

“Improving Regulation and Regulatory Review,” section 1(b), General Principles of Regulation. The Commission has determined that these rules are not a “significant regulatory action” under Executive Order 12866, section 3(f), Regulatory Planning and Review, and accordingly these rules have not been reviewed by the Office of Management and Budget.

#### Executive Order 13132

These rules will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Under Executive Order 13132, these rules do not have sufficient federalism implications requiring a Federalism Assessment.

#### Regulatory Flexibility Act

These rules will not have a significant economic impact upon a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 605(b).

#### Unfunded Mandates Reform Act of 1995

These rules will not cause State, local, or tribal governments, or the private sector, to spend \$100,000,000 or more in any one year, and they will not significantly or uniquely affect small governments. No action under the Unfunded Mandates Reform Act of 1995 is necessary.

#### Small Business Regulatory Enforcement Fairness Act of 1996 (Subtitle E—Congressional Review Act)

These rules are not considered “major rules” as defined by Section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996 Subtitle E—Congressional Review Act, now codified at 5 U.S.C. 804(2). These rules will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on the ability of United States-based companies to compete with foreign-based companies. Moreover, these are rules of agency practice or procedure that does not substantially affect the rights or obligations of non-agency parties, and do not come within the meaning of the term “rule” as used in Section 804(3)(C), now codified at 5 U.S.C. 804(3)(C). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

#### List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Prisoners, Probation and parole.

#### The Final Rule

Accordingly, the U.S. Parole Commission is adopting the following amendment to 28 CFR part 2:

#### PART 2—[AMENDED]

■ 1. The authority citation for 28 CFR part 2 continues to read as follows:

**Authority:** 18 U.S.C. 4203(a)(1) and 4204(a)(6).

#### § 2.17 [Removed and Reserved]

■ 2. Remove and reserve § 2.17.

■ 3. Amend § 2.24 by revising paragraph (b) to read as follows:

#### § 2.24 Review of panel recommendation by the Regional Commissioner.

\* \* \* \* \*

(b) Upon review of the panel recommendation, the Regional Commissioner may also remand the case for a rehearing, with the notice of such action specifying the purpose of the rehearing.

#### § 2.27 [Removed and Reserved]

■ 4. Remove and reserve § 2.27.

■ 5. Amend § 2.28 by revising paragraph (a) to read as follows:

#### § 2.28 Reopening of cases.

(a) *Favorable information or information supporting medical parole or compassionate release.* Upon the receipt of new information of substantial significance favorable to the prisoner, including medical information, or other extraordinary and compelling information, a Commissioner may reopen a case, and order a special reconsideration hearing on the next available docket, or modify the previous decision. The advancement of a presumptive release date or a decision to continue to a 15-year reconsideration hearing requires the concurrence of two Commissioners.

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■ 6. Amend § 2.43 by:

■ a. Revising paragraph (e); and

■ b. Removing and reserving paragraph (f).

The revision reads as follows:

#### § 2.43 Early termination.

\* \* \* \* \*

(e) A parolee may appeal an adverse decision under paragraph (c) of this section under § 2.26.

\* \* \* \* \*

**Patricia K. Cushwa,**

*Chairman (Acting), U.S. Parole Commission.*

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**BILLING CODE 4410–31–P**

#### DEPARTMENT OF VETERANS AFFAIRS

#### 38 CFR Part 17

#### RIN 2900–AQ74

#### Educational Assistance for Certain Former Members of the Armed Forces

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** The Department of Veterans Affairs (VA) is amending its regulations that govern scholarships to certain health care professionals. This rulemaking implements the mandates of the Consolidated Appropriations Act 2018 by establishing a pilot program to provide educational assistance to certain former members of the Armed Forces for education and training leading to a degree as a physician assistant.

**DATES:** This rule is effective November 12, 2021.

**FOR FURTHER INFORMATION CONTACT:** Scot Burroughs, Executive Director Physician Assistant Services, 810 Vermont Avenue NW, Washington DC 20420, (319) 333–2845. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** On July 27, 2020, VA published a proposed rule in the **Federal Register** (85 FR 45135) that would establish a pilot program to provide educational assistance to certain former members of the Armed Forces for education and training leading to a degree as a physician assistant, the Educational Assistance for Certain Former Members of the Armed Forces (EACFMAF) program. VA provided a 60-day comment period, which ended on September 25, 2020. VA received 21 comments on the proposed rule.

Section 246 of Public Law 115–141, the Consolidated Appropriations Act, 2018 (March 23, 2018), established the authority for the EACFMAF. See also 38 United States Code (U.S.C.) 7601 Note (2018) Physician Assistant Education and Training Pilot Program for Former Members of the Armed Forces. This pilot program provides an opportunity for veterans who possess medical experience gained while in the military;

a certificate, undergraduate degree, or post baccalaureate training in a science relating to health care; or participated in the delivery of health care services or related medical services, to further their medical education and become a physician assistant (PA) providing medical care to fellow veterans. The EACFMAF would increase access to VA health care by utilizing a veteran workforce that has received training as a PA in the Armed Forces. Section 246 of Public Law 115–141 sets forth the eligibility criteria, the types of available funding, established an agreement to be met by the participants, as well as the consequences for a breach in such agreement. This final rule establishes the regulations needed to carry out the EACFMAF. Immediately following title 38 of the Code of Federal Regulations (CFR) 17.531, we are adding a new undesignated center heading titled Educational Assistance for Certain Former Members of the Armed Forces and new §§ 17.535 through 17.539.

#### **General Comments in Support of the Proposed Rule**

Several commenters who were in favor of the rule stated that the EACFMAF is an excellent way to support our veterans and it would provide jobs for veterans with medical or military health experience and would also become vested stakeholders as contributing employees. Several commenters similarly stated that they strongly supported the promoting of opportunities for veterans to transition into the PA profession by providing educational assistance. A commenter also added that the program is critical in maintaining a strong health care workforce for the VA, staffed with people that are not only highly trained, but that have had the experience of serving in the military. Several commenters stated that having veteran PAs would increase patient satisfaction as well as patient health care and will benefit VA as the participants would have intimate knowledge of veteran issues and understand better what the veteran patient is going through. A commenter similarly stated that PAs with former military service gave the best quality of care, explained the care the veteran would receive in terms the veterans could readily understand, and had the needed insight of what the veteran was going through to help such veterans make an informed decision about their medical care. Another commenter stated that this program is a great way to provide additional training to already highly qualified individuals which will lead to a degree and a VA career as a physician assistant.

Another commenter was in favor of the rule and stated that the EACFMAF will offer participants peace of mind in not having to worry about tuition, books, and other expenses while in school and allow the participants to concentrate their efforts in finishing their studies. A commenter similarly stated that the EACFMAF will help reduce the number of homeless veterans by ensuring that they maintain a steady cash flow for their necessities. The commenter added that the concept of paying back all the money that participants receive in the EACFMAF in case they fail the classes sounds fair and will make the participants more responsible in completing their studies. Another commenter agrees in that the proposed rule specified up front the repayment requirements.

One commenter stated that the EACFMAF would be a perfect fit for a veteran who served as a medic in a war zone. The commenter added that they would love to be part of the program. Another commenter added that this is a much-needed scholarship program and that it would improve access to care for veterans. Lastly, the commenter stated that if the EACFMAF should become permanent it would be a direct line of PAs to seek employment in VA.

A commenter stated that other Federal agencies have recently waived requirements for doctors to perform certain intake, vaccination, or other medical procedures under the COVID–19 pandemic and having increased numbers of PAs would save doctors' time as well as increase the availability of health care services, which include examinations, interviewing, and telemedicine procedures. The commenter added that they are aware that veterans often have to travel long distances because of the lack of available physicians in the VA medical facility nearest them, and having PA's available could provide a benefit to these veterans seeking medical care from VA, including through telemedicine. We are not making any changes based on these comments.

#### **§ 17.536 Eligibility**

*Military and training requirements.* Several commenters suggested that VA not limit the eligibility for the EACFMAF to individuals who have medical or military health experience gained while serving in the military. The commenters stated that there are many servicemembers who decide to pursue a PA degree after leaving the military and should not be limited to what their jobs were in the service. The commenter suggested that the eligibility criteria for the EACFMAF be that the

servicemember gets accepted into PA school and not be limited to what their previous job was in the service. Another commenter stated that medical experience as a corpsman or medic may provide priority, but not exclusivity for application to the EACFMAF.

We note that the eligibility criteria for the EACFMAF is set forth in section 246(b) of the Consolidated Appropriations Act, 2018. The applicant has to meet one of these criteria by law in order to qualify for the EACFMAF; VA does not have any flexibility on amending the criteria in the regulation. The second criteria in proposed § 17.536(a) is that the individual has received a certificate, associate degree, baccalaureate degree, master's degree, or post baccalaureate training in a science relating to health care. The veteran does not have to meet this criteria while in military service. This criteria can be met once the veteran is discharged from service. As we have stated in this rulemaking, the purpose EACFMAF is to provide an opportunity to veterans to further their medical education and become a PA providing medical care to fellow veterans. Based on the comments in the previous paragraph, we are clarifying the regulation text to state that in order to qualify for the EACFMAF, a claimant must meet one of the eligibility criteria.

Several commenters were in favor of the rule, but suggested that VA remove the stipulation that the applicants must have a science related degree. A commenter added that PA schools require prerequisite science and math courses to be completed prior to the application process and this requirement is not needed in this proposal, and that the applicants do not need a science degree to enter PA school, but are required to demonstrate the ability to handle science related courses. The commenter indicated that the proposed rule has the potential of removing worthy veteran applicants from consideration because they do not have a science related degree. The commenter also stated that science majors are not the only individuals who make excellent clinical providers. Another commenter similarly stated that the requirement for a degree in health care, biology, physiology, etc. is also not required if the individual has been accepted into a PA education program, and that this requirement should merely give priority to individuals with a health care related degree and not exclude other individuals with other types of degrees.

VA notes that the second eligibility requirement in section 246 of the Consolidated Appropriations Act, 2018

states that one of the eligibility requirements is that the individual has received a certificate, associate degree, baccalaureate degree, master's degree, or postbaccalaureate training in a science relating to health care. We agree with the commenter in that the statutory requirement in section 246 would prevent PAs that graduate from an ARC-PA program and pass the National Commission on Certification of Physician Assistants (NCCPA), from participating in the EACFMAF because the PA does not have health science undergraduate degree. The legislative history of the EACFMAF shows that this program, including its eligibility requirements, is based on an earlier house bill H.R. 3794, 114th Congress, "Grow Our Own Directive: Physician Assistant Employment and Education Act of 2016". The House Subcommittee on Health held a hearing on several bills, including H.R. 3794 on April 20, 2016, and the bill was referred to the full House after markup. House Report 114–710 (September 6, 2016). While there are minor differences between H.R. 3794 and enacted section 246 of the Consolidated Appropriations Act, 2018, the eligibility requirements remained unchanged. VA does not have the authority to change eligibility requirements for this pilot program absent a change in the law.

However, VA notes that if the veteran otherwise meets one of the other two eligibility criteria, such veteran may be eligible to participate in the EACFMAF: That the veteran has medical or military health experience gained while serving as a member of the Armed Forces, or has participated in the delivery of health care services or related medical services, including participation in military training relating to the identification, evaluation, treatment, and prevention of disease and disorders. VA has other scholarship programs for participants to receive financial assistance for their health care education, including as a PA, such as the Health Professional Scholarship Program, found at 38 CFR 17.600–17.612. Individuals who do not meet the eligibility criteria for the EACFMAF, may apply for these other scholarship programs if they otherwise meet the eligibility criteria for such scholarship programs. However, these other programs and their eligibility criteria are beyond the scope of the proposed rule. We are not making any changes based on these comments.

**School and Individual requirements.** Another commenter was in favor of the rule, but requested that the requirement in proposed § 17.536(b)(1) be amended to include students who are enrolled or accepted for enrollment in an accredited

school located in a State as part-time students. The commenter indicated that veterans could have families and other job requirements that would limit their ability to attend school as a full-time student. The commenter added that if VA allowed participants of the EACFMAF to be enrolled part-time and provide a longer time frame to complete their degree, more veterans would have the opportunity to apply for the scholarship and complete their degree.

VA understands that some students may not be able to attend school on a full-time basis. Proposed § 17.536(b)(1) states that to be eligible for the EACFMAF, an applicant must be unconditionally accepted for enrollment or be enrolled as a full-time student in an accredited school located in a State. These school requirements are in alignment with similar VA scholarship programs. See 38 CFR 17.602. Allowing enrollment on a less than full-time basis will not meet the needs of the EACFMAF, which is a pilot program that will expire unless renewed in five years. As such, we proposed only to provide financial assistance for one to three years under proposed § 17.536(b) and we do not believe that education to become a PA or related professional can be completed on a less than full-time basis prior to the pilot expiring. We are not making any changes based on this comment.

#### **§ 17.537 Award Procedures**

**Priority.** A commenter was in favor of the proposed rule, but requested that proposed § 17.537(a)(3) be removed because it unfairly favors States that already have adequate PA populations in urban areas and consequently draws viable candidates away from rural locations where their services and expertise are more acutely needed. The commenter also stated that § 17.537(a)(3) goes against the agency's core values of commitment and advocacy by giving priority to eligible individuals who agree to be employed as physician assistants in a VA medical facility that is in a State with a per capita population of veterans of more than five percent. The commenter stated that while VA has the best intentions, the proposed section fails to consider that PA shortages prevalently continue predominantly along an urban-rural dichotomy, and that over 84 percent of PAs already provide services in an urban market. The commenter indicated that dedicating future PAs to the States with the largest per capita of veterans in the U.S., such as California, Texas, and Florida, all of which boast large urban populations, therefore ignores the larger problem that veterans in rural areas are

in need of more support. The commenter recommends that VA remove § 17.537(a)(3) because the previous subsection already achieves VA's goal of providing more support to medically underserved facilities without providing an unnecessary limitation.

VA agrees that PAs are needed to serve in medically underserved populations. However, we do not agree that § 17.537(a)(3) provides an unnecessary limitation or that it unfairly favors States that already have adequate PA populations in urban areas. Read in its entirety, proposed § 17.537(a)(3) priority is not limited to the sole factor of veteran population. Rather, it states that VA will give priority to eligible individuals who agree to be employed as physician assistants in a VA medical facility that: (1) Is located in a community that is designated as a medically underserved population as defined by 42 U.S.C. 254b(b)(3)(A); (2) Is designated by VA as a medically underserved facility; and (3) Is in a State with a per capita population of veterans of more than five percent, according to the National Center for Veterans Analysis and Statistics and the United States Census Bureau. Proposed § 17.537(a)(3) is also a requirement established under section 246(d)(2) of the Consolidated Appropriations Act, 2018, which is meant to allow VA to provide health care to a State with a per capita population of veterans of more than five percent, but is not meant to be exclusive of an urban population. All other conditions in § 17.537(a) must also be met, which includes medically underserved communities and VA medical facilities. VA intends to utilize the EACFMAF to expand health care services in VA medical facilities where recruitment and retention of PAs is difficult due to the location of the VA medical facility. In addition, establishing the five percent requirement allows VA to serve a larger number of veterans in communities that would otherwise benefit from increased health care professionals. We are not making any changes based on this comment.

#### **§ 17.538 Agreement and Obligated Service**

**Obligated service—General.** A commenter stated that if there was not an employment vacancy for a PA at a VA medical facility that is located in the vicinity of the participant's residence within 90 days after the date that the participant completes their education, then the 90 day requirement should be extended to 180 days for such individual.

We stated in proposed § 17.538(b)(1) that the obligated service would begin on the date on which the eligible individual begins full-time permanent employment with VA as a clinical practice employee as a physician assistant, but no later than 90 days after the date that the eligible individual completes a master's degree in physician assistant studies or similar master's degree or the date the eligible individual becomes licensed in a State and certified as required by the Secretary, whichever is later. VA has been successful in placing participants of similar scholarship programs into full-time VA employment within an even shorter 60-day time frame. See 38 CFR 17.607(b). In addition, the participant must be willing to relocate to another geographic location to carry out their service obligation. We are not making any changes based on this comment.

A commenter stated that the fulltime service requirement to begin within 90 days after completion of the PA degree assumes that VA will have full time permanent positions available. The commenter suggested that the requirement should be that an individual will undertake at least 50 percent time employment on a fulltime or temporary basis, in order to give the maximum flexibility to both the individual and the VA. The commenter added that VA hospitals may have limited hiring ability and may not wish to hire full time permanent employees, but could still benefit from having more physician assistants.

VA currently has PA vacancies nationwide, especially in VA medical facility located in communities that are designated as medically underserved under 42 U.S.C. 245b(b)(3)(A) and those VA medical facilities that VA has determined as medically underserved. In addition, VA anticipates the need for PA's will remain, particularly in the medically underserved areas. Under proposed § 17.538(a)(3) a participant agrees to be employed as a full-time clinical practice employee in VA as a physician assistant for a period of obligated service for one calendar year for each school year or part thereof for which the EACFMAF was awarded, but for no less than three years. The full-time employment requirement is also similar to other VA scholarship programs. Reducing the service to anything other than full time would defeat the purpose of the EACFMAF. We are not making any changes based on this comment.

One commenter stated that § 17.538(b)(1) does not provide enough flexibility to account for unforeseeable

delays in attaining certification as it does not account for possible extenuating circumstances outside of an individual's control. The commenter added that the COVID-19 pandemic has clearly demonstrated that unforeseen events can arise, which can delay intended plans indefinitely, and that there is arguably a lack of compassion in a provision that can cause an individual to be in breach of their contract when they are not at fault because of major outside influences. The commenter suggests that VA consider extending the length of time before an individual is in breach to one year and revise the consequence of failing to acquire licensure or certification due to unforeseen circumstances by placing the participant under review, subject to breach if the failure was due to the individual's actions.

We stated in the proposed rule that section 246 of the Consolidated Appropriations Act, 2018 does not establish a time frame for when an eligible individual will repay the amount of damages when such eligible individual breaches their terms of agreement, and that proposed § 17.539(b) would mirror the repayment period language from similar scholarship programs. See 38 U.S.C. 7617(c)(2) and 38 CFR 17.610(c). We stated in part in proposed § 17.538(b)(1) that VA will actively assist and monitor eligible individuals to ensure State licenses and certificates are obtained in a minimal amount of time following graduation. We also stated that if an eligible individual fails to obtain his or her degree, or fails to become licensed in a State or become certified no later than 180 days after receiving the degree, the eligible individual is considered to be in breach of the acceptance agreement. Participants of similar VA scholarship programs have been successfully able to obtain the required certification within the 180-day time frame, and we believe that will be the case in EACFMAF as well. However, we are aware that there may be instances where the participant of the EACFMAF may not be able to obtain their certification due to unforeseen circumstances such as the COVID-19 National Emergency. VA's engagement in assisting and monitoring the eligible individuals obtain their State license and certificates will alert VA of any potential unforeseen circumstance. VA will examine these unforeseen circumstances as they arise on a case by case basis and may provide general guidance to all participants if the unforeseen circumstance affects all

participants. We are not making any changes based on this comment.

*Location and position of obligated service.* One commenter was in favor of the rule, but stated that more clarity is needed regarding exactly which VA medical facilities are considered to be given preference under the criteria set forth in the rule. The commenter added that the proposed regulation text is vague and subject to changes based on classification of various sites, for which the criteria is unclear.

We agree with the commenter in that the proposed rule did not specify how VA would alert potential participants of VA locations that have vacancies. We, therefore, revise § 17.538(b)(2) as proposed to state that VA will publish a list of VA medical facilities where the participants may perform their period of obligated service in a notice in the **Federal Register** on a yearly basis. Participants of the EACFMAF may select their preference for service from this list to serve the period of obligated service, however, VA reserves the right to make the final decision on location. By providing this list of vacancies, prospective participants will know prior to applying for the program the VA medical facilities that will have vacancies in which the participants of the EACFMAF may perform their period of obligated service.

Several commenters stated that students receiving EACFMAF should, at the very least, have relocation costs reimbursed if their assigned facility is outside the area of their current residence or have the participant agree before their service begins where their term is to be served, and commit via contract. These commenters asserted that these changes would reduce financial hardship for students with families with already limited resources and lessen the burden of a mandated move.

We stated in the proposed rule that VA reserves the right to make final decisions on the location and position of the obligated service. We also stated that an eligible individual who receives an EACFMAF must be willing to relocate to another geographic location to carry out their service obligation. This language is consistent with similar scholarship programs. See 38 CFR 17.607(d). We appreciate that relocation expenses can be burdensome to some applicants. However, paying relocation expenses to a participant of the EACFMAF would reduce the amount of funds available for the program. In addition, Public Law 115-141 section 246 does not give VA specific authority to pay relocation expenses. We are not

making any changes based on this comment.

One commenter disagreed with the statement in the proposed rule's Supplementary Section where VA stated that several branches of the Armed Forces train individuals to perform the duties of a physician assistant without the required educational training. The commenter stated that corpsman and medics are very highly trained and provide exceptional medical care to their fellow servicemembers but they are not trained perform to the duties of a PA, and that the training is extensive but one cannot be called a PA without going through PA school.

We agree with the commenter that being trained in potential PA duties does not equate with being a PA, and that is exactly the function of the EACFMAF, to allow an individual without formal PA training to receive such training. We stated in the proposed rule that the EACFMAF would allow such individuals the opportunity to complete their education and training in order to be employed by VA as a physician assistant. We are not making any changes based on this comment.

#### Technical Edit

We are making one technical edit to § 17.536(b)(4). *Proposed § 17.536(b)(4) stated that an applicant must submit an application to participate in the Scholarship Program together with a signed contract. We are amending the term "contract" to now state "agreement" to be consistent in the use of the term as stated in § 17.538. We are not making any changes to the meaning of § 17.536(b)(4).*

Based on the rationale set forth in the **SUPPLEMENTARY INFORMATION** to the proposed rule and in this final rule, VA is adopting the proposed rule with the changes described in this final rule.

#### Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that VA consider the impact of paperwork and other information collection burdens imposed on the public. According to the 1995 amendments to the Paperwork Reduction Act (5 CFR 1320.8(b)(2)(vi)), an agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement unless it displays a currently valid Office of Management and Budget (OMB) control number. This final rule includes provisions constituting an amendment of an existing collection of information under the Paperwork Reduction Act of 1995 that require approval by the OMB. The existing OMB control number that will

be amended by this action is 2900–0793. Accordingly, under 44 U.S.C. 3507(d), VA has submitted a copy of this rulemaking action to OMB for review.

OMB assigns control numbers to collections 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. Proposed 38 CFR 17.538 contains a collection of information under the Paperwork Reduction Act of 1995. If OMB does not approve the collection of information as requested, VA will immediately remove the provision containing a collection of information or take such other action as is directed by OMB.

The amended proposed collection of information is comprised of an agreement between VA and the eligible individual who accepts funding for the Educational Assistance for Certain Former Members of the Armed Forces (EACFMAF).

VA estimates there will be 100 veteran applicants per year, which will require them to complete an application package. This application package is comprised of the application itself, academic verification, evaluation & recommendation, and an addendum to the application. VA estimates it will take an applicant 3.7 hours to complete the application package, for a total PRA cost of \$10,061.02 (100 applicants × 3.7 hrs. × \$27.07<sup>1</sup>).

Additionally, there will be further collections for applicants selected for the program. VA intends to select 25 Veterans for the scholarship each year. Those selected to receive the scholarship will be required to fill out agreements for the scholarship, a mobility agreement, an offer response, notice of change/annual academic report, notice of approaching graduation, education program completion, request for deferment for advanced education, and an annual VA employment/deferment verification. VA estimates it will take 1.75 hours to complete the acceptance package, for a total PRA cost of \$ 1,184.31 (25 applicants × 1.75 hrs. × \$27.07<sup>2</sup>). VA

<sup>1</sup> For the proposed collection of information, VA used general wage data from the May 2020 Bureau of Labor Statistics (BLS) website, [https://www.bls.gov/oes/current/oes\\_nat.htm](https://www.bls.gov/oes/current/oes_nat.htm), VA used the BLS wage code of "00–0000 All Occupations, which has a mean hourly wage/salary workers of \$27.07.

<sup>2</sup> For the proposed collection of information, VA used general wage data from the May 2020 Bureau of Labor Statistics (BLS) website, [https://www.bls.gov/oes/current/oes\\_nat.htm](https://www.bls.gov/oes/current/oes_nat.htm), VA used the BLS wage code of "00–0000 All Occupations, which has a mean hourly wage/salary workers of \$27.07.

estimates the total annual burden cost to all respondents to be \$11,245.33 (\$10,061.02 for the application + \$1,184.31 acceptance package).

#### Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This rulemaking does not change VA's policy regarding small businesses, does not have an economic impact to individual businesses, and there are no increased or decreased costs to small business entities. On this basis, the final rule will not have an economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. Therefore, pursuant to 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

#### Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. The Office of Information and Regulatory Affairs has determined that this rule is not a significant regulatory action under Executive Order 12866. The Regulatory Impact Analysis associated with this rulemaking can be found as a supporting document at [www.regulations.gov](http://www.regulations.gov).

#### Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year. This final rule will have no such effect on State, local, and tribal governments, or on the private sector.

**Congressional Review Act**

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

**Catalog of Federal Domestic Assistance**

There are no Catalog of Federal Domestic Assistance numbers and titles for this rule.

**List of Subjects in 38 CFR Part 17**

Administrative practice and procedure, Health care, Health facilities, Health professions, Scholarships and fellowships.

**Signing Authority**

Denis McDonough, Secretary of Veterans Affairs, approved this document on October 4, 2021, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

**Consuela Benjamin,**

*Regulations Development Coordinator, Office of Regulation Policy & Management, Office of General Counsel, Department of Veterans Affairs.*

For the reasons set forth in the preamble, we are amending 38 CFR part 17 as follows:

**PART 17—MEDICAL**

■ 1. The authority citation for part 17 continues to read as follows:

**Authority:** 38 U.S.C. 501, and as noted in specific sections.

\* \* \* \* \*

Sections 17.535 through 17.539 are also issued under Public Law 115–141, sec. 246.

\* \* \* \* \*

■ 2. Add an undesignated center heading and §§ 17.535 through 17.539 immediately following § 17.531 to read as follows.

Sec.

\* \* \* \* \*

*Educational Assistance for Certain Former Members of the Armed Forces*

17.535 Purpose.

17.536 Eligibility.

17.537 Award procedures.

17.538 Agreement and obligated service.

17.539 Failure to comply with terms and conditions of agreement.

\* \* \* \* \*

**§ 17.535 Purpose.**

The purpose of §§ 17.535 through 17.539 is to establish the Educational Assistance for Certain Former Members of the Armed Forces (EACFMAF). The EACFMAF will provide a scholarship to certain former members of the Armed

Forces for the education and training leading to employment as a VA physician assistant.

**§ 17.536 Eligibility.**

(a) *Military and Training requirements.* An individual is eligible to participate in the EACFMAF if such individual is a former member of the Armed Forces who was discharged or released therefrom under conditions other than dishonorable and meets one of the following criteria:

(1) Has medical or military health experience gained while serving as a member of the Armed Forces;

(2) Has received a certificate, associate degree, baccalaureate degree, master's degree, or post baccalaureate training in a science relating to health care; or

(3) Has participated in the delivery of health care services or related medical services, including participation in military training relating to the identification, evaluation, treatment, and prevention of disease and disorders.

(b) *School and Individual requirements.* To be eligible for the EACFMAF, an applicant must:

(1) Be unconditionally accepted for enrollment or be enrolled as a full-time student in an accredited school located in a State;

(2) Be pursuing a degree leading to employment as a physician assistant;

(3) Be a citizen of the United States; and

(4) Submit an application to participate in the Scholarship Program together with a signed agreement as specified in § 17.538.

**§ 17.537 Award procedures.**

(a) *Priority.* In awarding EACFMAF, VA will give priority to eligible individuals who agree to be employed as physician assistants in a VA medical facility that:

(1) Is located in a community that is designated as a medically underserved population under 42 U.S.C.

254b(b)(3)(A);

(2) Is designated by VA as a medically underserved facility; and

(3) Is in a State with a per capita population of veterans of more than five percent, according to the National Center for Veterans Analysis and Statistics and the United States Census Bureau.

(b) *Amount of funds.* VA will provide a scholarship to individuals who participate in the EACFMAF to cover the costs of such individuals obtaining a master's degree in physician assistant studies or similar master's degree for a period of one to three years. All such payments to scholarship participants are exempt from Federal taxation. The payments will consist of:

(1) Tuition and required fees;

(2) Other educational expenses, including books and laboratory equipment.

**§ 17.538 Agreement and obligated service.**

(a) *Agreement.* Each eligible individual who accepts funds from the EACFMAF will enter into an agreement with VA where the eligible individual agrees to the following:

(1) Maintain enrollment, attendance, and acceptable level of academic standing as defined by the school;

(2) Complete a master's degree in physician assistant studies or similar master's degree; and

(3) Be employed as a full-time clinical practice employee in VA as a physician assistant for a period of obligated service for one calendar year for each school year or part thereof for which the EACFMAF was awarded, but for no less than three years.

(b) *Obligated service—(1) General.* An eligible individual's obligated service will begin on the date on which the eligible individual begins full-time permanent employment with VA as a clinical practice employee as a physician assistant, but no later than 90 days after the date that the eligible individual completes a master's degree in physician assistant studies or similar master's degree, or the date the eligible individual becomes licensed in a State and certified as required by the Secretary, whichever is later. VA will actively assist and monitor eligible individuals to ensure State licenses and certificates are obtained in a minimal amount of time following graduation. If an eligible individual fails to obtain his or her degree, or fails to become licensed in a State or become certified no later than 180 days after receiving the degree, the eligible individual is considered to be in breach of the acceptance agreement.

(2) *Location and position of obligated service.* VA will publish a list of VA medical facilities where the participants may perform their period of obligated service in a notice in the **Federal Register** on a yearly basis. Participants of the EACFMAF may select their preference for service from this list to serve the period of obligated service. VA reserves the right to make final decisions on the location and position of the obligated service. An eligible individual who receives an EACFMAF must be willing to relocate to another geographic location to carry out their service obligation.

(The Office of Management and Budget has approved the information collection

requirements in this section under control number 2900-0793.)

**§ 17.539 Failure to comply with terms and conditions of agreement.**

(a) *Participant fails to satisfy terms of agreement.* If an eligible individual who accepts funding for the EACFMAF fails to satisfy the terms of agreement, the United States is entitled to recover damages in an amount equal to the total amount of EACFMAF funding paid or is payable to or on behalf of the individual, reduced by the total number of obligated service days the individual has already served minus the total number of days in the individual's period of obligated service.

(b) *Repayment period.* The eligible individual will pay the amount of damages that the United States is entitled to recover under this section in full to the United States no later than one year after the date of the breach of the agreement.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[EPA-HQ-OPP-2017-0335; FRL-9000-01-OCSPP]

#### **Pseudomonas Fluorescens Strain ACK55; Exemption From the Requirement of a Tolerance; Technical Correction**

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

**ACTION:** Final rule; correction.

**SUMMARY:** EPA issued a final rule in the **Federal Register** of September 28, 2020, establishing an exemption from the requirement of a tolerance for residues of *pseudomonas fluorescens* strain ACK55 in or on all food commodities when used in accordance with label directions and good agricultural practices. This exemption was requested by the IR-4 Project under the Federal Food, Drug, and Cosmetic Act (FFDCA). That document identified a codified section that had already been assigned in another final rule that was issued in the **Federal Register** of September 25, 2020. This document corrects the final regulation by identifying a new codified section.

**DATES:** This final rule correction is effective October 12, 2021.

**ADDRESSES:** The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2017-0335, is

available at <http://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460-0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPP Docket is (703) 305-5805.

Due to the public health concerns related to COVID-19, the EPA Docket Center (EPA/DC) and Reading Room is closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit <https://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:**

Charles Smith, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; main telephone number: (703) 305-7090; email address: [BPPDFRNotices@epa.gov](mailto:BPPDFRNotices@epa.gov).

**SUPPLEMENTARY INFORMATION:**

#### **I. Does this action apply to me?**

A list of potentially affected entities is included in the final rule issued in the **Federal Register** of September 28, 2020 (85 FR 60716) (FRL-10013-27).

#### **II. What does this technical correction do?**

EPA issued a final rule in the **Federal Register** of September 28, 2020 (85 FR 60716) (FRL-10013-27) that established an exemption from the requirement of a tolerance for residues of *pseudomonas fluorescens* strain ACK55 in or on all food commodities when used in accordance with label directions and good agricultural practices. While establishing this exemption from the requirement of a tolerance in response to a petition from the IR-4 Project, EPA inadvertently identified a codified section that had already been assigned in another final rule that was issued in the **Federal Register** of September 25, 2020 (85 FR 60366) (FRL-10013-33). Unable to use the codified number identified by EPA in the final rule issued in the **Federal Register** of September 28, 2020, the Code of Federal Regulations (CFR) was revised to include the following text:

**Editorial Note:** At 85 FR 60718, Sept. 28, 2020, a second § 180.1379 was added;

however, the amendment could not be incorporated because the section already exists.

Therefore, with this final rule, EPA is identifying 40 CFR 180.1380 as the codified section for the exemption from the requirement of a tolerance for residues of *pseudomonas fluorescens* strain ACK55 in or on all food commodities when used in accordance with label directions and good agricultural practices that was established in the final rule issued in the **Federal Register** of September 28, 2020 (85 FR 60716) (FRL-10013-27).

#### **III. Why is this correction issued as a final rule?**

Section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)(3)(B)) provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the agency may issue a final rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making this technical correction final without prior proposal and opportunity for comment, because EPA inadvertently duplicated an existing codified section. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(3)(B).

#### **IV. Do any of the statutory and executive order reviews apply to this action?**

No. For a detailed discussion concerning the statutory and executive order review, refer to Unit IV. in the final rule of the September 28, 2020.

#### **V. Congressional Review Act (CRA)**

Pursuant to the CRA (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

#### **List of Subjects in 40 CFR Part 180**

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 24, 2021.

**Edward Messina,**  
*Director, Office of Pesticide Programs.*

Therefore, for the reasons stated in the preamble, EPA is amending 40 CFR Chapter I as follows: