(a)(1))

\* \* \* \* \*

■ 27. Amend § 21.7050 by:

■ a. In paragraph (a)(1) introductory text, removing “service member” and adding, in its place, “servicemember”.

■ b. In paragraph (a)(1)(ii)(D), at the end, removing “or”.

■ c. In paragraph (a)(1)(iii), removing “§ 21.7042(b) and § 21.7044(b).” and adding, in its place, “§§ 21.7042(b) and 21.7044(b); or”.

■ d. Adding paragraph (a)(1)(iv).

The addition reads as follows:

#### § 21.7050 Ending dates of eligibility.

\* \* \* \* \*

(a) \* \* \*

(1) \* \* \*

(iv) December 27, 2001, for individuals who become eligible for educational assistance under § 21.7044(a)(7) or (b)(4)(ii).

(Authority: 38 U.S.C. 3031(a), (e), (g))

\* \* \* \* \*

■ 28. Amend § 21.7222 by revising paragraph (e) to read as follows:

#### § 21.7222 Courses and enrollments which may not be approved.

\* \* \* \* \*

(e) Any independent study program except—

(1) An accredited independent study program (including open circuit television) leading to a standard college degree;

(2) Enrollments in an independent study course after December 26, 2001, in a program leading to a certificate that reflects educational attainment offered by an institution of higher learning; or

(3) As provided for in § 21.7120(d).

(Authority: 38 U.S.C. 3676, 3680A)

[FR Doc. E8-330 Filed 1-14-08; 8:45 am]

BILLING CODE 8320-01-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R05-OAR-2006-0276; FRL-8508-8]

### Approval and Promulgation of Air Quality Implementation Plans; Indiana; Amendments to Lead Rules, Quemetco

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

**ACTION:** Direct final rule.

**SUMMARY:** On February 7, 2002, Indiana submitted revisions to its State Implementation Plan (SIP) for lead (Pb) as part of the State's incorporation of a Federal standard for secondary lead smelters. On October 3, 2006, and November 27, 2007, Indiana supplemented its request as it pertained to Quemetco, Incorporated (Quemetco), in Marion County. The requested SIP revision replaces the Pb emission limits for Quemetco with new, stringent limits. EPA has determined that the new limits will be protective of the Pb air quality standards, and is therefore approving them.

**DATES:** This direct final rule will be effective March 17, 2008, unless EPA receives adverse comments by February 14, 2008. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the *Federal Register* informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2006-0276, by one of the following methods:

1. *www.regulations.gov*: Follow the on-line instructions for submitting comments.

2. *E-mail*: [mooney.john@epa.gov](mailto:mooney.john@epa.gov).

3. *Fax*: (312)886-5824.

4. *Mail*: John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. *Hand Delivery*: John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of

business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

**Instructions:** Direct your comments to Docket ID No. EPA-R05-OAR-2006-0276. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. We recommend that you telephone Mary Portanova, Environmental Engineer, at (312) 353-5954 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Mary Portanova, Environmental Engineer, Criteria Pollutant Section, Air

Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-5954, [portanova.mary@epa.gov](mailto:portanova.mary@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. Background: Pb SIP and NESHAP Rules
- II. What are the new limits for secondary lead smelters?
- III. How does removing Quemetco from Article 15 affect the Pb SIP?
- IV. Demonstration of Pb NAAQS Attainment
- V. What action is EPA taking?
- VI. Statutory and Executive Order Reviews

#### I. Background: Pb SIP and NESHAP Rules

Indiana's SIP rules for Pb are currently codified at 326 Indiana Administrative Code (IAC) 15, which is also referred to as Article 15. Article 15 covers lead-bearing emissions and fugitive dust from several facilities in Indiana, including secondary lead smelters. The SIP rules applicable to sources in Marion County, Indiana, were developed to ensure that Marion County would attain and maintain the Pb National Ambient Air Quality Standards (NAAQS).

EPA promulgated the National Emission Standards for Hazardous Air Pollutants (NESHAP) for secondary lead smelting on June 23, 1995 (60 FR 32587); amended on June 13, 1997 (62 FR 32209). Codified at 40 CFR part 63, subpart X, this NESHAP is a technology-based regulation intended to bring certain sources at secondary lead smelters to a specified level of air pollution control. Indiana incorporated the Maximum Achievable Control Technology (MACT) standard of the secondary lead smelter NESHAP, with certain adjustments, in 326 IAC 20-13. On August 22, 2006 (71 FR 48923), EPA approved Indiana's request for delegation of authority to implement and enforce the NESHAP for secondary lead smelting through 326 IAC 20-13.

The Federal NESHAP in Subpart X is expected to result in air quality benefits where it affects secondary lead smelters which were previously unregulated or which were previously subject to less stringent controls. In Indiana, however, the existing Marion County Pb SIP limits were already more stringent than the NESHAP's limits. Indiana believed that the Federal secondary lead smelter NESHAP would not fully protect the Pb NAAQS in Marion County. Therefore, when Indiana adopted the NESHAP into 326 IAC 20-13, the State adjusted it to make the rule's emission limits at least