

32°43'03.5" N., longitude 117°13'07.6" W.

(e) Area A-2. In North San Diego Bay, the America's Cup Harbor Anchorage, the water area enclosed by a line beginning at latitude 32°43'13.7" N., longitude 117°13'23.8" W.; thence northeast to latitude 32°43'16.7" N., longitude 117°13'16.4" W.; thence northwest to latitude 32°43'22.6" N., longitude 117°13'25.8" W.; thence west to latitude 32°43'22.5" N., longitude 117°13'29.6" W.; thence southwest to latitude 32°43'19.0" N., longitude 117°13'32.6" W.; thence southeast to the point of beginning.

(f) Area A-3. In the North San Diego Bay, the Laurel Street Roadstead Anchorage, the water area enclosed by a line beginning at latitude 32°43'30.5" N., longitude 117°10'28.5" W.; and thence southwesterly to latitude 32°43'29.8" N., longitude 117°10'34.2" W.; and thence southwesterly to latitude 32°43'25.8" N., longitude 117°10'36.1" W.; and thence southerly to latitude 32°43'20.2" N., longitude 117°10'36.1" W.; thence westerly to latitude 32°43'20.2" N., longitude 117°10'52.9" W.; thence northeasterly to 32°43'29.8" N., longitude 117°10'48.0" W., thence northeasterly following a line parallel to, and 200 feet bayward of, the shoreline of San Diego Bay adjoining Harbor Drive to the point of beginning.

(g) Area A-4. In Central San Diego Bay, the Bay Bridge Roadstead Anchorage, the water enclosed by a line beginning at latitude 32°41'32.1" N., longitude 117°09'43.1" W.; thence southwesterly to latitude 32°41'19.1" N., longitude 117°09'46.1" W.; thence southeasterly to latitude 32°41'17.8" N., longitude 117°09'44.3" W.; thence southeasterly to latitude 32°41'14.9" N., longitude 117°09'37.9" W.; thence northeasterly to latitude 32°41'26.9" N., longitude 117°09'35.1" W., thence southwesterly to the point of beginning.

(h) Area A-5. In Central San Diego Bay, the Glorietta Bay Anchorage, the water area enclosed by a line beginning at latitude 32°40'42.2" N., longitude 117°10'03.1" W.; thence southwesterly to latitude 32°40'41.2" N., longitude 117°10'06.6" W.; thence northwesterly to latitude 32°40'46.2" N., longitude 117°10'15.6" W.; thence northeasterly to latitude 32°40'46.7" N., longitude 117°10'14.1" W.; thence southeasterly to the point of beginning.

(i) Area A-6. In Fiddler's Cove, the water enclosed by a line beginning at latitude 32°39'10.4" N., longitude 117°08'49.4" W.; thence northwesterly to latitude 32°39'14.9" N., longitude 117°08'51.8" W.; thence northeasterly to latitude 32°39'17.6" N., longitude 117°08'47.5" W.; thence northwesterly

to latitude 32°39'19.8" N., longitude 117°08'48.8" W.; thence northeasterly to latitude 32°39'24.4" N., longitude 117°08'41.4" W., thence southeasterly to latitude 32°39'15.7" N., longitude 117°08'36.0" W.; thence southwesterly to the point of beginning.

**Note:** This area is located on Federal Property owned by the United States, and it is reserved for active duty military, their dependents, retirees, and DOD employees only.

(j) Area A-8. In South San Diego Bay, the Sweetwater Anchorage, the water enclosed by a line beginning at latitude 32°39'12.2" N longitude 117°10'45.1" W.; thence easterly to latitude 32°39'12.2" N., longitude 117°07'30.1" W.; thence southerly to latitude 32°38'45.2" N., longitude 117°07'30.1" W.; thence westerly to latitude 32°38'45.2" N., longitude 117°07'45.1" W.; thence northerly to the point of beginning.

(k) Area A-9. In North San Diego Bay, the Cruiser Anchorage, the water enclosed by a line beginning at latitude 32°43'35.9" N., longitude 117°11'06.2" W.; thence southwesterly to latitude 32°43'31.5" N., longitude 117°11'13.2" W.; thence southeasterly to latitude 32°43'28.9" N., longitude 117°11'11.0" W.; thence southeasterly to latitude 32°43'25.9" N., longitude 117°11'07.7" W.; thence northeasterly to latitude 32°43'34.8" N., longitude 117°11'03.2" W.; thence northwesterly to the point of beginning. All coordinates referred use Datum: NAD 83.

**Note:** Mariners anchoring in these anchorages, excluding Anchorage A-6, should consult applicable local ordinances of the San Diego Unified Port District. Temporary floats or buoys for marking anchors are allowed. Fixed moorings, piles or stakes are prohibited. All moorings shall be so that no vessel, when anchored, shall at any time extend beyond the limits of the area.

Dated: October 6, 1997.

**J.C. Card,**

*Vice Admiral, U.S. Coast Guard Commander, Eleventh Coast Guard District.*

[FR Doc. 97-30898 Filed 11-24-97; 8:45 am]

BILLING CODE 4910-14-M

## DEPARTMENT OF DEFENSE

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 21

#### RIN 2900-AH88

### Election of Education Benefits

**AGENCIES:** Department of Defense, Department of Transportation (Coast Guard), and Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to amend the Department of Veterans Affairs (VA) educational assistance and educational benefits regulations relating to certain elections between benefits. VA has provided by regulation that after a veteran seeks to make an election to have service in the Selected Reserve credited toward payment under the Montgomery GI Bill—Selected Reserve (MGIB-SR) program or under the Montgomery GI Bill—Active Duty (MGIB-AD) program, the election will take effect when the individual has negotiated a check issued under the program she or he has elected. In order to adapt the current rules to the new system of electronic transfers, it is proposed to change these election provisions to make the election effective either upon negotiation of a check or electronic receipt of education benefits. VA has provided by regulation that an election to receive benefits under Survivors' and Dependents' Educational Assistance (DEA) for a program of education rather than pension, compensation, or Dependency and Indemnity Compensation (DIC) will take effect when the individual has commenced a program of education and negotiated a check issued under the program she or he has elected. In order to adapt the current rule to the new system of electronic transfers and to ensure that decisions are made with knowledge, it is proposed to change these election provisions to require a written election to be submitted and to make the election effective either upon negotiation of a check or electronic receipt of education benefits. Nonsubstantive changes would also be made for purposes of clarity and to reflect current statutory codification and authority. The proposed requirements for individuals to make elections before receiving certain benefit payments constitute collections of information.

Accordingly, this document also requests comments under the Paperwork Reduction Act on those proposed collections of information.

**DATES:** Comments must be received on or before January 26, 1998.

**ADDRESSES:** Mail or hand deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW., Washington, DC 20420. Comments should indicate that they are submitted in response to "RIN 2900-AH88." All written comments received will be available for public inspection in the Office of Regulations Management, Room 1158, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

**FOR FURTHER INFORMATION CONTACT:** June C. Schaeffer, Assistant Director for Policy and Program Administration, Education Service (225), Veterans Benefits Administration, Department of Veterans Affairs, (202) 273-7187.

**SUPPLEMENTARY INFORMATION:** VA administers a number of benefit programs. A veteran or other eligible person may be potentially eligible for benefits under more than one of them. Often the law governing eligibility requires that the individual elect the program under which she or he is to receive benefits. This document proposes to amend the VA educational assistance and educational benefits regulations relating to certain elections between benefits.

VA is given broad statutory authority to prescribe the manner of elections when a veteran must elect whether time served in the Selected Reserve is to be applied toward establishing eligibility for the MGIB-SR program or toward establishing entitlement to a greater monthly rate of educational assistance under the MGIB-AD program. VA has provided by regulation in 38 CFR 21.7042 and 21.7540 that after a veteran seeks to make an election to have service in the Selected Reserve credited toward payment under the MGIB-SR program or under the MGIB-AD program, the election will take effect when the individual has negotiated a check issued under the program she or he has elected. In order to adapt the current rules to the new system of electronic transfers, it is proposed to change these election provisions to make the election effective either upon negotiation of a check or electronic receipt of education benefits.

This document also proposes to amend § 21.3023, which concerns an election to receive DEA for a program of education rather than pension,

compensation, or DIC. That section currently provides that the commencement of a program of education constitutes an election and, with limited exceptions, that the election is final when the payee has negotiated one check for the benefit. This section was issued pursuant to 38 U.S.C. 3562, which provides that if a child of a veteran is eligible for both DEA and DIC, commencement of a program of education under DEA would bar the child from receiving pension, compensation, or DIC in the future as a child. For the purposes of determining when there is commencement of a program of education under DEA, it is proposed that the "commencement of a program" will be deemed to have occurred at the time of negotiation of the first DEA benefit payment check or upon receipt of the first electronic transfer of a DEA benefit payment. It also is proposed that such an election occur only after a written election to receive DEA has been submitted to VA. These proposed provisions are designed to ensure that elections are made with knowledge and become effective at the time of commencement of a program of education under DEA.

These changes are necessary because the Debt Collection Improvement Act of 1996 (sec. 31001, Pub. L. 104-134) requires that the Federal government make payments through electronic funds transfer. The proposed provisions are intended to adapt the current rules to include the new system of electronic transfer.

This document also proposes to make nonsubstantive amendments for purposes of clarification and to reflect current statutory authority. In addition, this document also seeks approval, as explained below, for certain collections of information in §§ 21.3023, 21.7042, and 21.7540.

The Department of Defense (DOD), the Department of Transportation (Coast Guard), and VA are jointly issuing this proposal insofar as it relates to the MGIB-SR program. This program is funded by DOD and the Coast Guard, and is administered by VA. The remainder of this proposal is issued solely by VA.

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

Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520), the provisions of the proposed §§ 21.3023, 21.7042, and 21.7540 include collections of information. Accordingly, as required by the Act at § 3507(d), VA has submitted a copy of this rulemaking action to the Office of Management and Budget (OMB) for its review of the proposed collections of information.

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.

Comments on the proposed collections of information should be submitted to the Office of Management and Budget, Attention: Desk Officer for the Department of Veterans Affairs, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW., Washington, DC 20420. Comments should indicate that they are submitted in response to "RIN 2900-AH88."

*Title:* Election to Receive Dependents' Educational Assistance Instead of Dependency and Indemnity Compensation.

*Summary of collection of information:* The collection of information in the proposed amendment to § 21.3023 in this rulemaking proceeding would implement a statutory provision that prevents an individual with potential eligibility for DEA and compensation, pension, or DIC from receiving more than one benefit for pursuing a program of education. The proposed rule would require such an individual to make an election if she or he wished to receive DEA.

*Description of need for information and proposed use of information:* An eligible child may not receive educational assistance under DEA and payments under DIC for the same school attendance. In order for VA to know when the child wishes to receive DEA, it is necessary for the child to state his or her desire for educational assistance under DEA.

*Description of likely respondents:* Individuals with potential eligibility for DEA.

*Estimated number of respondents:* 2,900 annually.

*Estimated frequency of responses:* Once per eligible claimant.

*Estimated total annual reporting and recordkeeping burden:* 580 hours of reporting burden. VA does not believe that there would be an additional recordkeeping burden.

*Estimated average burden per collection:* .2 hour.

*Title:* Election to Apply Selected Reserve Service to Either the Montgomery GI Bill—Active Duty or to the Montgomery GI Bill—Selected Reserve.

*Summary of collection of information:* The collection of information in the

proposed amendments to §§ 21.7042 and 21.7540 in this rulemaking proceeding would implement a statutory provision that prevents an individual with potential eligibility for educational assistance under both the Montgomery GI Bill—Active Duty or the Montgomery Bill—Selected Reserve from using the same Selected Reserve service to establish eligibility for assistance under the Montgomery GI Bill—Selected Reserve, and to establish entitlement to educational assistance at an increased monthly rate under the Montgomery GI Bill—Active Duty.

*Description of need for information and proposed use of information:* An individual who participates in the Montgomery GI Bill—Active Duty and who serves on active duty for two years followed by six years in the Selected Reserve must choose whether to apply the Selected Reserve service toward the Montgomery GI Bill—Active Duty or to the Montgomery GI Bill—Selected Reserve. If she or he decides to apply it towards the Montgomery GI Bill—Selected Reserve, she or he would be eligible for 36 months of educational assistance under the Montgomery GI Bill—Active Duty at the rate of \$347.65 per month for full-time training and 12 months of educational assistance under the Montgomery GI Bill—Selected Reserve. If she or he chooses to apply that service towards the Montgomery GI Bill—Active Duty, she or he would be eligible for 36 months of educational assistance under the Montgomery GI Bill—Active Duty at the rate of \$427.87 per month for full-time training while remaining ineligible for educational assistance under the Montgomery GI Bill—Selected Reserve. VA must know which benefit the individual wants the Selected Reserve service credited to in order to determine the proper payments to the individual.

*Description of likely respondents:* Members of the Selected Reserve.

*Estimated number of respondents:* 35 annually.

*Estimated frequency of responses:* Once per eligible claimant.

*Estimated total annual reporting and recordkeeping burden:* 11.67 hours of reporting burden. VA does not believe that there would be an additional recordkeeping burden.

*Estimated average burden per collection:* .33 hour.

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

- Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including

whether the information will have practical utility;

- Evaluating the accuracy of the Department's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;

- Enhancing the quality, usefulness, and clarity of the information to be collected; and

- Minimizing the burden of the collections of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

OMB is required to make a decision concerning the proposed collections of information contained in this proposed rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the proposed regulations.

#### Regulatory Flexibility Act

The signers of this document hereby certify that this proposed rule, if promulgated, would not have significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This proposed rule would directly affect only individuals and would not directly affect small entities. Pursuant to 5 U.S.C. 605(b), the proposed rule, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

The Catalog of Federal Domestic Assistance numbers for programs affected by the proposed rule are 64.117 and 64.124. The proposed rule also affects the Montgomery GI Bill—Selected Reserve 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, 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, Veterans, Vocational education, Vocational rehabilitation.

Approved: September 5, 1997.

**Hershel W. Gober,**

*Acting Secretary of Veterans Affairs.*

Approved: August 6, 1997.

**G.R. Woolever,**

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

Approved: August 5, 1997.

**Normand G. Lezy,**

*Lieutenant General, USAF, Deputy Assistant Secretary (Military Personnel Policy).*

For the reasons set out in the preamble, 38 CFR part 21, subparts C, K, and L are proposed to be 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, is revised to read as follows:

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

2. In § 21.3023, paragraph (c)(3) is amended by removing “educational assistance” and adding, in its place, “education under DEA”; the section heading, paragraph (c) introductory text, and paragraph (c)(1) are revised, and an authority citation for the section is added, to read as follows:

**§ 21.3023 Nonduplication; pension, compensation, and dependency and indemnity compensation.**

\* \* \* \* \*

(c) *Child; election.* An election by a child under this section must be submitted to VA in writing.

(1) Except as provided in paragraph (c)(2) of this section, an election to receive Survivors' and Dependents' Educational Assistance (DEA) is final when the eligible child commences a program of education under DEA (38 U.S.C. chapter 35). Commencement of a program of education under DEA will be deemed to have occurred for VA purposes on the date the first payment of DEA educational assistance is made, as evidenced by negotiation of the first check or receipt of the first payment by electronic funds transfer.

\* \* \* \* \*

(Authority: 38 U.S.C. 3562)

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

3. 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.

4. In § 21.7042, the section heading and paragraphs (d)(2), and (d)(3) are revised, and paragraph (d)(4) is added, to read as follows:

**§ 21.7042 Eligibility for basic educational assistance.**

\* \* \* \* \*

(d) \* \* \*

(2) An individual must elect, in writing, whether he or she wishes service in the Selected Reserve to be credited towards establishing eligibility under 38 U.S.C. chapter 30 or under 10 U.S.C. chapter 1606 when:

(i) The individual:

(A) Is a veteran who has established eligibility for basic educational assistance through meeting the provisions of paragraph (b) of this section; and

(B) Also is a reservist who has established eligibility for benefits under 10 U.S.C. chapter 1606 through meeting the requirements of § 21.7540; or

(ii) The individual is a member of the National Guard or Air National Guard who has established eligibility for basic educational assistance under 38 U.S.C. chapter 30 through activation under a provision of law other than 32 U.S.C. 316, 502, 503, 504, or 505.

(3) An election under this paragraph (d) to have Selected Reserve service credited towards eligibility for payment of educational assistance under 38 U.S.C. chapter 30 or under 10 U.S.C. chapter 1606 is irrevocable when the veteran either negotiates the first check or receives the first payment by electronic funds transfer of the educational assistance elected.

(4) If a veteran is eligible to receive educational assistance under both 38 U.S.C. chapter 30 and 10 U.S.C. chapter 1606, he or she may receive educational assistance alternately or consecutively under each of these chapters to the extent that the educational assistance is based on service not irrevocably credited to one or the other chapter as provided in paragraphs (d)(1) through (d)(3) of this section.

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

\* \* \* \* \*

**Subpart L—Educational Assistance for Members of the Selected Reserve**

5. The authority citation for part 21, subpart L, is revised to read as follows:

**Authority:** 10 U.S.C. 1606; 38 U.S.C. 501, unless otherwise noted.

6. In § 21.7540, paragraph (c) and the authority citation for paragraph (d) are revised, to read as follows:

**§ 21.7540 Eligibility for educational assistance.**

\* \* \* \* \*

(c) *Limitations on establishing eligibility.* (1) An individual must elect in writing whether he or she wishes service in the Selected Reserve to be credited towards establishing eligibility under 38 U.S.C. chapter 30 or under 10 U.S.C. chapter 1606 when:

(i) The individual is a reservist who is eligible for basic educational assistance provided under 38 U.S.C. 3012 and has established eligibility to that assistance partially through service in the Selected Reserve; or

(ii) The individual is a member of the National Guard or Air National Guard who has established eligibility for basic educational assistance provided under 38 U.S.C. 3012 through activation under a provision of law other than 32 U.S.C. 316, 502, 503, 504, or 505 followed by service in the Selected Reserve.

(2) An election under this paragraph (c) to have Selected Reserve service credited towards eligibility for payment of educational assistance under 38 U.S.C. chapter 30 or under 10 U.S.C. chapter 1606 is irrevocable when the reservist either negotiates the first check or receives the first payment by electronic funds transfer of the educational assistance elected.

(3) If a reservist is eligible to receive educational assistance under both 38 U.S.C. chapter 30 and 10 U.S.C. chapter 1606, he or she may receive educational assistance alternately or consecutively under each of these chapters to the extent that the educational assistance is based on service not irrevocably credited to one or the other chapter as provided in paragraphs (c)(1) and (c)(2) of this section.

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

\* \* \* \* \*

(d) \* \* \*

(Authority: 10 U.S.C. 16132(d), 16134)

[FR Doc. 97-30872 Filed 11-24-97; 8:45 am]

BILLING CODE 8320-01-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 81**

[TN 86-1-9802b; TN 127-1-9803b; FRL-5922-7]

**Designation of Areas for Air Quality Planning Purposes; Tennessee: Redesignation of the Polk County and New Johnsonville Sulfur Dioxide Nonattainment Area to Attainment**

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve requests for redesignation of the Polk County area and that portion of Benton and that portion of Humphreys Counties, Tennessee, surrounding TVA's Johnsonville plant (New Johnsonville area) from nonattainment to attainment for the sulfur dioxide (SO<sub>2</sub>) National Ambient Air Quality Standards (NAAQS), pursuant to the request submitted on January 6, 1988, July 12, 1990, December 17, 1993, and April 17, 1995, by the State of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC). EPA is also proposing to approve the maintenance plans.

In the final rules section of this **Federal Register**, the EPA is approving the State's State Implementation Plan (SIP) revision as a direct final rule without prior proposal because the EPA views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

**DATES:** To be considered, comments must be received by December 26, 1997.

**ADDRESSES:** Written comments on this action should be addressed to Mr. Scott M. Martin regarding the Polk County area and Mr. Steven M. Scofield regarding the New Johnsonville area at the EPA Regional Office listed below.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The