

Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM-116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM-116.

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in Dutch airworthiness directive 93-055 (A), dated April 23, 1993.

Issued in Renton, Washington, on December 11, 1997.

Gilbert L. Thompson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97-32996 Filed 12-17-97; 8:45 am]

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PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4022

RIN 1212-AA87

PBGC Recoupment and Reimbursement of Benefit Overpayments and Underpayments

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Proposed rule.

SUMMARY: The Pension Benefit Guaranty Corporation proposes to amend its regulation governing recoupment of benefit overpayments in trustee plans to stop the reduction of monthly benefits under its actuarial recoupment method once the amount of the benefit overpayment is repaid. The amendment also makes other related changes.

DATES: Comments must be received on or before January 20, 1998.

ADDRESSES: Comments may be mailed to the Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026, or delivered to Suite 340 at the above address. Comments also may be sent by Internet e-mail to reg.comments@pbgc.gov. Comments will be available for inspection at the PBGC's Communications and Public Affairs Department in Suite 240 at the above address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General

Counsel, or James L. Beller, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, Suite 340, 1200 K Street, NW., Washington, DC 20005-4026, 202-326-4024. For TTY/TDD users, call the Federal relay service toll free at 1-800-877-8339 and ask to be connected to 202-325-4024.

SUPPLEMENTARY INFORMATION: Some participants and beneficiaries in PBGC-trusteed plans receive benefit payments in excess of their entitlements under Title IV of ERISA after plan termination and before the PBGC determines their benefit entitlements. Under the PBGC's current recoupment regulation, unless a participant or beneficiary elects to repay a benefit overpayment in a single payment, the overpayment is recouped through a permanent actuarial reduction in future benefit payments.

When overpayments are made, recipients are generally unaware that they are receiving amounts in excess of their entitlements. In effect, overpayments are unsolicited loans. Many participants and beneficiaries are unable to afford to repay the overpayment in a single payment and thus cannot avoid permanent actuarial reductions. Participant and beneficiary inquiries reflect their difficulty understanding why the PBGC would continue to reduce their monthly benefit beyond the time the PBGC has fully recouped the amount of the overpayment.

The PBGC proposes to revise the regulation to provide that recoupment will cease when the amount of the overpayment is repaid. This will help to minimize hardship to participants and beneficiaries as well as to cut down the number of participant and beneficiary inquiries about recoupment, thereby reducing burden both on them and the PBGC. The amendment also gives the PBGC flexibility to waive recoupment of *de minimis* amounts and to accept repayment ahead of the recoupment schedule, and modifies the rules governing calculation of net overpayments and underpayments.

E.O. 12866 and the Regulatory Flexibility Act

The PBGC has determined that this proposed rule is not a "significant regulatory action" under the criteria set forth in Executive Order 12866.

This rule affects only individuals. Therefore, the PBGC certifies that, if adopted, the amendment will not have a significant economic effect on a substantial number of small entities. Accordingly, as provided in section 605(b) of the Regulatory Flexibility Act, sections 603 and 604 do not apply.

List of Subjects in 29 CFR Part 4022

Pension insurance, Pensions.

For the reasons set forth above, the PBGC proposes to amend 29 CFR Part 4022, subpart E as follows:

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE EMPLOYER PLANS

1. The authority citation for part 4022 continues to read as follows:

Authority: 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D) and 1344.

2. In § 4022.81, paragraph (a) is amended by removing the last two sentences, adding a new phrase, and paragraphs (a)(1) and (a)(2) in their place, and revising paragraphs (c) and (d)(2) to read as follows:

§ 4022.81 General rules.

(a) *Recoupment of benefit overpayments.* * * *

Notwithstanding the previous sentence, the PBGC may, in its discretion—

(1) Decide not to recoup net overpayments that it determines to be *de minimis*; and

(2) Recover overpayments by methods other than recouping in accordance with the rules in this subpart. The PBGC will not normally do so unless net benefits paid after the termination date exceed those to which a participant or beneficiary is entitled under the terms of the plan before any reductions under subpart D.

* * * * *

(c) *Payments subject to recoupment or reimbursement.* The PBGC shall recoup net overpayments made on or after the latest of the proposed termination date, the termination date, or, if no notice of intent to terminate was issued, the date on which proceedings to terminate the plan are instituted pursuant to section 4042 of ERISA, and shall reimburse net underpayments made on or after the termination date.

(d) *Interest.* * * *

(2) *Receipt of both overpayments and underpayments.* If both benefit overpayments and benefit underpayments are made with respect to a participant, the PBGC shall compare the net overpayment or underpayment calculated without interest to the net overpayment or underpayment calculated with interest. (The interest calculation shall be made by charging or crediting interest from the first day of the month after the date of payment to the first day of the month in which recoupment begins.) Of these two net amounts, the PBGC shall use the one more favorable to the participant or

beneficiary in applying either §§ 4022.81 and 4022.82 or §§ 4022.81 and 4022.83, as applicable.

3. Section 4022.82 is amended by removing the words, "lump sum", in paragraph (a)(3) and adding, in their place, the words, "single payment", and by revising paragraph (a) introductory text and the heading of paragraph (b) to read as follows:

§ 4022.82 Method of recoupment.

(a) *Future benefit reduction.* Unless a participant or beneficiary elects otherwise under paragraph (b) of this section, the PBGC shall recoup overpayments of benefits in accordance with this paragraph. The PBGC shall reduce the amount of each future benefit payment to which the participant or any beneficiary is entitled by the fraction determined under paragraphs (a)(1) and (a)(2) of this section, except that benefit reduction will cease when the amount of the net benefit overpayment is recouped. Notwithstanding the preceding sentence, the PBGC may accept repayment ahead of the recoupment schedule. Recoupment under this section constitutes full repayment of the net benefit overpayment.

* * * * *

(b) *Single payment.* * * *

Issued in Washington, D.C. this 12th day of December, 1997.

David M. Strauss,
Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 97-33028 Filed 12-17-97; 8:45 am]

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900-A188

Veterans' Education: Effective Date for Awards of Educational Assistance to Veterans Who Were Voluntarily Discharged

AGENCY: Department of Veterans Affairs.
ACTION: Proposed rule.

SUMMARY: This document proposes to amend the educational-assistance and educational-benefit regulations of the Department of Veterans Affairs (VA). It proposes to establish effective dates of awards of educational assistance to certain voluntarily discharged veterans who are eligible for the Montgomery GI Bill—Active Duty (MGIB). The effective dates are intended to correspond with a statutory mandate for the effective dates.

The proposed rule also clarifies that these veterans may not receive educational assistance for training that occurs before they pay the Federal government \$1,200.

DATES: Comments must be received on or before February 17, 1998.

Applicability Dates: It is proposed that the effective dates be made retroactive from the effective dates of the statutory provisions. For more information concerning the proposed effective dates, see the **SUPPLEMENTARY INFORMATION** section.

ADDRESSES: Mail or hand deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to "RIN 2900-A188." All written comments will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education Service, Veterans Benefits Administration, 202-273-7187.

SUPPLEMENTARY INFORMATION: This document clarifies 38 CFR part 21, subpart K, regarding the effective dates for awards of educational assistance to certain voluntarily discharged veterans.

Pub. L. 102-484 (sec. 4404, 38 U.S.C. 3018B) allows a veteran who was voluntarily separated under either 10 U.S.C. 1174a or 1175 before Oct. 23, 1992, to elect to receive educational assistance under the Montgomery GI Bill—Active Duty. The veteran was given until Oct. 23, 1993, to do so. The law also requires such a veteran to submit \$1,200 to VA as a condition of receiving such educational assistance. However, the law does not specify a time limit for submitting the \$1,200 and the proposed rule clarifies that there is no such time limit.

The effective date of an award also is affected by when VA received the \$1,200. VA is required by 38 U. S. C. 5113 to make the effective dates of the award of educational assistance, to the extent feasible, correspond to the effective dates relating to awards of disability compensation. The provisions of 38 U.S.C. 5110 and 5111 contain the rules for determining the effective date of an award of disability compensation. The general intent of 38 U.S.C. 5110 is to allow the effective date of an award of compensation to be the day following the date of discharge if application is

filed within one year after discharge. Otherwise, the earliest date of the award shall be the date of receipt of application. Further, 38 U.S.C. 5103 provides, as to benefit claims generally, that information or evidence necessary to complete the claim must be submitted within one year of the date requested by VA; otherwise, no benefits are payable based on that claim. Accordingly, when payment of the \$1,200 must be made as a condition of receiving benefits, it is proposed to establish effective dates for educational assistance consistent with the provisions of 38 U.S.C. 5103 and 5110.

The Secretary of Veterans Affairs hereby certifies that this proposed 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. The proposed rule will affect individual, not small entities. Therefore, pursuant to 5 U.S.C. 605(b), this proposed rule is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

The Catalog of Federal Domestic Assistance number for the program affected by this proposed rule is 64.124.

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, Educational institutions, Employment, Grant programs—education, Grant programs—veterans, Health care, Loan programs—education, Loan programs—veterans, Manpower training programs, Reporting and recordkeeping requirements, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: December 5, 1997.

Hershel W. Gober,
Acting Secretary of Veterans Affairs.

For the reasons set out above, 38 CFR part 21, subpart K, is proposed to be amended as set forth below.

Subpart K—All Volunteer Force Educational Assistance Program (Montgomery GI Bill—Active Duty)

1. The authority citation for subpart K continues to read as follows:

Authority: 38 U.S.C. 501(a), chs. 30 and 36, unless otherwise noted.

2. In § 21.7131, paragraph (n) is added to read as follows:

§ 21.7131 Commencing dates.

* * * * *

(n) *Eligibility established under § 21.7045(c).* The effective date of an