

SUPPORTING STATEMENT FOR STATE APPROVING AGENCY REPORTS
AND NOTICES;
38 CFR 21.4154, 21.4250(b), 21.4258, 21.4259

A. Justification

1. Statute (38 USC 3671) requests that each State create or designate a State department or agency as the "State approving agency" (SAA) for the purposes of chapters 34, 35, and 36 of title 38 USC. Chapter 36 of 38 USC contains rules for the administration of educational assistance benefits. Sections 3675 and 3676 provide the criteria for both accredited and non-accredited course approval. The designated SAA also approves on-the-job training programs (section 3677) and tests for licensure or certification (section 3689).

In connection with the above approval activities, section 3678 provides that upon determination that an educational institution, training establishment, or organization or entity offering tests for licensure or certification meets the applicable approval criteria in 38 USC 3670 et seq., the SAA must notify the educational institution, training establishment or organization or entity offering tests for licensure or certification, and provide VA with a copy of such notice. The SAA must also send those institutions, establishments, organizations, entities, and VA any subsequent approval notice amendments. Section 3679 provides that the SAA will similarly provide notification of disapproved courses.

In addition, section 3674(c) provides that the SAAs will submit reports to VA on their activities at least annually, or as determined by the Secretary. Section 3674(a)(4) shows the maximum amount VA has available for each fiscal year for the purposes of reimbursing the SAAs.

Section 3673 instructs the Secretary of VA and the SAAs to cooperate and establish an exchange of information pertaining to educational institutions to assure the programs administered by VA are effectively and efficiently administered.

(Note: 38 USC 3689 states that sections 3673, 3674, 3678 and 3679 are applicable for the purposes of approving licensure and certification tests.)

VA's regulations implementing the statutory authority above are as follows:
38 CFR 21.4154, 21.4250(b), 21.4258, 21.4259:

- 38 CFR 21.4154 which addresses reporting SAA activities (38 USC 3674(c))
- 38 CFR 21.4250(b) which addresses notices of approvals, suspension of approvals, and disapprovals (38 USC 3678, 3679)
- 38 CFR 21.4258 which addresses notices of approvals
- 38 CFR 21.4259 which addresses notices of suspension or disapproval

2. How information is collected, by whom, and for what purpose.

a. Information collected under 38 CFR 21.4154 – The SAA reports its activities to VA quarterly. The SAA does so electronically by completing a web-based screen. VA uses the information in the reports to support the reimbursement of activities of the SAA. This reporting is approved under OMB control number 2900-0051.

b. Information collected under 38 CFR 21.4250(b), 21.4258, and 21.4259 – The SAA prepares notices of approval to inform educational institutions, training establishments, and organizations or entities offering tests for licensure or certification that their courses, training, or tests are approved for individuals entitled to educational assistance under the programs VA administers. Similarly, the SAA sends notices to them if the courses, training, or tests are not approved or the approval of previously approved courses, training, or tests is suspended. The SAA must also send VA a copy of each of these notices. There are 59 SAAs, each with its own jurisdiction for approval of courses, training, or tests. Some States have more than one SAA because they have a separate SAA for approval of on-the-job training and/or apprenticeship training.

The SAA makes a determination to approve, disapprove, or suspend approval based on the criteria in 38 USC chapter 36. Some of the criteria include site visits; review of the educational institution, training establishment, organization, or entity; and review of course materials, instructors' credentials, or training programs, or review of tests for licensure and certification. The SAA notifications are not submitted electronically.

VA uses the notice information to determine if payment of educational assistance is appropriate. Under 38 USC 3680, VA may not provide educational assistance to any eligible veteran or eligible person if his or her educational program or training program does not meet the requirements of 38 USC 3670 et seq. Without the approval notices, VA would not know which programs the SAA determined met the criteria in 38 USC chapter 36. Without disapproval notices, or notices of suspended approvals, VA would inappropriately make payments.

38 CFR 21.4258(a) requires that the SAA list the courses approved in the notice. This requirement is due to the fact that not all courses/programs an educational institution provides are approvable under 38 USC chapter 36. For example, some community colleges offer courses that are recreational in nature. Payment for recreational courses is prohibited under 38 USC 3680A. Listing approved courses in the notice ensures VA pays educational assistance for only those courses/programs approved.

3. VA does not require the SAAs to submit notices electronically. The majority of the burden is the analysis determining whether or not the course, training

program, or test meets the requirements in 38 USC chapter 36. That analysis generally requires an on-site visit of the institution seeking approval and review of its records and training materials. The approval/disapproval/suspension notices serve as the documents that show the SAA's findings. VA has no plans to develop an electronic notification tool as each State individually prepares notices in accordance with their individual State operating policies.

As shown above in the response to question A2, VA does have an electronic means for the SAAs to report their approval activities.

4. The information covered in this collection is not available from other sources. The reporting done in connection with 38 CFR 21.4154 is specific to the approval activities the SAAs perform approving courses under 38 USC chapter 36. The other collections in 38 CFR 21.4250(b), 21.4258, and 21.4259 are specific notices showing approval information that applies only to veterans and other eligible persons eligible for VA educational assistance programs and is based on the findings of the SAA.

5. The collections do not impact small business or other small entities. The SAAs are State departments or State agencies, designated by each individual State, that enter into a contract with VA.

6. The approval/disapproval and suspension notices required in 38 CFR 21.4250(b), 21.4258, and 21.4259 are necessary so that VA does not pay educational assistance to individuals pursuing a program that does not meet the approval criteria specified in 38 USC chapter 36. Without the notices, VA would not be able to determine which courses/training programs/tests the SAAs approved in accordance with the criteria 38 USC chapter 36, nor would VA be able to determine which courses/training programs/tests did not meet the criteria. The notices are collected as the institution/training establishment, or organization or entity offering licensure or certification tests, requests approval of its offerings. The SAAs submit notices when they reach their decisions on whether or not the offerings may be approved. If the SAAs waited to do so quarterly, instead of as the decision is reached, unnecessary delays in proper payment of educational assistance would occur. VA cannot award educational assistance without knowledge that the program is approved in accordance with 38 USC chapter 36. In addition, waiting for quarterly or annual notification of disapproval of a course previously approved would cause VA to pay educational assistance to individuals in error.

Quarterly reporting required under 38 CFR 21.4154 assists VA in budgeting the money appropriated for SAA activities and to determine workload increases or decreases that may impact future budget or the allocation of the funds used to reimburse the SAAs.

7. The information collection in 38 CFR 21.4154 is collected quarterly. See the response to item 6 above discussing the impact of collecting it less frequently.

The information collections in 38 CFR 21.4250(b), 21.4258, and 21.4259 are collected more than quarterly. See the response to item 6 above for justification for collecting the information more frequently.

8. The information collection description was displayed in the preamble of the Notice of Proposed Rulemaking for RIN 2900-AK80. RIN 2900-AK80 was published in the Federal Register (71 FR 9196) on February 22, 2006. There were no comments received.

9. VA does not provide any payment or gift in connection with these collections. However, the SAAs are reimbursed for their expenses under contract. Authority: 38 USC 3674.

10. Not applicable.

11. Not applicable.

12 & 14 combined. Hour burden estimate and Annual cost to the Federal government:

38 CFR 21.4154 = 236 hours. There are 59 SAAs that provide quarterly reports that VA estimates takes an average of 1 hour. The hour includes the time to gather the data and complete the online reporting tool. The annual responses equal 236 (59 x 4). The average hourly salary for a SAA employee is \$26.50. The respondents are reimbursed for all the activities they perform for VA, so there is no burden cost to the respondent associated to this request. The respondents' costs are reimbursed as part of the annual contracted payment awarded each SAA. The cost to the government annually is \$6,254.00. (59 x 4 hrs x \$26.50).

38 CFR 21.4250(b), 21.4258, and 21.4259 = 37,411 hours. VA estimates the 59 SAAs will report 3,401 approval (includes disapproval/suspension) actions during FY 2005. Each action averages 10 hours of preparation work and 1 hour for compiling the notices, for a total of 11 hours per approval action and an annual burden of 37,411 hours. The respondents are reimbursed for all the activities they perform for VA. This cost is part of the annual contracted payment awarded each SAA. The cost to the government annually is \$991,391.50. (3,401 x 11 x \$26.50)

The total annual response for all collections is 3,637 (236 + 3,401) of which 6% (236 of the 3636 = 6.4% rounded down to 6%) are collected electronically.

The total annual hours requested are 37,647 (236 + 37,411)

VA estimates it takes a VA employee an average of 1.5 hours to process (reviewing and entering the data in the notices into VA's approval database) each of the 3,401 approval, disapproval, and suspension notices submitted annually by the SAAs under 38 CFR 21.4250(b), 21.4258 and 21.4259. The average hourly salary of the VA employees who review and enter the data is \$24.57 (GS 11/5). The cost to the Federal government is \$125,343.86 (1.5 hrs x 3,401 x \$24.57). In addition, VA estimates it takes approximately 236 hours annually (an hour for each of the 59 reports per quarter) reviewing and analyzing the information submitted under 38 CFR 21.4154. The average hourly salary of the VA employees reviewing and analyzing the data is \$35.01 (GS 13/5). The cost to the Federal government is \$8,262.36 (236 x \$35.01).

The total cost to the Federal government for all collections covered under this request is \$1,131,251.72. This amount includes the \$997,645.50 VA will reimburse the SAAs during FY2005 and the \$133,606.22 for the efforts of VA employees (\$125,343.86 + \$8,262.36).

13. Recordkeeping burden estimate. There are no costs associated to any recordkeeping as the result of the collections. This is because VA reimburses the respondents for the work they perform for VA and the expenses incurred. During FY 2005, VA will award \$18,000,000 among the 59 SAA activities.

15. Adjustment. VA is revising the existing approved hours to include hours attributable to other required reporting activities performed by the SAAs. Previously only the quarterly reporting activities were approved. The new hours are for a collection that was not previously approved. The collection has been in existence for over 30 years. Because the information is a collection obtained from states we have under contract, VA felt it was a deliverable and not a collection. However, when our attorney reviewed the existing CFR, she determined the notice requirements are a collection..

16. Not applicable.

17. VA is seeking approval to not display the approval expiration date in the Code of Federal Regulations. Generally approval is for 3 years. If VA displayed the expiration date, we would be routinely revising regulations just for dates. VA will show the OMB control number.

18. This information collection complies with the requirements of 5 CFR 1320.8(b)(3) except as follows. The proposed rule does not contain in its text the estimated burden of the information collection. The proposed rule does not state the confidentiality of the collected information. If an OMB number is assigned to the proposed rule, it will be displayed, but the proposed rule does not explain the need to do so.

VA requests an exemption from providing the above information as part of the regulation. To publish as part of the regulation all the information required by 5 CFR 1320.8(b)(3) would mean that each time the information required by that rule changed, for example, the estimate of the burden hours, the proposed rule would have to go through the regulatory process again even though the purpose of the proposed rule would be unchanged. This is contrary to the purpose of the Code of Federal Regulations.

Secondly, to put all this information in a regulation would make the proposed rule unnecessarily long.

Finally, VA is publishing in the preamble to the proposed rule the burden hours and explanation of the need to display the approval number. If a respondent wishes to know this information, he or she can be referred to the appropriate Federal Register.

B. Collection of Information Employing Statistical Methods

This submission does not employ statistical methods.

ATTACHMENTS

38 U.S.C. 501, 3671, 3672, 3673, 3674, 3678, 3679, 3680, 3689