

(iii) Risk assessment for maritime safety and security;

(iv) Risk management strategies; and

(v) Resource needs for maritime safety, security, and response.

(g) The Follow-on WSA must:

(1) Be submitted to the COTP as follows:

(i) The owner or operator of an LNG facility must submit the Follow-on WSA to the COTP no later than the date the owner or operator files its application with FERC pursuant to 18 CFR parts 153 or 157, or if no application to FERC is required, at least 180 days before the owner or operator begins transferring LNG.

(ii) The owner or operator of an LHG facility must submit the Follow-on WSA to the COTP in all cases at least 180 days before the owner or operator begins transferring LHG.

(2) Contain a detailed analysis of the elements listed in §§ 127.009(d) and (e) of this part below.

(h) Until the facility begins operation, owners or operators must:

(1) Annually review their WSAs and submit a report to the COTP as to whether changes are required. The deadline for the required annual report should coincide with the date of the COTP's letter of recommendation, which indicates review and validation of the Follow-on WSA has been completed.

(2) In the event that revisions to the WSA are needed, report to the COTP the details of the necessary revisions, along with a timeline for completion.

(3) Update the WSA if there are any changes in conditions, such as changes to the port environment, the LNG or LHG facility, or the tanker route, that would affect the suitability of the waterway for LNG or LHG traffic.

(4) Submit a final report to the COTP at least 30 days, but not more than 60 days, prior to the start of operations.

5. Revise § 127.009 to read as follows:

**§ 127.009 Letter of recommendation.**

After the COTP receives the letter of intent under § 127.007(a) or (b), the COTP issues a letter of recommendation to the federal, state, or local government agencies having jurisdiction, as to the suitability of the waterway for LNG or LHG marine traffic, based on the—

(a) Information submitted under § 127.007;

(b) Density and character of marine traffic in the waterway;

(c) Locks, bridges, or other man-made obstructions in the waterway;

(d) Following factors adjacent to the facility such as:

(1) Depths of the water;

(2) Tidal range;

(3) Protection from high seas;

(4) Natural hazards, including reefs, rocks, and sandbars;

(5) Underwater pipelines and cables;

(6) Distance of berthed vessel from the channel and the width of the channel; and

(e) Other safety and security issues identified.

Dated: April 22, 2009.

**Howard L. Hime,**

*Acting Director of Commercial Regulations and Standards, U.S. Coast Guard.*

[FR Doc. E9-9639 Filed 4-27-09; 8:45 am]

**BILLING CODE 4910-15-P**

**DEPARTMENT OF VETERANS AFFAIRS**

**38 CFR Part 21**

**RIN 2900-AN31**

**Vocational Rehabilitation and Employment Program—Self-Employment**

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to amend the vocational rehabilitation and employment regulations of the Department of Veterans Affairs (VA) concerning self-employment for individuals with qualifying disabilities. We are proposing changes that are intended to conform VA's regulations for self-employment programs for veterans, and for servicemembers awaiting discharge, to statutory provisions, including provisions limiting eligibility for certain supplies, equipment, stock, and license fees to individuals with the most severe service-connected disabilities. We are also proposing related changes in VA's regulations affecting eligibility for such assistance for certain veterans' children with birth defects in self-employment programs. In addition, we propose to amend our regulations regarding authority for approval of self-employment plans to make certain requirements less restrictive and less burdensome, remove a vague and overly broad requirement, make changes to reflect longstanding VA policy, and make nonsubstantive clarifying changes in our regulations affecting self-employment programs.

**DATES:** Comments must be received on or before June 29, 2009.

**ADDRESSES:** Written comments may be submitted through [www.Regulations.gov](http://www.Regulations.gov); by mail or hand-delivery to the Director, Regulations Management (02REG), Department of

Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; or by fax to (202) 273-9026. Comments should indicate that they are submitted in response to "RIN 2900-AN31—Vocational Rehabilitation and Employment Program—Self-Employment." Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461-4902 (not a toll-free number) for an appointment. In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at [www.Regulations.gov](http://www.Regulations.gov).

**FOR FURTHER INFORMATION CONTACT:**

Alvin Bauman, Senior Policy Analyst, Vocational Rehabilitation and Employment Service (28), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Ave., NW., Washington, DC 20420, (202) 461-9613 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:** We propose to amend VA's regulations concerning self-employment in 38 CFR part 21 that are applicable to benefits and services under 38 U.S.C. chapter 31, Training and Rehabilitation for Veterans with Service-Connected Disabilities, and 38 U.S.C. chapter 18, Benefits for Children of Vietnam Veterans and Certain Other Veterans.

The Veterans' Benefits Act of 1996, Public Law 104-275 (enacted October 9, 1996), amended 38 U.S.C. 3104(a)(12) regarding the special assistance and supplies that VA can provide for individuals pursuing self-employment programs. Prior to the enactment of Public Law 104-275, only "the most severely disabled" individuals who required self-employment were, under 38 CFR 21.258, entitled to the special supplies, equipment, stock, and license fees described in 38 CFR 21.214(e). Public Law 104-275 amended 38 U.S.C. 3104(a)(12) by restricting the provision of those special supplies, equipment, stock, and license fees to individuals "with the most severe service-connected disabilities who require homebound training or self employment." We plan to address issues concerning training in the home (also known as homebound training) under 38 U.S.C. 3104(a)(12) in a future rulemaking. This rulemaking, like current § 21.258, concerns individuals who require self-employment, some of whom may also require homebound training. This proposed rule includes (in § 21.257 rather than current § 21.258) criteria

regarding providing such special supplies, equipment, stock, and license fees for individuals who require self-employment.

We also propose to revise and eliminate some of the provisions of § 21.254 pertaining to a service-disabled veteran who has trained for self-employment under a State rehabilitation agency. The proposed changes are intended to make the requirements under § 21.254 less restrictive and less burdensome. Specifically, we propose to eliminate the requirement in current § 21.254 for certification by an official of the State rehabilitation agency with responsibility for administration of self-employment programs that:

- The veteran has successfully completed training for a self-employment program;
- The assistance needed is not available through the State rehabilitation program, or other non-VA sources; and
- The assistance requested is a part of the veteran's Individualized Written Rehabilitation Plan (IWRP) developed by the State rehabilitation agency.

Instead, we propose to state the conditions under which an individual who has trained for self-employment under a State rehabilitation agency may be provided special supplies, equipment, stock, and license fees if there is a VA determination that the following criteria are met:

- The individual is eligible for employment assistance under the provisions of 38 CFR 21.47.
- Evidence of record indicates that the individual has successfully completed training for a self-employment program under a State rehabilitation agency.
- No other non-VA sources of assistance are known to be available for the individual to complete his or her self-employment program.
- The individual is within the group of "individuals with the most severe service-connected disability(ies) who require self-employment" as defined in 38 CFR 21.257(b).

In addition, we propose to eliminate the requirement currently in § 21.254 that, prior to authorization of any supplies, the Director, Vocational Rehabilitation and Education (VR&E) Service must approve the request if the cost of supplies is more than \$2,500.

We propose to amend the criteria for approval of self-employment as a vocational goal for an individual. Current § 21.257 provides that self-employment is only available to an individual if access to the normal channels for suitable employment is limited by his or her disability(ies), or

other circumstances in the individual's situation warrant consideration of self-employment. We believe the first of these criteria is excessively restrictive and that the second is vague and excessively broad.

Self-employment as a mode of employment is authorized for all program participants for whom it is determined to be appropriate for achieving rehabilitation. However, 38 U.S.C. 3104(a)(12), as amended, reserves the special assistance described in § 21.214(e) for individuals with the most severe service-connected disability(ies) who require self-employment. Accordingly, we propose to revise § 21.257 to remove the above-referenced restriction on authorizing self-employment as a suitable vocational goal and limit consistent with the amendment to section 3104(a)(12) the self-employment special assistance under 38 CFR 21.214(e) to "individuals with the most severe service-connected disability(ies) who require self-employment."

Proposed § 21.258 contains an approval requirement relating to the cost of the provision of special supplies, equipment, stock, and license fees for self-employment programs in accordance with 38 U.S.C. 3104(a)(12). Proposed § 21.258 would require that a self-employment plan be approved either at the level of the VR&E Officer or at the level of the Director, VR&E Service. If the estimated or actual cost is less than \$25,000, the VR&E Officer could approve the plan. If the estimated or actual cost of such a plan is \$25,000 or more, approval by the Director, VR&E Service would be required. The provisions of § 21.258, as amended, would reflect existing VA policy.

Many of the proposed amendments to 38 CFR part 21, subpart A in this document applicable to veterans under the 38 U.S.C. chapter 31 program would be applicable to the vocational rehabilitation program under 38 U.S.C. chapter 18 regarding benefits for children of Vietnam veterans and certain other veterans (see 38 CFR part 21, subpart M). In subpart M, §§ 21.8020, 21.8210, and 21.8380 contain provisions concerning the applicability of the provisions of §§ 21.214, 21.254, 21.256, 21.257, 21.258, and 21.430 in a manner comparable to their application for a veteran under the chapter 31 program.

We propose to amend § 21.8020 to clarify how we would apply proposed § 21.257 to the provision of services and assistance under subpart M in a manner that we consider to be comparable to its application for a veteran under the 38 U.S.C. chapter 31 program. In lieu of

requiring that the individuals covered under subpart M meet the definition in proposed § 21.257(b), the requirements for application of proposed § 21.257(e)(1) and (2) would be deemed met for an individual in a self-employment program if the individual has been determined by VA to have limitations affecting employability arising from the effects of the individual's spina bifida or other covered birth defect(s), which are so severe as to necessitate selection of self-employment as the only reasonably feasible vocational goal for the individual. We are proposing a related clarifying change in § 21.8020(d), intended to remove the possible implication that self-employment is not among the employment options for a participant's program under subpart M.

In addition to the amendments noted above, we also propose to reorganize §§ 21.257 and 21.258 to improve readability, and to make other clarifying changes that are nonsubstantive.

#### **Paperwork Reduction Act of 1995**

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 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 year. This rule would have no such effect on State, local, and tribal governments, or on the private sector.

#### **Executive Order 12866**

Executive Order 12866 directs agencies to assess all 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, and other advantages; distributive impacts; and equity). The Executive Order classifies a regulatory action as a "significant regulatory action," requiring review by the Office of Management and Budget (OMB) unless OMB waives such review, if it is a regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or

safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The economic, interagency, budgetary, legal, and policy implications of this proposed rule have been examined and it has been determined not to be a significant regulatory action under Executive Order 12866.

### Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule would 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 proposed rule would not directly affect any small entities. Only individuals could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this proposed rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

### Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs that would be affected by this proposed rule are 64.116, Vocational Rehabilitation for Disabled Veterans, and 64.128, Vocational Training and Rehabilitation for Vietnam Veterans' Children with Spina Bifida or Other Covered Defects.

### List of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflict of interests, 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: April 15, 2009.

### John R. Gingrich,

Chief of Staff, Department of Veterans Affairs.

For the reasons set forth in the preamble, VA proposes to amend 38 CFR part 21 (subparts A and M) as follows:

## PART 21—VOCATIONAL REHABILITATION AND EDUCATION

### Subpart A—Vocational Rehabilitation and Employment Under 38 U.S.C. Chapter 31

1. Revise the authority citation for part 21, subpart A to read as follows:

**Authority:** 38 U.S.C. 501(a), chs. 18, 31, and as noted in specific sections.

2. Revise the subpart A heading as set forth above.

3. Amend § 21.214 by:

a. In paragraph (e) introductory text, removing “services” and adding, in its place, “related assistance” and removing “§ 21.258” and adding, in its place, “§§ 21.257 and 21.258”.

b. In paragraph (e)(3), removing “incidental services” and adding, in its place, “related assistance”.

c. Revising the authority citation for paragraph (e).

The revision reads as follows:

#### § 21.214 Furnishing supplies for special programs.

\* \* \* \* \*

(Authority: 38 U.S.C. 3104(a)(12))

\* \* \* \* \*

4. In § 21.254, revise paragraph (c) to read as follows:

#### § 21.254 Supportive services.

\* \* \* \* \*

(c) *Individuals with service-connected disability(ies) trained for self-employment under a State rehabilitation agency.* An individual with service-connected disability(ies) who has trained for self-employment under a State rehabilitation agency may be provided supplemental equipment and initial stocks and supplies similar to the materials supplied under 38 U.S.C. chapter 31 to individuals with the most severe service-connected disability(ies) who require self-employment as defined in § 21.257(b) if VA determines that the following conditions are met:

(1) The individual is eligible for employment assistance under the provisions of § 21.47;

(2) Evidence of record indicates that the individual has successfully completed training for a self-employment program under a State rehabilitation agency;

(3) No other non-VA sources of assistance are known to be available for the individual to complete his or her self-employment program; and

(4) The individual meets the requirements of the definition in § 21.257(b).

(Authority: 38 U.S.C. 3104, 3117(b)(2))

5. Revise § 21.257 to read as follows:

#### § 21.257 Self-employment.

(a) *Approval of self-employment as a vocational goal.* A program of vocational rehabilitation benefits and services may include self-employment for an individual if VA determines that such an objective is a suitable vocational goal. VA will make this determination based on—

(1) The results of the individual's initial evaluation conducted in accordance with the provisions of § 21.50; and

(2) The provisions of this section.

(Authority: 38 U.S.C. 3104(a))

(b) *Definition.* For purposes of this subpart, *individuals with the most severe service-connected disability(ies) who require self-employment* means individuals who have been determined by VA to have limitations affecting employability arising from the effects of each individual's service-connected disability(ies), which are so severe as to necessitate selection of self-employment as the only reasonably feasible vocational goal for the individuals.

(Authority: 38 U.S.C. 3104)

(c) *Scope of self-employment benefits and services.*

(1) VA may provide the self-employment services listed in paragraph (d) of this section to program participants who are pursuing the vocational goal of self-employment.

(2) VA may provide the more extensive services listed in paragraph (e) of this section to individuals with the most severe service-connected disability(ies) who require self-employment.

(Authority: 38 U.S.C. 3104(a))

(d) *Assistance for other individuals in self-employment.* Subject to the provisions of § 21.258, VA may provide the following assistance to any individual for whom self-employment is determined to be a suitable vocational goal—

(1) Vocational training;

(2) Incidental training in the management of a business;

(3) License or other fees required for self-employment;

(4) Necessary tools and supplies for the occupation; and

(5) Services described in § 21.252.

(Authority: 38 U.S.C. 3104(a))

(e) *Special self-employment services for individuals with the most severe service-connected disability(ies) who require self-employment.* Individuals described in paragraph (b) of this section who are in a self-employment program may receive—

(1) The services described in paragraph (d) of this section; and  
 (2) The assistance described in § 21.214.

(Authority: 38 U.S.C. 3104, 3116, 3117)

(f) *Feasibility analysis of a proposed self-employment business plan.* VA will conduct a comprehensive review and analysis of the feasibility of a proposed business plan, as submitted by the individual or developed with VA's assistance, prior to authorizing a rehabilitation plan leading to self-employment (a "self-employment plan"). The feasibility analysis must include—

(1) An analysis of the economic viability of the proposed business;

(2) A cost analysis specifying the amount and types of assistance that VA will provide;

(3) A market analysis for the individual's proposed services or products;

(4) Availability of financing from non-VA sources, including the individual's personal resources, local banks, and other sources;

(5) Evidence of coordination with the Small Business Administration to secure special consideration under section 8 of the Small Business Act, as amended;

(6) The location of the site for the proposed business and the cost of the site, if any; and

(7) A training plan to operate a successful business.

(Authority: 38 U.S.C. 3104)

6. Section 21.258 is revised to read as follows:

**§ 21.258 Cost limitations on approval of self-employment plans.**

A self-employment plan with an estimated or actual cost of less than \$25,000 may be approved by the VR&E Officer with jurisdiction. Any self-employment plan with an estimated or actual cost of \$25,000 or more must be approved by the Director, VR&E Service.

(Authority: 38 U.S.C. 3104)

**Subpart M—Vocational Training and Rehabilitation for Certain Children of Veterans—Spina Bifida and Covered Birth Defects**

7. The authority citation for part 21, subpart M continues to read as follows:

**Authority:** 38 U.S.C. 101, 501, 512, 1151 note, ch. 18, 5112, and as noted in specific sections.

8. Amend § 21.8020 by:

a. Revising paragraph (b).

b. In paragraph (d), removing "obtains a suitable job" and adding, in its place, "becomes suitably employed".

The revision reads as follows:

**§ 21.8020 Entitlement to vocational training and employment assistance.**

\* \* \* \* \*

(b) *Services and assistance.* An eligible child may receive the services and assistance described in § 21.8050(a).

(1) The following sections in subpart A of this part apply to the provision of these services and assistance in a manner comparable to their application for a veteran under the 38 U.S.C. chapter 31 program:

(i) Section 21.250(a) and (b)(2);

(ii) Section 21.252;

(iii) Section 21.254;

(iv) Section 21.256 (not including paragraph (e)(2));

(v) Section 21.257; and

(vi) Section 21.258.

(2) For purposes of this subpart, the requirements for application of § 21.257(e)(1) and (2) are deemed met for an individual in a self-employment program regardless of whether the individual is described in § 21.257(b), if the individual has been determined by VA to have limitations affecting employability arising from the effects of the individual's spina bifida and/or other covered birth defect(s) which are so severe as to necessitate selection of self-employment as the only reasonably feasible vocational goal for the individual.

(Authority: 38 U.S.C. 1804, 1814)

\* \* \* \* \*

[FR Doc. E9-9591 Filed 4-27-09; 8:45 am]

**BILLING CODE 8320-01-P**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

[FWS-R6-ES-2007-0014; 92210-1117-0000-FY08-B4]

RIN 1018-AT79

**Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Salt Creek Tiger Beetle (*Cicindela nevadica lincolniana*)**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Revised proposed rule; reopening of comment period.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the comment period on the proposed rule (72 FR 70715, December 12, 2007) to designate critical habitat for the Salt Creek tiger beetle (*Cicindela nevadica lincolniana*) under the

Endangered Species Act of 1973, as amended (Act). In this document, we are proposing to add a total of 138 acres (ac) (56 hectares (ha)) of critical habitat to three of the four previously proposed units. As a result, our proposed revised critical habitat designation for the species now includes four critical habitat units totaling approximately 1,933 ac (782 ha).

The reopened comment period will provide the interested parties with an opportunity to submit written comments on our proposal to add 138 ac (56 ha), determined to be occupied and essential to the Salt Creek tiger beetle, to the 1,795 ac (726 ha) proposed as critical habitat on December 12, 2007. Comments previously submitted for the proposed critical habitat designation need not be resubmitted; they have already been incorporated into the public record and will be fully considered in any final decision.

**DATES:** We will consider comments received on or before May 28, 2009.

**ADDRESSES:** You may submit comments by one of the following methods:

• *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

• *U.S. mail or hand-delivery:* Public Comments Processing, Attn: FWS-R6-ES-2007-0014; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will not accept e-mail or faxes. We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

**FOR FURTHER INFORMATION CONTACT:** June DeWeese, Field Supervisor, Nebraska Ecological Services Field Office, Federal Building, Second Floor, 203 West Second Street, Grand Island, NE 68801; telephone (308) 382-6468. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800-877-8339.

**SUPPLEMENTARY INFORMATION:**

**Public Comments**

We intend that any final action resulting from the proposed rule will be as accurate and as effective as possible. Therefore, we request comments or information during this reopened comment period on the proposed critical habitat designation published in the **Federal Register** on December 12, 2007 (72 FR 70715), the draft economic analysis, and draft environmental assessment that were announced in that rule and available to the public at