

from sabotage and other subversive acts, accidents, or incidents of similar nature. These regulations are also necessary to protect the public from potentially hazardous conditions which may exist as a result of Navy use of the area.

**EFFECTIVE DATE:** March 15, 2002.

**ADDRESSES:** U.S. Army Corps of Engineers, Attn: CECW-OR, 441 G Street, NW., Washington, DC 20314-1000.

**FOR FURTHER INFORMATION CONTACT:** Mr. Frank Torbett, Headquarters Regulatory Branch, Washington, DC at (202) 761-4618, or Mr. Rick Henderson, Corps of Engineers, Norfolk District, Regulatory Branch, at (757) 441-7653.

**SUPPLEMENTARY INFORMATION:** Pursuant to its authorities in section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriations Act of 1919 (40 Stat 892; 33 U.S.C. 3) the Corps is amending the restricted area regulations in 33 CFR part 334 by adding Section 334.440 which establishes a restricted area on the Elizabeth River in the vicinity of the Craney Island Refueling Station at Portsmouth, Virginia.

#### Procedural Requirements

##### (a) Review Under Executive Order 12866

This rule is issued with respect to a military function of the Defense Department and the provisions of Executive order 12866 do not apply.

##### (b) Review Under the Regulatory Flexibility Act

This rule has been reviewed under the Regulatory Flexibility Act (Pub. L. 96-354), which requires the preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities (i.e., small businesses and small governments). The Corps expects that the economic impact of the establishment of this restricted area would have practically no impact on the public, no anticipated navigational hazard or interference with existing waterway traffic and accordingly, certifies that this proposal will have no significant economic impact on small entities.

##### (c) Review Under the National Environmental Policy Act

The Norfolk District has prepared an environmental assessment (EA) for this action. We have concluded, based on the minor nature of the proposed restricted area regulations, that this action will not have a significant impact to the quality of the human environment, and preparation of an

Environmental Impact Statement (EIS) is not required. The EA may be reviewed at the Norfolk District office listed at the end of **FOR FURTHER INFORMATION CONTACT**, above.

##### (d) Unfunded Mandates Act

This rule does not impose an enforceable duty among the private sector and, therefore, is not a Federal private sector mandate and is not subject to the requirements of section 202 or 205 of the Unfunded Mandates Act. We have also found under section 203 of the Act, that small Governments will not be significantly and uniquely affected by this rulemaking.

##### (e) Submission to Congress and the Government Accounting Office

Pursuant to section 801(a)(1)(A) of the Administrative Procedure Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, the Army has submitted a report containing this Rule to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office. This Rule is not a major Rule within the meaning of section 804(2) of the Administrative Procedure Act, as amended.

#### List of Subjects in 33 CFR Part 334

Danger zones, Marine safety, Restricted areas, Navigation (water), Waterways.

For the reasons set out in the preamble, the Corps is amending 33 CFR Part 334 as follows:

#### PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for Part 334 continues to read as follows:

**Authority:** 40 Stat. 266; (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

2. Section 334.293 is added to read as follows:

##### § 334.293 Elizabeth River, Craney Island Refueling Pier Restricted Area, Portsmouth VA; Naval Restricted Area.

(a) *The area.* (1) The waters within an area beginning at a point on the shore at latitude 36°53'17.4" N, longitude 76°20'21" W; thence easterly to latitude 36°53'16.8" N, longitude 76°20'14.4" W; thence southwesterly to latitude 36°53'00" N, longitude 76°20'18" W; thence southeasterly to latitude 36°52'55.2" N, longitude 76°20'16.5" W; thence southwesterly to latitude 36°52'52.2" N, longitude 76°20'18" W; thence southwesterly to latitude 36°52'49.8" N, longitude 76°20'25.8" W; thence northwesterly to latitude 36°52'58.2" N, longitude 76°20'33.6" W;

thence northeasterly to a point on the shore at latitude 36°53'00" N, longitude 76°20'30" W; thence northerly along the shoreline to the point of beginning.

(b) *The regulation.* No vessel or persons may enter the restricted area unless specific authorization is granted by the Commander, Navy Region, Mid-Atlantic and/or other persons or agencies as he/she may designate.

(c) *Enforcement.* The regulation in this section, promulgated by the Corps of Engineers, shall be enforced by the Commander, Navy Region, Mid-Atlantic, and such agencies or persons as he/she may designate.

Dated: January 14, 2002.

**Charles M. Hess,**

Chief, Operations Division, Directorate of Civil Works.

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**BILLING CODE 3710-92-P**

## DEPARTMENT OF DEFENSE

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

### DEPARTMENT OF VETERANS AFFAIRS

#### 38 CFR Part 21

**RIN 2900-AK99**

#### Increase in Rates Payable Under the Montgomery GI Bill—Selected Reserve

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

**ACTION:** Final rule.

**SUMMARY:** By statute, the monthly rates of basic educational assistance payable to reservists under the Montgomery GI Bill—Selected Reserve 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—Selected Reserve for fiscal year 2002 (October 1, 2001, through September 30, 2002) are changed to show a 3.4% increase in these rates.

**DATES:** *Effective Date:* This final rule is effective February 13, 2002.

*Applicability Date:* The changes in rates are applied retroactively to conform to statutory requirements. For more information concerning the dates of application, see the **SUPPLEMENTARY INFORMATION** section.

**FOR FURTHER INFORMATION CONTACT:** William G. Susling, Jr., Education

Adviser, Education Service, Veterans Benefits Administration (202) 273-7187.

**SUPPLEMENTARY INFORMATION:** Under the formula mandated by 10 U.S.C. 16131(b) for fiscal year 2002, the rates of basic educational assistance under the Montgomery GI Bill—Selected Reserve payable to students pursuing a program of education full time, three-quarter time, and half time must be increased by 3.4%, which is the percentage by which the total of the monthly Consumer Price Index-W for July 1, 2000, through June 30, 2001, exceeds the total of the monthly Consumer Price Index-W for July 1, 1999, through June 30, 2000.

10 U.S.C. 16131(b) requires that full-time, three-quarter time, and half-time rates be increased as noted above. In addition, 10 U.S.C. 16131(d) requires that monthly rates payable to reservists in apprenticeship or other on-the-job training must be set at a given percentage of the full-time rate. Hence, there is a 3.4% raise for such training as well.

10 U.S.C. 16131(b) also requires that the Department of Veterans Affairs (VA) pay reservists training less than half time at an appropriately reduced rate. Since payment for less than half-time training became available under the Montgomery GI Bill—Selected Reserve in fiscal year 1990, VA has paid less than half-time students at 25% of the full-time rate. Changes are made consistent with the authority and formula described in this paragraph.

Nonsubstantive changes also are made for the purpose of clarity.

The changes set forth in this final rule are effective from the date of publication, but the changes in rates are applied from October 1, 2001, in accordance with the applicable statutory provisions discussed above.

#### Administrative Procedure Act

Substantive changes made by this final rule merely reflect statutory requirements and adjustments made based on previously established formulas. 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.

#### Regulatory Flexibility Act

The Secretary of Defense, the Commandant of the Coast Guard, and the Secretary of Veterans Affairs hereby certify 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 directly affects only individuals and does 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 in any given year. This rule would have no consequential effect on State, local, or tribal governments.

#### Catalog of Federal Domestic Assistance Program Numbers

There is no Catalog of Federal Domestic Assistance number for the program affected by this final rule.

#### 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: November 13, 2001.

**Anthony J. Principi,**

*Secretary of Veterans Affairs.*

Approved: December 27, 2001.

**Craig W. Duehring,**

*Principal Deputy, Office of the Assistant Secretary of Defense for Reserve Affairs.*

Approved: January 31, 2002.

**F.L. Ames,**

*Rear Admiral, United States Coast Guard, Assistant Commandant for Human Resources.*

For the reasons set out above, 38 CFR part 21, subpart L, is amended as set forth below.

#### PART 21—VOCATIONAL REHABILITATION AND EDUCATION

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

1. The authority citation for part 21, 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.

2. Section 21.7636 is amended by:

a. Removing “September 30, 2000” in paragraph (a)(3) and adding, in its place,

“September 30, 2001”, and by removing “October 1, 2001” and adding, in its place, “October 1, 2002”;

b. Revising paragraphs (a)(1) and (a)(2)(i).

The revisions read as follows:

#### § 21.7636 Rates of payment.

(a) *Monthly rate of educational assistance.* (1) Except as otherwise provided in this section or in § 21.7639, the monthly rate of educational assistance payable for training that occurs after September 30, 2001, and before October 1, 2002, to a reservist pursuing a program of education is the rate stated in this table:

| Training        | Monthly rate |
|-----------------|--------------|
| Full time ..... | \$272.00     |
| ¾ time .....    | 204.00       |
| ½ time .....    | 135.00       |
| ¼ time .....    | 68.00        |

(2) The monthly rate of basic educational assistance payable to a reservist for apprenticeship or other on-the-job training full time that occurs after September 30, 2001, and before October 1, 2002, is the rate stated in this table:

| Training period                                | Monthly rate |
|------------------------------------------------|--------------|
| First six months of pursuit of training .....  | \$204.00     |
| Second six months of pursuit of training ..... | 149.60       |
| Remaining pursuit of training .....            | 95.20        |

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#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 52

[KS 0147-1147; FRL-7141-7]

##### Approval and Promulgation of Implementation Plans; State of Kansas

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

**ACTION:** Final rule.

**SUMMARY:** EPA is announcing approval of a revision to the State Implementation Plan (SIP) for the control of the volatility of gasoline during the summertime in the Kansas portion of the Kansas City area. This action approves amendments to Kansas' control on the summertime Reid Vapor Pressure (RVP) of gasoline distributed in