

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 not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

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.

Environment

We have analyzed this 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 considering that it relates to the promulgation of operating regulations or procedures for drawbridges. Under figure 2–1, paragraph (34)(e), of the instruction, an "Environmental Analysis Check List" and a "Categorical Exclusion Determination" are not required for this rule.

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; 33 CFR 1.05–1(g); Department of Homeland Security Delegation No. 0170.1; section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

■ 2. From January 9, 2006 through September 1, 2006, § 117.207 is amended by suspending paragraph (a) and adding a temporary paragraph (c), to read as follows:

§ 117.207 Housatonic River.

* * * * *

(c) The draw of the U.S. 1 Bridge, mile 3.5, at Stratford, shall operate as follows:

(1) The draw shall open on signal, except that, from 7 a.m. to 9 a.m., Monday through Friday, and 4 p.m. through 5:45 p.m., daily, the draw need not open for the passage of vessel traffic.

(2) From January 9, 2006 through March 31, 2006, from 8 p.m. to 4 a.m., the draw shall open on signal if at least a six-hour notice is given by calling the number posted at the bridge.

(3) From January 9, 2006 through February 9, 2006, May 30, 2006 through June 30, 2006, and July 5, 2006 through September 1, 2006, only one of the two moveable spans need open for the passage of vessel traffic. Two span bridge openings shall be provided if at least a seven-day notice is given by calling the number posted at the bridge, except as provided in (c)(1) and (c)(2) of this section.

(4) From February 10, 2006 through April 1, 2006, and April 17, 2006 through May 26, 2006, only one of the two moveable spans need open for the passage of vessel traffic, except as provided in (c)(1) and (c)(2) of this section. No two span openings need be provided.

(5) From April 2, 2006 through April 16, 2006, May 27, 2006 through May 29, 2006, and July 1, 2006 through July 4, 2006, both moveable spans shall open for the passage of vessel traffic, except as provided in (c)(1) and (c)(2) of this section.

* * * * *

Dated: December 29, 2005.

David P. Pekoske,

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

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DEPARTMENT OF DEFENSE

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900–AL69

Reservists' Education: Revision of Eligibility Requirements for the Montgomery GI Bill—Selected Reserve

AGENCIES: Department of Defense, Department of Homeland Security (Coast Guard), and Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the regulations governing the administration of the Montgomery GI Bill—Selected Reserve (MGIB–SR) program. The amendments implement provisions in the Veterans Benefits and Health Care Improvement Act of 2000 and the Bob Stump National Defense Authorization Act for Fiscal Year 2003. The Veterans Benefits and Health Care Improvement Act of 2000 contained a provision that changed an eligibility criterion concerning the time for obtaining a high school diploma. The Bob Stump National Defense Authorization Act for Fiscal Year 2003 expanded the MGIB–SR eligibility period from 10 years to 14 years for reservists who first become eligible after September 30, 1992.

DATES: *Effective Date:* This final rule is effective January 10, 2006.

Applicability Dates: The changes are applied to conform to the respective statutory requirements. For more information concerning the dates of applicability, see the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: This document amends the regulations in 38 CFR part 21 governing the administration of the Montgomery GI Bill—Selected Reserve (MGIB–SR) program in order to implement provisions in the Veterans Benefits and Health Care Improvement Act of 2000 (Pub. L. 106–419) and the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Pub. L. 107–314).

One of the criteria a reservist must meet in order to establish eligibility for

MGIB-SR benefits is receiving a high school diploma or its equivalent. Before the enactment of Public Law 106-419 on November 1, 2000, the reservist had to earn that diploma or its equivalent before completing Initial Active Duty for Training (IADT) in the case of an original enlistment, or before the date of the qualifying extension of enlistment or reenlistment in all other cases. Public Law 106-419 provided instead for all reservists the requirement that they must earn a high school diploma or its equivalent before applying to the Department of Veterans Affairs (VA) for educational assistance benefits. We are amending various paragraphs to make them conform to these statutory provisions. Our amendments reflect our interpretation that under the statute a reservist who unsuccessfully applies for educational assistance before meeting this requirement would still be able to meet this requirement by applying again after obtaining a high school diploma or its equivalent.

Generally once MGIB-SR eligibility is established, a reservist remains eligible for 10 years. A provision in Public Law 107-314, expands the 10 year eligibility period to 14 years for certain reservists. The 14 year eligibility period applies to reservists who first become eligible for the MGIB-SR program after September 30, 1992. This provision of Public Law 107-314 became effective October 1, 2002. We are amending the paragraphs that address the MGIB-SR eligibility period to reflect this change.

In addition, we are amending § 21.1032 of subpart B to include time limits for filing a claim for an extended period of eligibility under 10 U.S.C. chapter 1606. The time limits for chapter 1606, Montgomery GI Bill—Selected Reserve program, were previously stated in § 21.7532. In 1999, when we removed § 21.7532 and consolidated the time limit rules for all education assistance programs we administer into § 21.1032, we inadvertently did not show chapter 1606 in § 21.1032(c). The final rule was published May 4, 1999 in the **Federal Register** (64 FR 23769-23773). The **SUMMARY** and **SUPPLEMENTARY INFORMATION** sections in that final rule clearly show we established uniform rules for all educational assistance programs the Department of Veterans Affairs administers. Prior to the final rule, a proposed rule proposing to take the action was published in the **Federal Register** (63 FR 23408) on April 29, 1998.

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 delayed effective date provisions of 5 U.S.C. 552 and 553.

Paperwork Reduction Act

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

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.

Unfunded Mandates

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more (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.

Catalog of Federal Domestic Assistance Program Numbers

The changes made by this final rule affect the Montgomery GI Bill—Selected Reserve. There is no Catalog of Federal Domestic Assistance number for the Montgomery GI—Bill Selected Reserve.

List of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflict of interests, Defense Department, Education, Employment, Grant programs-education, Grant programs-veterans, Health care, Loan programs-education, Loan programs-veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: September 16, 2005.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

Approved: October 24, 2005.

Kenneth T. Venuto,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Human Resources.

Approved: December 21, 2005.

T.F. Hall,

Assistant Secretary of Defense for Reserve Affairs.

■ For the reasons set out above, 38 CFR part 21 (subparts B and L) is amended as set forth below.

PART 21—[AMENDED]

Subpart B—Claims and Applications for Educational Assistance

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

Authority: 38 U.S.C. 501(a), ch. 51, unless otherwise noted.

- 2. Section 21.1032 is amended by:
- a. In paragraph (c) introductory text, removing “under 38 U.S.C. chapter 30, 32, or 35.”, and adding, in its place, “under 38 U.S.C. chapter 30, 32, or 35, and 10 U.S.C. chapter 1606.” and by removing “§ 21.5042, or § 21.7051”, and adding, in its place, “§ 21.5042, § 21.7051, or § 21.7551”;
 - b. In paragraph (c)(1), removing “or veteran’s”, and adding, in its place, “veteran’s, or reservist’s”;
 - c. In paragraph (c)(2), removing “or veteran’s”, and adding, in its place, “veteran’s, or reservist’s”; and
 - d. Revising the authority citation for paragraph (c).

The revision reads as follows:

§ 21.1032 Time Limits.

* * * * *

(c) * * *

(Authority: 10 U.S.C. 16133(b); 38 U.S.C. 3031(d), 3232(a), 3512).

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Subpart L—Educational Assistance for Members of the Selected Reserve

■ 3. The authority citation for subpart L continues to read as follows:

Authority: 10 U.S.C. ch. 1606; 38 U.S.C. 501(a), 512, ch. 36, unless otherwise noted.

- 4. Section 21.7540 is amended by:
- a. Revising paragraph (a) introductory text.
 - b. In paragraph (a)(3), removing “Reserve; and” and adding, in its place, “Reserve;”.
 - c. In paragraph (a)(4), removing “30.” and adding, in its place, “30; and”.
 - d. Adding paragraph (a)(5).
 - e. Revising the authority citation at the end of paragraph (a).

The revisions and addition read as follows:

§ 21.7540 Eligibility for educational assistance.

(a) *Basic eligibility requirements.* A reservist must meet the requirements for a secondary school diploma (or an equivalency certificate) before applying for educational assistance. VA will decide whether a reservist met those requirements before applying for educational assistance. If the reservist applies before completing the requirements, VA will disallow the application. A reservist's premature application will not prevent the reservist from establishing eligibility at a later time by applying for educational assistance again after having completed the academic requirements. The Armed Forces will decide whether a reservist has met all the other eligibility criteria needed in order to receive educational assistance pursuant to 10 U.S.C. chapter 1606. To be eligible a reservist:

* * * * *

(5) Must have met the requirements for a secondary school diploma (or an equivalency certificate) before applying for educational assistance.

(Authority: 10 U.S.C. 16132; 38 U.S.C. 3033(c)).

* * * * *

- 5. Section 21.7550 is amended by:
 - a. Redesignating paragraphs (b) through (d) as (c) through (e).
 - b. Adding a new paragraph (b).
 - c. Revising paragraph (a).
 - d. Revising redesignated paragraph (d) and its authority citation.
 - e. Revising redesignated paragraph (e).
- The revisions read as follows:

§ 21.7550 Ending dates of eligibility.

(a) *Time limit on eligibility.* (1) *Reservists who become eligible before October 1, 1992.* Except as provided in § 21.7551 and paragraphs (b), (c), (d), and (e) of this section, if the reservist becomes eligible for educational assistance before October 1, 1992, the period of eligibility expires effective the earlier of the following dates:

(i) The last day of the 10-year period beginning on the date the reservist becomes eligible for educational assistance; or

(ii) The date the reservist is separated from the Selected Reserve.

(2) *Reservists who become eligible after September 30, 1992.* Except as provided in § 21.7551 and paragraphs (b), (c), (d), and (e) of this section, if a reservist becomes eligible for educational assistance after September 30, 1992, the period of eligibility expires effective the earlier of the following dates:

(i) The last day of the 14-year period beginning on the date the reservist becomes eligible for educational assistance; or

(ii) The date the reservist is separated from the Selected Reserve.

(Authority: 10 U.S.C. 16133)

(b) *Extension due to active duty orders.* If the reservist serves on active duty pursuant to an order to active duty issued under section 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10, U.S. Code, the period of this active duty plus four months shall not be considered in determining the time limit on eligibility found in paragraph (a) of this section.

(Authority: 10 U.S.C. 16133)

* * * * *

(d) *Discharge for disability.* In the case of a reservist separated from the Selected Reserve because of a disability which was not the result of the individual's own willful misconduct and which was incurred on or after the date on which the reservist became entitled to education assistance, the reservist's period of eligibility expires effective the last day of the—

(1) 10-year period beginning on the date the reservist becomes eligible for educational assistance if the reservist became eligible before October 1, 1992; or

(2) 14-year period beginning on the date the reservist becomes eligible for educational assistance if the reservist becomes eligible after September 30, 1992.

(Authority: 10 U.S.C. 16133)

(e) *Unit deactivated.* (1) Except as provided in paragraph (e)(3) or (e)(4) of this section, the period of eligibility of a reservist, eligible for educational assistance under this subpart, who ceases to become a member of the Selected Reserve during the period beginning October 1, 1991, and ending December 31, 2001, under either of the conditions described in paragraph (e)(2) of this section will expire on the date—

(i) 10 years after the date the reservist becomes eligible for educational assistance if the reservist became eligible before October 1, 1992; or

(ii) 14 years after the date the reservist becomes eligible for educational assistance if the reservist becomes eligible after September 30, 1992.

* * * * *

§ 21.7551 [Amended]

■ 6. Section 21.7551 is amended by:

- a. In paragraph (a) introductory text, removing “§ 21.7550(a)(1)”, and adding, in its place, “§ 21.7550(a)”;

■ b. In paragraph (a)(1), removing “§ 21.7532(e) of this part.”, and adding, in its place, “§ 21.1033(c) of subpart B.”

■ c. In paragraph (b)(1), removing “§ 21.7550(a)(1)”, and adding, in its place, “§ 21.7550(a)”;

■ d. In paragraph (c)(1)(ii), removing “§ 21.7550(a)(1)”, and adding, in its place, “§ 21.7550(a)”.

[FR Doc. 06–175 Filed 1–9–06; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 219

[Docket No. 2001–11213, Notice No. 9]

RIN 2130–AA81

Alcohol and Drug Testing: Determination of Minimum Random Testing Rates for 2006

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice of determination.

SUMMARY: Using data from Management Information System annual reports, FRA has determined that the 2004 rail industry random testing positive rate was 0.94 percent for drugs and 0.18 percent for alcohol. Since the industry-wide random drug testing positive rate has remained below 1.0 percent for the last two years, the Federal Railroad Administrator (Administrator) has determined that the minimum annual random drug testing rate for the period January 1, 2006, through December 31, 2006, will remain at 25 percent of covered railroad employees. Since the random alcohol testing violation rate has remained below 0.5 percent for the last two years, the Administrator has determined that the minimum random alcohol testing rate will remain at 10 percent of covered railroad employees for the period January 1, 2006, through December 31, 2006.

DATES: This document is effective upon publication.

FOR FURTHER INFORMATION CONTACT: Lamar Allen, Alcohol and Drug Program Manager, Office of Safety Enforcement, Mail Stop 25, Federal Railroad Administration, 1120 Vermont Avenue, NW., Washington, DC 20005, (202) 493–6313; or Kathy Schnakenberg, FRA Alcohol/Drug Program Specialist, (816) 561–2714.

SUPPLEMENTARY INFORMATION: