

(c) *Exceptions*—(1) An FCM or IB-C is not required to file a SAR-SF to report—

(i) A robbery or burglary committed or attempted of the FCM or IB-C that is reported to appropriate law enforcement authorities;

(ii) A violation otherwise required to be reported under the CEA (7 U.S.C. 1 *et seq.*), the regulations of the CFTC (17 CFR chapter I), or the rules of any registered futures association or registered entity as those terms are defined in the CEA, 7 U.S.C. 21 and 7 U.S.C. 1a(29), by the FCM or IB-C or any of its officers, directors, employees, or associated persons, other than a violation of 17 CFR 42.2, as long as such violation is appropriately reported to the CFTC or a registered futures association or registered entity.

(2) An FCM or IB-C may be required to demonstrate that it has relied on an exception in paragraph (c)(1) of this section, and must maintain records of its determinations to do so for the period specified in paragraph (d) of this section. To the extent that a Form 8-R, 8-T, U-5, or any other similar form concerning the transaction is filed consistent with CFTC, registered futures association, or registered entity rules, a copy of that form will be a sufficient record for the purposes of this paragraph (c)(2).

(d) *Retention of records.* An FCM or IB-C shall maintain a copy of any SAR-SF filed and the original or business record equivalent of any supporting documentation for a period of five years from the date of filing the SAR-SF. Supporting documentation shall be identified as such and maintained by the FCM or IB-C, and shall be deemed to have been filed with the SAR-SF. An FCM or IB-C shall make all supporting documentation available to FinCEN, the CFTC, or any other appropriate law enforcement agency or regulatory agency, and, for purposes of paragraph (g) of this section, to any registered futures association, registered entity, or self-regulatory organization ("SRO") (as defined in section 3(a)(26) of the Securities Exchange Act of 1934, 15 U.S.C. 78c(a)(26)), upon request.

(e) *Confidentiality of reports.* No financial institution, and no director, officer, employee, or agent of any financial institution, who reports a suspicious transaction under this part, may notify any person involved in the transaction that the transaction has been reported, except to the extent permitted by paragraph (a)(3) of this section. Thus, any person subpoenaed or otherwise requested to disclose a SAR-SF or the information contained in a SAR-SF, except where such disclosure is

requested by FinCEN, the CFTC, another appropriate law enforcement or regulatory agency, or for purposes of paragraph (g) of this section, a registered futures association, registered entity, or SRO shall decline to produce the SAR-SF or to provide any information that would disclose that a SAR-SF has been prepared or filed, citing this paragraph and 31 U.S.C. 5318(g)(2), and shall notify FinCEN of any such request and its response thereto.

(f) *Limitation of liability.* An FCM or IB-C, and any director, officer, employee, or agent of such FCM or IB-C, that makes a report of any possible violation of law or regulation pursuant to this section or any other authority (or voluntarily) shall not be liable to any person under any law or regulation of the United States (or otherwise to the extent also provided in 31 U.S.C. 5318(g)(3), including in any arbitration or reparations proceeding) for any disclosure contained in, or for failure to disclose the fact of, such report.

(g) *Examination and enforcement.* Compliance with this section shall be examined by the Department of the Treasury, through FinCEN or its delegates, under the terms of the BSA. Reports filed under this section or § 103.19 (including any supporting documentation), and documentation demonstrating reliance on an exception under paragraph (c) of this section or § 103.19, shall be made available, upon request, to the CFTC, Securities and Exchange Commission, and any registered futures association, registered entity, or SRO, examining an FCM, IB-C, or broker or dealer in securities for compliance with the requirements of this section or § 103.19. Failure to satisfy the requirements of this section may constitute a violation of the reporting rules of the BSA or of this part.

(h) *Effective date.* This section applies to transactions occurring after May 18, 2004.

■ 4. Section 103.33 is amended by redesignating paragraphs (e)(6)(i)(E), (F), and (G) as paragraphs (e)(6)(i)(G), (H), and (I), respectively; adding new paragraphs (e)(6)(i)(E) and (F); redesignating paragraphs (f)(6)(i)(E), (F), and (G) as paragraphs (f)(6)(i)(G), (H), and (I), respectively, and adding new paragraphs (f)(6)(i)(E) and (F) to read as follows:

**§ 103.33 Records to be made and retained by financial institutions.**

- \* \* \* \* \*
- (e) \* \* \*
- (6) \* \* \*
- (i) \* \* \*

(E) A futures commission merchant or an introducing broker in commodities;

(F) A wholly-owned domestic subsidiary of a futures commission merchant or an introducing broker in commodities;

\* \* \* \* \*

(f) \* \* \*

(6) \* \* \*

(i) \* \* \*

(E) A futures commission merchant or an introducing broker in commodities;

(F) A wholly-owned domestic subsidiary of a futures commission merchant or an introducing broker in commodities;

\* \* \* \* \*

■ 5. Section 103.56 is amended by revising paragraph (b)(8) and adding a new paragraph (b)(9) to read as follows:

**§ 103.56 Enforcement.**

\* \* \* \* \*

(b) \* \* \*

(8) To the Commissioner of Internal Revenue with respect to all financial institutions, except brokers or dealers in securities, futures commission merchants, introducing brokers in commodities, and commodity trading advisors, not currently examined by Federal bank supervisory agencies for soundness and safety; and

(9) To the Commodity Futures Trading Commission with respect to futures commission merchants, introducing brokers in commodities, and commodity trading advisors.

\* \* \* \* \*

Dated: November 13, 2003.

**William F. Baity,**

*Deputy Director, Financial Crimes Enforcement Network.*

[FR Doc. 03-28991 Filed 11-19-03; 8:45 am]

**BILLING CODE 4810-02-P**

**DEPARTMENT OF DEFENSE**

**DEPARTMENT OF VETERANS AFFAIRS**

**38 CFR Part 21**

**RIN 2900-AL52**

**Veterans Education: Increased Allowances for the Educational Assistance Test Program**

**AGENCIES:** Department of Defense and Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** The law provides that rates of subsistence allowance and educational assistance under the Educational Assistance Test Program shall be adjusted annually by the Secretary of

Defense. The law further provides those rates must be adjusted based upon the average actual cost of attendance at public institutions of higher education in the 12-month period since the rates were last adjusted. After obtaining data from the Department of Education, the Department of Defense has concluded that the rates for the 2002–03 academic year should be increased by 4.3% over the rates payable for the 2001–02 academic year. The regulations dealing with these rates are amended accordingly.

**DATES:** *Effective Date:* November 20, 2003.

*Applicability Date:* The changes in rates are applied retroactively to October 1, 2002, to conform to statutory requirements. For more information concerning the applicability date, see the **SUPPLEMENTARY INFORMATION** section.

**FOR FURTHER INFORMATION CONTACT:**

Lynn M. Cossette, Education Adviser (225C), Education Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–7294.

**SUPPLEMENTARY INFORMATION:** The law (10 U.S.C. 2145) provides that the Secretary of Defense shall adjust the amount of educational assistance which may be provided in any academic year under the Educational Assistance Test Program and the amount of subsistence allowance authorized under that program. The law further requires that the adjustment is to be consistent with the change in the average actual cost of attendance at public institutions of higher education over the preceding 12-month period. As required by law, the Department of Defense has obtained data from the Department of Education. The Department of Defense has calculated that these costs increased by 4.3%. Accordingly, this final rule changes 38 CFR 21.5820 and 21.5822 to reflect a 4.3% increase in the rates payable in the 2002–03 academic year, including changes needed to compensate for rounding.

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, 2002, 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 notice-and-

comment and a delayed effective date under 5 U.S.C. 552 and 553.

**Paperwork Reduction Act**

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

**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.

**Executive Order 12866**

This document has been reviewed by the Office Of Management and Budget under Executive Order 12866.

**Regulatory Flexibility Act**

The Secretary of Defense 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. 501–612. 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.

**Catalog of Federal Domestic Assistance**

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 programs, Loan programs-education, Loan programs-veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: May 9, 2003.

**Anthony J. Principi,**

*Secretary of Veterans Affairs.*

Approved: September 5, 2003.

**William J. Carr,**

*Acting Deputy Under Secretary (Military Personnel Policy).*

■ For the reasons set out above, 38 CFR part 21, subpart H, is amended as set forth below:

**PART 21—VOCATIONAL REHABILITATION AND EDUCATION**

**Subpart H—Educational Assistance Test Program**

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

**Authority:** 10 U.S.C. ch.107; 38 U.S.C. 501(a), 3695, 5101, 5113, 5303A; 42 U.S.C. 2000; sec. 901, Pub. L. 96–342, 94 Stat. 1111–1114, unless otherwise noted.

■ 2. Section 21.5820 is amended by:

■ a. In paragraph (b)(1), removing “2001–02” and adding, in its place, “2002–03”, and by removing “\$3,690” and adding, in its place, “\$3,849”.

■ b. In paragraph (b)(2)(ii), removing “2001–02” and adding, in its place, “2002–03”.

■ c. In paragraphs (b)(2)(ii)(A) and (b)(3)(ii)(A), removing “\$410.00” and adding, in each place, “\$427.67”, and by removing “\$205.00” and adding, in each place, “\$213.84”.

■ d. In paragraphs (b)(2)(ii)(B) and (b)(3)(ii)(B), removing “\$13.67” and adding, in each place, “\$14.26”, and by removing “\$6.83” and adding, in each place, “\$7.13”.

■ e. Revising paragraphs (b)(2)(ii)(C) and (b)(3)(ii)(C).

■ f. In paragraph (b)(3)(ii) introductory text, removing “2001–02” and adding, in its place, “2002–03”.

The revisions read as follows:

**§ 21.5820 Educational assistance.**

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(ii) \* \* \*

(C) Adding the two results. If the enrollment period is as long as or longer than the standard academic year, this amount will be decreased by 3 cents for a full-time student and decreased by 6 cents for a part-time student.

(3) \* \* \*

(ii) \* \* \*

(C) Adding the two results. If the enrollment period is as long as or longer than a standard academic year, this amount will be decreased by 3 cents for a full-time student and decreased by 6 cents for a part-time student; and

\* \* \* \* \*

**§ 21.5822 [Amended]**

■ 3. Section 21.5822 is amended by:

■ a. In paragraphs (b)(1)(i) and (b)(2)(i), removing “\$919” and adding, in each place, “\$959”, and by removing “2001–02” and adding, in each place, “2002–03”.

■ b. In paragraphs (b)(1)(ii) and (b)(2)(ii), removing “\$459.50” and adding, in each place, “\$479.50”, and by removing “2001–02” and adding, in each place, “2002–03”.

[FR Doc. 03–28966 Filed 11–19–03; 8:45 am]

BILLING CODE 8320–01–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 70

[OH 157–2 FRL–7588–9]

### Clean Air Act Approval of Revision to Operating Permits Program in Ohio

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

**ACTION:** Final rule.

**SUMMARY:** EPA is taking final action to approve, as a revision to Ohio’s title V air operating permits program, revisions to Ohio’s regulations for insignificant emissions units (IEUs), Ohio’s regulations requiring reports of any required monitoring at least every six months and prompt reports of deviations, and other provisions of Ohio’s title V regulations. In a Notice of Deficiency published in the **Federal Register** on April 18, 2002, EPA notified Ohio of EPA’s finding that Ohio’s provisions for insignificant emissions units and Ohio’s regulations requiring reports of any required monitoring at least every six months and prompt reports of deviations did not meet minimum Federal requirements. Final approval of this program revision resolves the deficiency identified in the Notice of Deficiency and removes the potential for any resulting consequences, including sanctions, with respect to the April 18, 2002 NOD.

**DATES:** Effective December 22, 2003.

**ADDRESSES:** Copies of Ohio’s submittal and other supporting information used in developing this action are available for inspection during normal business hours at the U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Interested persons wanting to examine these documents should make an appointment at least 24 hours before the visiting day. A reasonable fee may be charged for copies.

### FOR FURTHER INFORMATION CONTACT:

Genevieve Damico, Environmental Engineer, Air Permits Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–4761, [damico.genevieve@epa.gov](mailto:damico.genevieve@epa.gov).

**SUPPLEMENTARY INFORMATION:** This supplemental information section is organized as follows:

- A. What Is the History of This Action?
- B. Did OEPA Hold a Public Hearing?
- C. What Action Is EPA Taking Today?
- D. Statutory and Executive Order Reviews

#### A. What Is the History of This Action?

The Clean Air Act (CAA or Act) requires all state and local permitting authorities to develop operating permits programs that meet the requirements of title V of the Act, 42 U.S.C. 7661–7661(f), and its implementing regulations, 40 CFR part 70 (part 70). Ohio submitted its operating permits program in response to this directive. EPA granted full approval to Ohio’s title V operating permits program on August 15, 1995 (60 FR 42045).

Ohio’s title V operating permits program is implemented by the Ohio Environmental Protection Agency (OEPA) and local air pollution control agencies.

Pursuant to section 502(i) of the Act and 40 CFR 70.10(b)(1), EPA notified Ohio of EPA’s finding that Ohio’s regulations for IEUs and Ohio’s regulations requiring reports of any required monitoring at least every six months and prompt reports of deviations did not meet minimum Federal requirements in a Notice of Deficiency (NOD) published in the **Federal Register** on April 18, 2002 (67 FR 19175). This was necessary to make these aspects of the Ohio program consistent with the other permitting programs throughout the country.

On June 18, 2003, OEPA proposed revisions to its regulations for IEUs, Ohio’s regulations requiring reports of any required monitoring at least every six months and prompt reports of deviations, and other provisions of Ohio’s title V regulations. OEPA intended the proposed revisions to its regulations to resolve deficiencies in Ohio’s title V program identified by EPA in the NOD. To expedite the process, Ohio submitted to EPA proposed revisions while it processed them at the State level. On September 30, 2003, EPA proposed to approve OEPA’s proposed revisions to its title V regulations. See 68 FR 56220. The State public comment period on the OEPA regulations ended on July 29, 2003. On September 16,

2003, OEPA submitted the final revisions to its title V regulations and asked EPA to give final approval to the revisions. The revisions submitted by OEPA on September 16, 2003 are identical in substance to the proposed regulations for which EPA proposed approval on September 30, 2003.

EPA received no comments on its proposal to approve OEPA’s proposed revisions to its title V regulations. Accordingly, EPA is taking final action to approve OEPA’s final revisions to its IEU provisions, Ohio’s regulations requiring reports of any required monitoring at least every six months and prompt reports of deviations, and other provisions of Ohio’s title V regulations. OEPA’s final revisions are described in EPA’s proposed approval notice. See 68 FR 56220.

#### B. Did OEPA Hold a Public Hearing?

On June 18, 2003, OEPA proposed revisions to its regulations for IEUs, Ohio’s regulations requiring reports of any required monitoring at least every six months and prompt reports of deviations, and other provisions of Ohio’s title V regulations. OEPA held a public hearing on these revisions on July 28, 2003, in Columbus, Ohio. The public comment period closed on July 29, 2003.

#### C. What Action Is EPA Taking Today?

EPA is taking final action to approve, as a revision to OEPA’s title V air operating permits program, revisions to OEPA’s regulations for IEUs and reporting, specifically, revisions to OAC 3745–77–02(E), 3745–77–07(A)(13), 3745–77–07(A)(3)(c)(ii) and (iii), 3745–77–07(I), and 3745–77–08(C). EPA has determined that these changes meet the requirements of title V and part 70 relating to IEUs and reporting, and adequately address the deficiency identified in the Notice of Deficiency published in the **Federal Register** on April 18, 2002 (67 FR 19175). EPA is also approving Ohio’s new provisions at 3745–77–01(U), 3745–77–01(W)(2)(aa), 3745–77–01(MM) and 3745–77–01(NN). Ohio’s program revision satisfactorily addresses the program deficiency identified in EPA’s NOD, published on April 18, 2002 (67 FR 19175). Because Ohio timely corrected those deficiencies, see 40 CFR 70.10(b), there are no potential consequences of the NOD, such as sanctions or promulgation of a federal operating permits program.

Because these rules apply throughout the State of Ohio, this approval applies to all State and local agencies that implement Ohio’s operating permits program.