

## Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

## Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

## Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

## Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

## Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

## Indian Tribal Governments

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

## Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply,

Distribution, or Use. We have determined that it is not a “significant regulatory action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has 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 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.

Paragraph (32)(e) excludes the promulgation of operating regulations or procedures for drawbridges from the environmental documentation requirements of the National Environmental Policy Act (NEPA). Since this regulation would alter the normal operating conditions of the drawbridge, it falls within this exclusion. A “Categorical Exclusion Determination” is available in the docket for inspection or copying where indicated under **ADDRESSES**.

## List of Subjects in 33 CFR Part 117 Bridges

Regulations.

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

### PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

■ 2. From 7 a.m., December 15, 2004, until 8 a.m., March 15, 2005, temporarily add new § 117.T394, to read as follows:

#### § 117.T394 Upper Mississippi River.

The Rock Island Railroad and Highway Drawbridge, mile 482.9, at Rock Island, Illinois, need not open for river traffic and may be maintained in the closed-to-navigation position.

Dated: December 3, 2004.

**R.F. Duncan,**

*Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.*

[FR Doc. 04–27471 Filed 12–14–04; 8:45 am]

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## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

### 36 CFR Part 1228

RIN 3095–AB41

#### Records Management; Unscheduled Records

**AGENCY:** National Archives and Records Administration (NARA).

**ACTION:** Final rule.

**SUMMARY:** NARA is revising our regulations to allow unscheduled records to be transferred to records storage facilities. These changes will allow agencies to transfer unscheduled records in a timely manner.

**DATES:** This rule is effective January 14, 2005.

**FOR FURTHER INFORMATION CONTACT:** Cheryl Stadel-Bevans at telephone number (301) 837–3021 or fax number (301) 837–0319.

**SUPPLEMENTARY INFORMATION:** NARA published a proposed rule on September 17, 2004, at 69 FR 56015, for a 60-day public comment period. We received two comments, both from Federal agencies. One comment expressed no concerns about the proposed rule. The second comment supported the changes

outlined in the proposed rule. Therefore, we are making no changes in this final rule.

This final rule is not a significant regulatory action for the purposes of Executive Order 12866 and has been reviewed by the Office of Management and Budget (OMB). As required by the Regulatory Flexibility Act, it is hereby certified that this final rule will not have a significant impact on a substantial number of small entities because this rule applies to Federal agencies. This final rule does not have any federalism implications.

**List of Subjects in 36 CFR Part 1228**

Archives and records.

■ For the reasons set forth in the preamble, NARA amends chapter XII of title 36 of the Code of Federal Regulations as follows:

**PART 1228—DISPOSITION OF FEDERAL RECORDS**

■ 1. The authority for Part 1228 continues to read as follows:

**Authority:** 44 U.S.C. chs. 21, 29, and 33.

■ 2. Amend § 1228.152 by revising the entry in the table for item (2)(ii) to read as follows:

**§ 1228.152 Under what conditions may Federal records be stored in records storage facilities?**

\* \* \* \* \*

Type of record	Conditions
(2) * * * * *	(i) * * * * *
	(ii) Also requires prior notification to NARA (see § 1228.154(b)).

\* \* \* \* \*

■ 3. Amend § 1228.154 by revising paragraphs (b) and (c)(1)(vii) to read as follows:

**§ 1228.154 What requirements must an agency meet when it transfers records to a records storage facility?**

\* \* \* \* \*

(b) To transfer unscheduled records, notify NARA (NWML) in writing prior to the transfer. The notification must identify the records storage facility and include a copy of the information required by paragraph (c) of this section.

\* \* \* \* \*

(c) \* \* \* \* \*  
(1) \* \* \* \* \*

(vii) Citation to NARA-approved schedule or agency records disposition manual (unscheduled records must cite the date the agency notified NARA or,

if available, the date the SF 115 was submitted to NARA);

\* \* \* \* \*

Dated: December 9, 2004.

**John W. Carlin,**

*Archivist of the United States.*

[FR Doc. 04-27420 Filed 12-14-04; 8:45 am]

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**DEPARTMENT OF VETERANS AFFAIRS**

**38 CFR Part 21**

**RIN 2900-AM08**

**Increase in Rates Payable Under the Montgomery GI Bill—Active Duty**

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** By statute, the monthly rates of basic educational assistance payable under the Montgomery GI Bill—Active Duty program must be adjusted each fiscal year. In accordance with the statutory formula, the regulations governing rates of basic educational assistance payable under the Montgomery GI Bill—Active Duty program for Fiscal Year 2005 (October 1, 2004, through September 30, 2005) are changed to show a 2% increase in these rates.

**DATES:** *Effective Date:* This final rule is effective December 15, 2004.

*Applicability Date:* The changes in rates are applied retroactively to October 1, 2004 to conform to statutory requirements.

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

**SUPPLEMENTARY INFORMATION:** Under the formula mandated by 38 U.S.C. 3015(h), the Secretary must increase the full-time rates of basic educational assistance payable under the Montgomery GI Bill—Active Duty (MGIB) program each fiscal year. For Fiscal Year (FY) 2005 the increase is 2%, which is the percentage by which the total of the monthly Consumer Price Index-W for July 1, 2003, through June 30, 2004, exceeds the total of the monthly Consumer Price Index-W for July 1, 2002, through June 30, 2003. The Veterans Benefits Act of 2003 amended 38 U.S.C. 3015(h) to provide that during FY 2005 through FY 2013, the Secretary must round down the increased rate to the next lower whole dollar. The full-time basic

educational assistance rates in this document at 38 CFR 21.7136(b)(1), (c)(1), and 38 CFR 21.7137(a)(1) are rounded down to the nearest dollar.

It should be noted that 2% increase does not affect all educational assistance payable under the MGIB. The 2% increase applies only to the basic educational assistance rate. The increase does not apply to additional amounts payable by the Secretary of Defense to individuals with skills or a specialty in which there is a critical shortage of personnel (so-called “kickers”). Veterans who previously had eligibility under the Veterans’ Educational Assistance program (Vietnam Era GI Bill) receive monthly payments that are in part based upon basic educational assistance and in part based upon the rates payable under the Vietnam Era GI Bill. Only that portion attributable to basic educational assistance is increased. In addition, the increase does not apply to additional amounts payable for dependents.

38 U.S.C. 3015(a) and (b) require that the Department of Veterans Affairs (VA) pay part-time students at appropriately reduced rates. Since the first student became eligible for assistance under the MGIB in 1985, VA has paid three-quarter-time students and one-half-time students at 75% and 50% of the full-time institutional rate, respectively. Students pursuing a program of education at less than one-half but more than one-quarter time have had their payments limited to 50% or less of the full-time institutional rate. Similarly, students pursuing a program of education at one-quarter time or less have had their payments limited to 25% or less of the full-time institutional rate. Changes are made consistent with the authority and formula described in this paragraph.

In addition, since 38 U.S.C. 3032(c) requires that monthly rates payable to veterans in apprenticeship or other on-the-job training must be set at a given percentage of the full-time rate, the apprenticeship or on-the-job training rates have been accordingly increased effective October 1, 2004.

The changes set forth in this final rule are effective from the date of publication, but the changes in the rates are applied in accordance with the applicable statutory provisions discussed above. Thus, the Department of Veterans Affairs began paying the increased rates for training pursued after September 30, 2004.

**Administrative Procedure Act**

Changes made by this final rule merely reflect statutory requirements and adjustments made based on