

Training	Monthly rate			
	No dependents	One dependent	Two dependents	Additional for each additional dependent
1st six months of pursuit of program .....	\$777.75	\$790.13	\$801.00	\$5.25
2nd six months of pursuit of program .....	551.38	560.73	568.43	3.85
3rd six months of pursuit of program .....	338.80	344.93	349.65	2.45
Remaining pursuit of program .....	326.90	332.68	337.93	2.45

(Authority: 38 U.S.C. 3015)

(8) For veterans pursuing apprenticeship or other on-the-job

training, the monthly rate of basic educational assistance for training that occurs after September 30, 2003, and

before October 1, 2004, is the rate stated in the following table:

Training	Monthly rate			
	No dependents	One dependent	Two dependents	Additional for each additional dependent
1st six months of pursuit of program .....	\$841.50	\$853.88	\$864.75	\$5.25
2nd six months of pursuit of program .....	598.13	607.48	615.18	3.85
3rd six months of pursuit of program .....	368.55	374.68	379.40	2.45
Remaining pursuit of program .....	356.65	362.43	367.68	2.45

(Authority: 38 U.S.C. 3015)

(9) The monthly rate of basic educational assistance payable to a veteran who is pursuing a cooperative

course is the rate stated in the following table:

Training period	Monthly rate			
	No dependents	One dependent	Two dependents	Additional for each additional dependent
Oct. 1, 2001–Dec. 31, 2001 .....	\$860.00	\$896.00	\$927.00	\$16.00
Jan. 1, 2002–Sept. 30, 2002 .....	988.00	1024.00	1055.00	16.00
Oct. 1, 2002–Sept. 30, 2003 .....	1088.00	1124.00	1155.00	16.00
Oct. 1, 2003–Sept. 30, 2004 .....	1173.00	1209.00	1240.00	16.00

(Authority: 38 U.S.C. 3015)

\* \* \* \* \*

(c) \* \* \*

(2)(i) The following monthly rates for training that occurs after September 30, 2001, and before January 1, 2002—

- (A) \$860.00 for full-time training;
- (B) \$645.50 for three-quarter-time training;
- (C) \$430.00 for one-half-time training and training that is less than one-half but more than one-quarter-time training; and
- (D) \$215.00 for one-quarter-time training.

(Authority: 38 U.S.C. 3015)

(ii) The following monthly rates for training that occurs after December 30, 2001, and before October 1, 2002—

- (A) \$988.00 for full-time training;
- (B) \$741.50 for three-quarter-time training;
- (C) \$494.00 for one-half-time training and training that is less than one-half

but more than one-quarter-time training; and

(D) \$247.00 for one-quarter-time training.

(iii) The following monthly rates for training that occurs after September 30, 2002, and before October 1, 2003—

- (A) \$1088.00 for full-time training;
- (B) \$816.50 for three-quarter-time training;
- (C) \$544.00 for one-half-time training and training that is less than one-half but more than one-quarter-time training; and
- (D) \$272.00 for one-quarter-time training.

(iv) The following monthly rates for training that occurs after September 30, 2003, and before October 1, 2004—

- (A) \$1173.00 for full-time training;
- (B) \$880.25 for three-quarter-time training;
- (C) \$586.50 for one-half-time training and training that is less than one-half

but more than one-quarter-time training; and

(D) \$293.25 for one-quarter-time training.

(Authority: 38 U.S.C. 3015)

\* \* \* \* \*

[FR Doc. 03-14282 Filed 6-6-03; 8:45 am]

BILLING CODE 8320-01-P

**DEPARTMENT OF VETERANS AFFAIRS**

**38 CFR Part 21**

**RIN 2900-AK81**

**Veterans Education: Additional Opportunity To Participate in the Montgomery GI Bill and Other Miscellaneous Issues**

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** This document amends the regulations governing the education programs the Department of Veterans Affairs (VA) administers in order to implement some provisions of the Veterans Benefits and Health Care Improvement Act of 2000 and the Veterans' Survivor Benefits Improvements Act of 2001. More specifically, it implements provisions that changed an eligibility criterion concerning the time for obtaining a high school diploma; repealed the requirement that eligibility for the Montgomery GI Bill—Active Duty be based on the initial obligated period of active duty; provided an additional opportunity for participants in the Post-Vietnam Era Veterans' Educational Assistance Program to participate in the Montgomery GI Bill—Active Duty instead; provided an opportunity for servicemembers to increase their monthly rate of benefits by contributing additional monies while on active duty; and revised the requirements that must be met before a veteran or eligible person can be paid during the break between terms. In addition, this document makes nonsubstantive changes in VA education regulations for purposes of clarity and to remove obsolete provisions.

**DATES:** *Effective Date:* This final rule is effective June 9, 2003.

*Applicability Date.* The substantive changes made by this final rule are applied retroactively to November 1, 2000, to conform to statutory requirements.

**FOR FURTHER INFORMATION CONTACT:**

William G. Susling, Jr., Assistant Director for Policy and Program Development, Education Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC, 20420, (202) 273-7187.

**SUPPLEMENTARY INFORMATION:** This document amends the regulations in 38 CFR Part 21 governing various aspects of the education programs the Department of Veterans Affairs (VA) administers in order to implement some provisions of the Veterans Benefits and Health Care Improvement Act of 2000 (Pub. L. 106-419) and the Veterans' Survivor Benefits Improvements Act of 2001 (Pub. L. 107-14) that affect those programs. This document includes changes affecting the following educational assistance programs: Montgomery GI Bill—Active Duty, Montgomery GI Bill—Selective Reserve, Survivors' and Dependents' Educational Assistance, and the Post-Vietnam Era Veterans' Educational Assistance Program.

One of the criteria an individual has to meet in order to establish eligibility for the Montgomery GI Bill—Active Duty (MGIB) is receiving a high school diploma or its equivalent. Before the enactment of Public Law 106-419 on November 1, 2000, the time limit for earning that diploma (or its equivalent) varied according to the various ways for servicemembers to establish MGIB eligibility. Some had to earn the diploma before completion of their first obligated period of active duty. Others had to earn it before their release from active duty. Public Law 106-419 provided instead for all individuals the requirement that they must earn a high school diploma (or its equivalent) before applying to VA for educational assistance. For individuals who are enabled by that change to establish eligibility but who on October 31, 2000, would have been unable to establish eligibility due to the time limits for obtaining a high school diploma (or its equivalent), Public Law 106-419 created a new ten-year period starting November 1, 2000, for commencing use of benefits. We are amending various paragraphs to make them conform to these statutory provisions. Our amendments reflect our interpretation that under the statute a veteran who unsuccessfully applies for educational assistance before meeting this requirement would be able to meet this requirement by applying again after obtaining a high school diploma or its equivalent.

Since the inception of the MGIB, servicemembers have had to serve all or a major part of their initial obligated period of active duty in order to establish eligibility for the MGIB. Thus, an individual who failed to meet the length of service requirements for the initial period and subsequently re-enlisted could serve many years in the Armed Forces and have no education benefits. Public Law 106-419 and Public Law 107-14 contain provisions that allow an individual to meet the length of service requirements for eligibility by using any period of active duty of sufficient length. For individuals who are enabled by that change to establish eligibility but who on October 31, 2000, would have been unable to establish eligibility based on their initial obligated period of service, Public Law 106-419 created a new ten-year period starting November 1, 2000, for commencing use of benefits. We are amending various paragraphs to make them conform to these statutory provisions.

Public Law 106-419 also gave some present and former participants in the Post-Vietnam Era Veterans' Educational

Assistance Program (VEAP) the opportunity to establish eligibility for MGIB. Under that statute, these individuals must have elected MGIB before November 1, 2001, and must contribute \$2,700 within the 18-month period beginning on the date the individual made the election. We are amending the rules for establishing MGIB eligibility to conform to these provisions of law.

MGIB, Montgomery GI Bill—Selective Reserve (MGIB—SR), Survivors' and Dependents' Educational Assistance (DEA), and VEAP benefits may be paid to individuals during some intervals between terms. The requirements for deciding whether an individual qualifies for such an interval payment are found in statute. Public Law 106-419 revised those requirements to state that payments may be made for intervals between terms when those intervals are no longer than eight weeks and the terms before and after the interval are not shorter than the interval. We are amending the provisions of 38 CFR 21.4138(f) to make them conform to the statute.

Moreover, VA has long had rules governing payment for short terms that occur during intervals. The rules were designed to insure that veterans were not discouraged by the interval pay provisions from enrolling in those terms. In our view, it was not Congress' intent that the new interval payment provisions discourage attendance during short terms. We are amending accordingly the regulations in § 21.4138(f) governing payment for these short terms and the intervals that precede and follow them.

This document's changes in provisions in § 21.4138(f) concerning payment for intervals and for short terms that occur during intervals are applicable to MGIB, DEA, VEAP, and MGIB—SR benefits under applicability provisions in current regulations for each program, respectively. (The amended provisions in § 21.4138(f) apply to MGIB benefits under § 21.7140(c), to DEA benefits under § 21.3133(a), to VEAP benefits under § 21.5130(c), and to MGIB—SR benefits under § 21.7640(b)(1).)

Public Law 106-419 (as amended by Public Law 107-14) contains provisions that allow some servicemembers who are eligible for the MGIB to increase their monthly rate of educational assistance by contributing \$600 while on active duty. The statute prescribes that for every \$20 contributed, the monthly rate payable to a full-time student will increase by \$5. However, the statute does not state what the increase payable to a part-time student

will be. Instead, it requires VA to prescribe regulations detailing an appropriate reduced amount to be paid to these students.

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. In the absence of a convincing reason to do otherwise, VA has decided to follow this long-standing policy in establishing rates for individuals who increase their monthly rates by contributing additional amounts. Accordingly, changes are made consistent with the authority and formula described in this and the preceding paragraph.

In addition, 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. Hence, we are amending the regulations to reflect the additional amounts payable for these increased contributions according to the percentages described in 38 U.S.C. 3032(c).

We are also making nonsubstantive changes for the purpose of clarity and to remove provisions that are obsolete because they concern provisions in the regulations that no longer exist.

#### Administrative Procedure Act

Changes made by this final rule merely reflect revised statutory requirements or VA's interpretation of statutory provisions, or are nonsubstantive. 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.

#### Executive Order 12866

This final rule has been reviewed by the Office of Management and Budget under Executive Order 12866.

#### 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 initial and final regulatory flexibility analyses requirements of sections 603 and 604 of the Regulatory Flexibility Act, 5 U.S.C. 601–612, are

not applicable to this rule, because the agency is not required to publish a notice of proposed rulemaking for this rule. Even so, 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. This final rule directly affects only individuals and does not directly affect small entities. Therefore, this final rule is also exempt pursuant to 5 U.S.C. 605(b) 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 in any given year. This rule would have no consequential effect on State, local, or tribal governments.

#### Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers for programs affected by this final rule are 64.117, 64.120, and 64.124. This document also affects the Montgomery GI Bill—Selective Reserve program, for which there is no Catalog of Federal Domestic Assistance program 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 expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: March 18, 2003.

Anthony J. Principi,  
Secretary of Veterans Affairs.

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

### PART 21—VOCATIONAL REHABILITATION AND EDUCATION

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

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

**Authority:** 10 U.S.C. 2141 note, ch. 1606; 38 U.S.C 501(a), chs. 30, 32, 34, 35, 36, unless otherwise noted.

- 2. Section 21.4138 is amended by:
  - a. In paragraph (f) introductory text, removing “(4)” and adding, in its place, “(3)”.
  - b. In paragraph (f)(2) introductory text, removing “subdivision” and adding, in its place, “paragraph and paragraph (f)(3) of this section”.
  - c. Revising paragraphs (f)(2)(iii) and (f)(2)(iv).
  - d. Removing paragraph (f)(3).
  - e. Redesignating paragraph (f)(4) as new paragraph (f)(3).

The revisions read as follows:

#### § 21.4138 Certifications and release of payments.

\* \* \* \* \*  
(f) \* \* \*  
(2) \* \* \*

(iii) If the veteran or eligible person remains enrolled at the same educational institution, VA may make payment for an interval which does not exceed 8 weeks and which occurs between:

(A) Semesters or quarters as defined in § 21.4200(b);

(B) A semester or quarter and a term that is at least as long as the interval;

(C) A semester or quarter and a summer term that is at least as long as the interval;

(D) Consecutive terms (other than semesters or quarters as defined in § 21.4200(b)) provided that both terms are at least as long as the interval; or

(E) A term and a summer term provided that both the term and the summer term are at least as long as the interval.

(iv) If the veteran or eligible person remains enrolled at the same educational institution, VA may make payment for an interval which does not exceed 30 days and which occurs between summer sessions within a summer term.

(Authority: 38 U.S.C. 3680)

\* \* \* \* \*

#### 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. Section 21.7020 is amended by:
  - a. In paragraphs (b)(6)(iii) introductory text and (b)(6)(iv) introductory text, removing “his or her initial” and adding, in its place, “an”.

- b. In paragraph (b)(6)(iv) introductory text, removing “the initial” and adding, in its place, “the earlier”.
- c. In paragraph (b)(6)(vi), removing “initial” both places that it appears and adding, in its place, “earlier”.
- 5. Section 21.7042 is amended by:
  - a. Revising the introductory text.
  - b. Revising paragraph (a)(2), paragraph (a)(3) introductory text, and the authority citation following paragraph (a)(3).
  - c. In paragraph (a)(5)(ii), removing “(July 1, 1985)”.
  - d. In paragraphs (a)(5)(iv)(A) and (a)(5)(iv)(B), removing “if his or her initial” and adding, in its place, “of an”; and by removing “is” and adding, in its place, “that is”.
  - e. Revising the authority citation following paragraph (a)(5).
  - f. Removing paragraph (a)(6).
  - g. Redesignating paragraph (a)(7) as new paragraph (a)(6).
  - h. Revising paragraph (b)(2) introductory text.
  - i. In paragraphs (b)(6)(ii) and (b)(7)(i)(B), removing “(July 1, 1985)”.
  - j. In paragraph (b)(7)(ii)(B), removing “(Oct. 1, 1987)”.
  - k. Removing paragraph (b)(11).
  - l. In paragraph (c)(4), removing “completing the service he or she was obligated to serve on December 1, 1988” and adding, in its place, “applying for educational assistance”.
  - m. In paragraph (d)(1), removing “initial”.

The revisions read as follows:

**§ 21.7042 Basic eligibility requirements.**

An individual must meet the requirements of this section, § 21.7044, or § 21.7045 in order to be eligible for basic educational assistance. This section requires an individual to complete certain academic requirements before applying for educational assistance. If the individual applies before completing those requirements, VA will disallow the application. However, the individual’s premature application will not prevent the individual from establishing eligibility at a later time by applying for educational assistance again after having completed those academic requirements. In determining whether an individual has met the service requirements of this section, VA will exclude any period during which the individual is not entitled to credit for service for the periods of time specified in § 3.15.

(Authority: 38 U.S.C. 3011, 3012, 3018(b), 3018A)

- (a) \* \* \*
- (2) Except as provided in paragraph (a)(5) of this section, the individual must—

- (i) If his or her obligated period of active duty is three years or more, serve at least three years of continuous active duty in the Armed Forces; or
- (ii) If his or her obligated period of active duty is less than three years, serve at least two years of continuous active duty in the Armed Forces;
- (3) The individual, before applying for educational assistance, must either—

(Authority: 38 U.S.C. 3011, 3016)

- (5) \* \* \*
- (Authority: 38 U.S.C. 3011)

- (b) \* \* \*
- (2) The individual, before applying for educational assistance, must either—

- 6. Section 21.7044 is amended by:
  - a. Revising the introductory text, and paragraphs (a)(3) and (b)(3).
  - b. Removing paragraph (b)(13).

The revisions read as follows:

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

Certain individuals with 38 U.S.C. chapter 34 eligibility may establish eligibility for educational assistance under 38 U.S.C. chapter 30. This section requires an individual to complete certain academic requirements before applying for educational assistance. If the individual applies before completing those requirements, VA will disallow the application. However, the individual’s premature application will not prevent the individual from establishing eligibility at a later time by applying for educational assistance again after having completed those academic requirements. In determining whether an individual has met the service requirements of this section, VA will exclude any period during which the individual is not entitled to credit for service for periods of time specified in § 3.15.

- (a) \* \* \*
- (3) The individual, before applying for educational assistance, must:
  - (i) Complete the requirements for a secondary school diploma or an equivalency certificate; or
  - (ii) Successfully complete (or otherwise receive academic credit for) 12 semester hours (or the equivalent) in a program of education leading to a standard college degree;

- (b) \* \* \*
- (3) The individual, before applying for educational assistance, must:

- (i) Complete the requirements for a secondary school diploma or an equivalency certificate; or

- (ii) Successfully complete (or otherwise receive academic credit for) 12 semester hours (or the equivalent) in a program of education leading to a standard college degree.

\* \* \* \* \*

- 7. Section 21.7045 is amended by:
  - a. In the introductory text, removing “(d)” and adding, in its place, “(d) or (e)”.

- b. Adding paragraph (e).  
The addition reads as follows:

**§ 21.7045 Eligibility based on involuntary separation, voluntary separation, or participation in the Post-Vietnam Era Veterans’ Educational Assistance Program.**

\* \* \* \* \*

(e) *Alternate eligibility requirements for former participants in the Post-Vietnam Era Veterans’ Educational Assistance Program.* (1) *Definition.* For the purpose of this paragraph a *participant* is a veteran or servicemember who:

- (i) Had enrolled in the Post-Vietnam Era Veterans’ Educational Assistance Program, contributed to the fund described in § 21.5021(f), and either—
  - (A) Is making contributions by monthly payroll deduction to that fund;
  - (B) Has some or all of the contributions remaining in that fund;
  - (C) Has disenrolled, and received a refund of contributions; or
  - (D) Has used all of his or her entitlement to benefits under the Post-Vietnam Era Veterans’ Educational Assistance Program; or
- (ii) Had enrolled in the Post-Vietnam Era Veterans’ Educational Assistance Program, and has had the Secretary of Defense make contributions to the fund described in § 21.5021(f) for him or her.

(2) *Making an election.* To receive educational assistance under authority of this paragraph, a veteran or servicemember must:

- (i) Have elected before November 1, 2001, to receive educational assistance payable under 38 U.S.C. chapter 30 in lieu of educational assistance payable under the Post-Vietnam Era Veterans’ Educational Assistance Program;
- (ii) Have been a participant in the Post-Vietnam Era Veterans’ Educational Assistance Program on or before October 9, 1996;
- (iii) Have served continuously on active duty since October 9, 1996, through at least April 1, 2000;
- (iv) Receive an honorable discharge when discharged or released from the period of active duty during which the servicemember made the election described in paragraph (e)(3) of this section.

(3) *Election.* The election to receive educational assistance payable under 38

U.S.C. chapter 30 in lieu of educational assistance payable under the Post-Vietnam Era Veterans' Educational Assistance Program is irrevocable. The election must have been made before November 1, 2001, pursuant to procedures provided by the Secretary of the military department concerned.

(4) *\$2,700 collection.* (i) An individual who has made the election described in paragraph (e)(3) of this section must have his or her basic pay reduced by \$2,700 in a manner prescribed by the Secretary of the military department concerned. To the extent that basic pay is not so reduced before the individual's discharge or release from active duty, the Secretary of the military department concerned will collect from the individual an amount equal to the difference between \$2,700 and the amount that the individual's basic pay has been reduced. The individual may choose how the \$2,700 is to be collected. The Secretary of the military department concerned, according to the choice the individual makes, will collect this amount—

(A) From the individual; or

(B) By reducing the individual's retired or retainer pay.

(ii) The individual must pay \$2,700 to the Secretary of the military department concerned, as provided for by that Secretary, during an 18-month period beginning on the date the individual made the election described in paragraph (e)(3) of this section.

(iii) Educational assistance under authority of paragraph (e) of this section to an individual who was discharged or released from active duty before the Secretary of the military department concerned had collected the full \$2,700 described in paragraph (e)(4) of this section is not payable until that Secretary either—

(A) Collects in full the \$2,700; or

(B) Has made the first reduction in retired or retainer pay for the purpose of the \$2,700 payment described in paragraph (e)(4) of this section. Thus, a veteran who is making the \$2,700 payment through having retired or retainer pay reduced may be eligible before the Secretary of the military department concerned collects the full \$2,700.

(5) *Educational requirement.* Before applying for benefits that may be payable as the result of making a valid election, an individual must have—

(i) Completed the requirements of a secondary school diploma (or equivalency certificate); or

(ii) Successfully completed the equivalent of 12 semester hours in a program of education leading to a standard college degree.

(Authority: 38 U.S.C. 3018C(e))

■ 8. Section 21.7050 is amended by:

■ a. In paragraph (a)(1), removing “(c) or (d)” and adding, in its place, “(c), (d), and (e)”.

■ b. Redesignating paragraphs (e) and (f) as paragraphs (f) and (g), respectively.

■ c. Adding new paragraph (e).

The addition reads as follows:

**§ 21.7050 Ending dates of eligibility.**

\* \* \* \* \*

(e) *Some veterans have a later ending date.* (1) The ending date of the eligibility period of a veteran described in paragraph (e)(2) of this section is the later of:

(i) November 1, 2010; or

(ii) 10 years after the date of the veteran's last discharge from a period of active duty of 90 days or more.

(2) The ending date of a veteran's eligibility period will be the date described in paragraph (e)(1) of this section if the veteran would have been prevented from establishing eligibility by one or more of the former requirements described in paragraphs (e)(2)(i) through (e)(2)(iv) of this section and the veteran is enabled to establish eligibility by the removal of the statutory bases for those requirements. (For the purposes of this paragraph, the applicable provisions of those former requirements appear in the July 1, 2002 revision of the Code of Federal Regulations, title 38.)

(i) *A period of active duty other than the initial period was used to establish eligibility.* The veteran was enabled to establish eligibility by the removal of the former eligibility requirement in 38 CFR 21.7042(a)(2)(ii), 21.7042(a)(5)(iv)(A), and 21.7042(a)(5)(iv)(B), revised as of July 1, 2002, that a veteran had to use his or her initial period of active duty to establish eligibility for educational assistance;

(ii) *High school education eligibility criterion met after the qualifying period of active duty.* The veteran was enabled to establish eligibility by the removal of the former eligibility requirement in 38 CFR 21.7042(a)(3), 21.7042(b)(2), and 21.7042(c)(4), revised as of July 1, 2002, that before completing the period of active duty used to establish eligibility for educational assistance, a veteran had to complete the requirements for a secondary school diploma (or an equivalency certificate) or successfully complete (or otherwise receive academic credit for) 12 semester hours (or the equivalent) in a program of education leading to a standard college degree;

(iii) *High school education eligibility criterion met after October 29, 1994.* The

veteran was enabled to establish eligibility by the removal of the former eligibility requirement in 38 CFR 21.7042(a)(6), 21.7042(b)(11), and 21.7044(b)(13), revised as of July 1, 2002, that certain veterans meet the requirements for a secondary school diploma (or an equivalency certificate) before October 29, 1994, in order to establish eligibility for educational assistance;

(iv) *High school education eligibility criterion for veterans formerly eligible under 38 U.S.C. chapter 34 met after January 1, 1990.* The veteran was enabled to establish eligibility by the removal of the former eligibility requirement in 38 CFR 21.7044(a)(3) and 21.7044(b)(3), revised as of July 1, 2002, that, as one of the two ways that certain veterans could meet the educational criteria for establishing eligibility for educational assistance, the veteran must before January 1, 1990, meet the requirements for a secondary school diploma (or equivalency certificate).

(Authority: 38 U.S.C. 3031 note; secs. 102(e), 103(e), Pub. L. 106-419, 114 Stat. 1825; 1826-27)

\* \* \* \* \*

■ 9. Section 21.7072 is amended by:

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

■ b. In paragraph (b)(1) introductory text, removing “initial” and adding, in its place, “qualifying”.

■ c. Revising paragraphs (b)(1)(ii) and (c)(1).

The revisions read as follows:

**§ 21.7072 Entitlement to basic educational assistance.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(ii) Serves less than 36 months of continuous active duty service after June 30, 1985 (or less than 24 continuous months of a qualifying obligated period of active duty service after June 30, 1985, if his or her qualifying obligated period of active duty is less than 3 years), and

\* \* \* \* \*

(c) *Entitlement based on service in the Selected Reserve.* (1) Except as provided in § 21.7073, when the provisions of paragraph (c) of this section are met, an individual is entitled to one month of basic educational assistance (or the equivalent thereof in part-time basic educational assistance) for each month of the individual's active duty service that is after June 30, 1985, and that, in the case of an individual who had no previous eligibility under 38 U.S.C.

chapter 34, is part of the individual's qualifying obligated period of active duty. An individual is entitled to one month of basic educational assistance (or the equivalent thereof in part-time basic educational assistance) for each four months served by the individual in the Selected Reserve after June 30, 1985 (other than a month in which the individual serves on active duty). Except as provided in § 21.7073, VA will apply the provisions of paragraph (c) of this section when the individual—

- (i) Establishes eligibility through meeting the eligibility requirements of § 21.7042 or § 21.7044, and
- (ii) Bases his or her eligibility upon a combination of service on active duty and service in the Selected Reserve as described in § 21.7042(b) and § 21.7044(b).

(Authority: 38 U.S.C. 3013(b))

\* \* \* \* \*

- 10. Section 21.7131 is amended by:
  - a. Revising paragraph (a)(1)(iii).
  - b. Adding paragraphs (a)(1)(iv) and (a)(1)(v).
  - c. Revising the authority citation for paragraph (a).
  - d. In paragraph (b)(2), removing "Except as provided in paragraphs (b)(3), (b)(4) and (b)(5) of this section when" and adding, in its place, "When" and removing "enrolled" and adding, in its place, "enrolled, except as provided in paragraphs (b)(3), (b)(4), and (b)(5) of this section".
  - e. Adding paragraphs (j), (o), and (p).
 The revisions and additions read as follows:

**§ 21.7131 Commencing dates.**

\* \* \* \* \*

- (a) \* \* \*
- (1) \* \* \*
- (iii) The effective date of the approval of the course;
- (iv) One year before the date VA receives approval notice for the course; or
- (v) November 1, 2000, if paragraph (p) of this section applies to the individual.

(Authority: 38 U.S.C. 3014, 3023, 3034, 3672)

\* \* \* \* \*

(j) *Increase due a servicemember due to monetary contributions.* (1) If a servicemember is contributing additional amounts as provided in § 21.7136(h), and is enrolled in an educational institution operated on a term, quarter, or semester basis, the monthly rate payable to the servicemember will increase on the first day of the term, quarter, or semester following the term, quarter, or semester in which the servicemember made the contribution(s).

(2) If a servicemember is contributing additional amounts as provided in § 21.7136(h), and is enrolled in an educational institution not operated on a term, quarter, or semester basis, the monthly rate payable to the servicemember will increase on the first day of the enrollment period following the enrollment period in which the servicemember made the contribution.

(Authority: 38 U.S.C. 3011(e), 3012(f))

\* \* \* \* \*

(o) *Eligibility established under § 21.7045(e).* This paragraph must be used to establish the effective date of an award of educational assistance when the veteran or servicemember has established eligibility under § 21.7045(e). The commencing date of an award of educational assistance for such a veteran or servicemember is the later of the following:

(1) The commencing date as determined by paragraphs (a) through (c) and (f) through (k) of this section; or

(2) The date on which—

- (i) The servicemember's basic pay is reduced by \$2,700;
- (ii) The Secretary of the military department concerned collected the difference between \$2,700 and the amount by which the military department concerned reduced the veteran's basic pay following the veteran's election under § 21.7045(e), provided that this collection was accomplished through a method other than reducing the veteran's retired or retainer pay; or
- (iii) The Secretary of the military department concerned first reduced the veteran's retired or retainer pay in order to collect the difference between \$2,700 and the amount by which the military department concerned reduced the veteran's basic pay following the election under § 21.7045(e).

(Authority: 38 U.S.C. 3018C(e))

(p) *Eligibility established due to changes to §§ 21.7042 and 21.7044.* The commencing date of educational assistance will be no earlier than November 1, 2000, if a veteran would have been prevented from establishing eligibility by one or more of the former requirements described in paragraphs (p)(1) through (p)(4) of this section and the veteran is enabled to establish eligibility due to the removal of the statutory bases for those requirements. (For the purposes of this paragraph, the applicable provisions of those former requirements appear in the July 1, 2002 revision of the Code of Federal Regulations, title 38.)

(1) *A period of active duty other than the initial period was used to establish*

*eligibility.* The veteran was enabled to establish eligibility by the removal of the former eligibility requirement in 38 CFR 21.7042(a)(2)(ii), 21.7042(a)(5)(iv)(A), and 21.7042(a)(5)(iv)(B), revised as of July 1, 2002, that a veteran had to use his or her initial period of active duty to establish eligibility for educational assistance.

(Authority: Sec. 102(e), Pub. L. 106-419, 114 Stat. 1825)

(2) *High school education eligibility criterion met after the qualifying period of active duty.* The veteran was enabled to establish eligibility by the removal of the former eligibility requirement in 38 CFR 21.7042(a)(3), 21.7042(b)(2), and 21.7042(c)(4), revised as of July 1, 2002, that before completing the period of active duty used to establish eligibility for educational assistance, a veteran had to complete the requirements for a secondary school diploma (or an equivalency certificate) or successfully complete (or otherwise receive academic credit for) 12 semester hours (or the equivalent) in a program of education leading to a standard college degree.

(Authority: Sec. 103(e), Pub. L. 106-419, 114 Stat. 1826-27)

(3) *High school education eligibility criterion met after October 29, 1994.* The veteran was enabled to establish eligibility by the removal of the former eligibility requirement in 38 CFR 21.7042(a)(6), 21.7042(b)(11), and 21.7044(b)(13), revised as of July 1, 2002, that certain veterans meet the requirements for a secondary school diploma (or an equivalency certificate) before October 29, 1994, in order to establish eligibility for educational assistance.

(Authority: Sec. 103(e), Pub. L. 106-419, 114 Stat. 1826-27)

(4) *High school education eligibility criterion for veterans formerly eligible under 38 U.S.C. chapter 34 met after January 1, 1990.* The veteran was enabled to establish eligibility by the removal of the former eligibility requirement in 38 CFR 21.7044(a)(3) and 21.7044(b)(3), revised as of July 1, 2002, that, as one of the two ways that certain veterans could meet the educational criteria for establishing eligibility, the veteran must before January 1, 1990, meet the requirements for a secondary school diploma (or equivalency certificate).

(Authority: Sec. 103(e), Pub. L. 106-419, 114 Stat. 1826-27)

- 11. Section 21.7136 is amended by:

■ a. In paragraphs (a)(2)(i), (a)(2)(ii), (a)(2)(iii) introductory text, and (a)(2)(iii)(B) introductory text, and in the heading for paragraph (c), removing “initial” and adding, in its place, “qualifying”.

■ b. In paragraph (e), removing “(g)” and adding, in its place, “(g) or (h)”.

■ c. In paragraph (f) introductory text, removing “§ 21.7045(b)(1)(ii) or (c)(1)(ii)” and adding, in its place, “§ 21.7045(b)(1)(ii), (c)(1)(ii), or (e)(2)”.

■ d. Adding paragraph (h).

The addition reads as follows.

**§ 21.7136 Rates of payment of basic educational assistance.**

\* \* \* \* \*

(h) *Increase in monthly rates due to contributions.* Effective May 1, 2001, a servicemember who establishes eligibility under § 21.7042(a), (b), or (c) may contribute up to \$600 to the Secretary of the military department concerned in multiples of \$20.

(1) VA will increase the monthly rate provided in paragraph (b)(2) or (c)(2) of this section by:

(i) \$5 for every \$20 an individual pursuing a program of education full time has contributed;

(ii) \$3.75 for every \$20 an individual pursuing a program of education three-quarter time has contributed;

(iii) \$2.50 for every \$20 an individual pursuing a program of education half time or less than one-half time but more than one-quarter time has contributed; and

(iv) \$1.25 for every \$20 an individual pursuing a program of education one-quarter time has contributed.

(2) If a veteran is pursuing an apprenticeship or other on-job training—

(i) During the first six months of the veteran’s pursuit of training, VA will increase the monthly rate provided in paragraph (b)(4) or (c)(4) of this section by \$3.75 for every \$20 the individual has contributed;

(ii) During the second six months of the veteran’s pursuit of training, VA will increase the monthly rate provided in paragraph (b)(4) or (c)(4) of this section by \$2.75 for every \$20 the veteran has contributed; and

(iii) During the remaining months of the veteran’s pursuit of training, VA will increase the monthly rate provided in paragraph (b)(4) or (c)(4) of this section by \$1.75 for every \$20 the veteran has contributed.

(3) VA will increase the monthly rate provided in paragraph (b)(5)(iii) or (c)(5)(iii) of this section by \$5 for every \$20 the veteran has contributed.

(Authority: 38 U.S.C. 3015(g))

[FR Doc. 03–14281 Filed 6–6–03; 8:45 am]

BILLING CODE 8320–01–P

**DEPARTMENT OF VETERANS AFFAIRS**

**38 CFR Part 61**

RIN 2900–AL30

**VA Homeless Providers Grant and Per Diem Program; Correction**

AGENCY: Department of Veterans Affairs.

ACTION: Interim final rule; correction.

**SUMMARY:** In a document published in the *Federal Register* on March 19, 2003 (68 FR 13590), we amended the regulations concerning the VA Homeless Providers Grant and Per Diem Program primarily to implement the provisions of the Homeless Veterans Comprehensive Assistance Act of 2001. The document contains typographical errors in § 61.33 “Payment of per diem.” This document corrects those typographical errors.

**DATES:** *Effective Date:* This correction is effective March 19, 2003.

**FOR FURTHER INFORMATION CONTACT:** Roger Casey, VA Homeless Providers Grant and Per Diem Program, Mental Health Strategic Health Care Group (116E), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420; (877) 332–0334. (This is a toll-free number.)

**SUPPLEMENTARY INFORMATION:** In rule FR Doc. 03–6329, published on March 19, 2003 (68 FR 13590), make the following corrections:

**§ 61.33 [Corrected]**

■ On page 13600, in the first column, in paragraph (d)(2), “(f)(1)(i)” is corrected to read “(d)(1)(i)” and “(f)(1)(ii)” is corrected to read “(d)(1)(ii)”.

Approved: June 3, 2003.

**Robert C. McFetridge,**

*Director, Regulations Management.*

[FR Doc. 03–14416 Filed 6–6–03; 8:45 am]

BILLING CODE 8320–01–P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 62**

[CA216–0400; FRL–7510–2]

**Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Large Municipal Waste Combustors; California**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

**SUMMARY:** EPA is finalizing approval of the California State Plan for implementing the emissions guidelines applicable to existing large municipal waste combustor units. This approval was proposed in the *Federal Register* on March 11, 2003. The plan was submitted by the California Air Resources Board for the State of California to satisfy requirements of sections 111(d) and 129 of the Clean Air Act. The submitted plan applies to large municipal waste combustor units located in the San Joaquin Valley Unified Air Pollution Control District and South Coast Air Quality Management District.

**EFFECTIVE DATE:** This rule is effective on July 9, 2003.

**ADDRESSES:** You can inspect copies of the administrative record for this action at EPA’s Region IX office during normal business hours. You can inspect copies of the submitted State Plan at the following locations:

Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room B–102, 1301 Constitution Avenue, NW., (Mail Code 6102T), Washington, DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 “I” Street, Sacramento, CA 95814.

**FOR FURTHER INFORMATION CONTACT:** Mae Wang, EPA Region IX, (415) 947–4124.

**SUPPLEMENTARY INFORMATION:** Throughout this document, “we,” “us” and “our” refer to EPA.

**I. Proposed Action**

On March 11, 2003 (68 FR 11484), EPA proposed to approve the California State Plan for implementing the emissions guidelines applicable to existing large municipal waste combustor (MWC) units. We proposed to approve this State Plan because we determined that it complied with the relevant Clean Air Act (CAA) requirements. Our proposed action