

SUPPORTING STATEMENT

Information Collections Under the Regulations Governing Student Assistance General Provisions.

A. JUSTIFICATION

RIN-1840-AD02

1. Necessity of Information Collected

This request is for approval of the reporting and records maintenance requirements that are contained in the Student Assistance General Provisions regulations - Subpart J, governing the approval of State processes for assessments used to measure a student's skills and abilities, as well as private test publisher submissions for approval by the Secretary as well as the administration of tests that may be used to determine a student's eligibility for assistance for the Title IV student financial assistance programs authorized under the Higher Education Act of 1965, as amended (HEA).

The Higher Education Act of 1965, as amended by the Higher Education Opportunity Act of 2008 (HEOA) (Pub. L. 110-315, enacted August 14, 2008) including changes made by the Technical Corrections to the Higher Education Act of 1965 (Pub. L. 111-39, enacted on July 1, 2009) proposes implementing regulations that require -

- (1) all postsecondary institutions could only admit those students who had a high school diploma or recognized equivalent or who passed an independently administered ability-to-benefit test which was approved by the Secretary, and
- (2) to be eligible to receive Title IV student financial assistance students had to have a high school diploma or recognized equivalent or pass an independently administered ability-to-benefit test which was approved by the Secretary.

The Higher Education Amendments of 1992 (P.L. 102-325) enacted on July 23, 1992, required the Department to issue final regulations. These final regulations were published in the Federal Register on December 1, 1995. These regulations implemented changes made to section 484(d) of the HEA, as amended.

The Department of Education announced in a September 9, 2009 Federal Register notice (74 FR 46399), the Department's intention to establish negotiated rulemaking committees to prepare proposed regulations under Title IV of the Higher Education Act of 1965, as amended (HEA). These committees were formed as a result of a Federal Register notice published on May 26, 2009 (74 FR 24728) which announced a series of three regional hearings at which interested parties could comment on topics suggested by the

Department. The topic “Ability to benefit” was among the list of program integrity issues listed by the Department.

In addition, the Department had recently received Government Accountability Office Report GAO-09-600 Stronger Department of Education Oversight Needed to Help Ensure Only Eligible Students Receive Federal Student Aid. In its initial response to the GAO, the Department indicated that we had begun a new round of negotiated rulemaking, having conducted public hearings in Denver, Little Rock, and Philadelphia and received additional public comments by e-mail. As a result, the Department decided to include ability to benefit (ATB) testing in the topics for negotiation.

2. **Purpose and Use of Information Collected**

Subpart J – Approval of Independently Administered Tests; Specification of Passing Score; Approval of State Process (OMB control number: 1845-0049)

Sections 668.144, 668.150, 668.151, 668.152 and 668.153 currently contain information collection requirements approved by OMB. Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Department of Education is submitting a copy of these sections to the Office of Management and Budget (OMB) for its review. We are adding the following sections:

Section 668.144 – Application for test approval.

The proposed regulations recognize that since the first ability to benefit (ATB) final regulations issued in 1995, there have not been any State tests or assessments submitted to the Department for approval. As a result, and to simplify the process, a number of changes in Subpart J combine requirements for test publishers and States. Therefore, the requirements of §668.143 have been subsumed into §668.144.

Section 668.144(c)(16)(i) & (d)(7)(i) proposes that a test publisher and a State, respectively, as part of its ATB test application describe its process to determine how a test administrator has the necessary training, knowledge, skills and integrity to test students.

Section 668.144(c)(16)(ii) & (d)(7)(ii) proposes that a test publisher and a State, respectively, will determine how a test administrator has the ability and facilities to keep its test secure against disclosure or release.

Section 668.144(c)(17) & (d)(8) proposes that a test publisher and a State, respectively, will explain to the Secretary its test anomaly analysis; how it will identify potential test irregularities and make a determination that test irregularities have occurred; an explanation of the process and procedures for corrective action, including decertification of a certified test administrator; and report information on when and how it will notify a

test administrator, the Secretary, the institutions where the test irregularities occurred, that the test administrator has been decertified.

Section 668.144(c)(18) & (d)(9) proposes that a test publisher and a State, respectively, will describe to the Secretary the types of accommodations available to individuals with disabilities, including an explanation of any accessible technologies and a description of the process for a test administrator to identify and report when accommodations for individuals with disabilities were provided.

Section 668.150 – Agreement between the Secretary and a test publisher or a State.

Section 668.150(b)(2) proposes that each test publisher or State to obtain a certification statement from each prospective test administrator indicating that he or she is not currently decertified and that if the test administrator becomes decertified by another test publisher or State that he or she will immediately notify all other test publishers or States for whom the test administrator administers ATB tests.

Section 668.150(b)(6) proposes that the test publisher or State, respectively, immediately notify the test administrator, the Secretary, and the institutions where the test administrator previously administered the ATB tests when it decertifies a test administrator.

Section 668.150(b)(7) proposes that when the test publisher or State makes a determination that ATB tests have been improperly administered, the proposed regulations require that the affected students and prospective students must be notified by the respective test publisher or State. In addition, the proposed regulations require that the respective test publisher or State are required to provide a report to the Secretary on the results of their review and determination of improper ATB test administration, the notifications to the institutions, students and prospective students.

Section 668.150(b)(8) proposes that when a test publisher or State, respectively, certifies a previously decertified test administrator after the three year decertification period, the proposed regulations require the test publisher or State to report to the Secretary information on previously decertified test administrators that it re-certifies.

Section 668.150(b)(13) proposes to require that test publishers or a State analyze the test scores for all ATB test takers every 18 months to determine if there are any irregular patterns that raises an inference of improper test administration.

Section 668.150(b)(15) proposes to require that the test publisher or State immediately report to the Secretary if it finds any credible information indicating that the approved ATB test has been compromised.

Section 668.150(b)(16) proposes that the test publisher or State immediately report to the Office of the Inspector General of the Department of Education any credible information indicating that a test administrator or institution may have engaged in fraud or other criminal misconduct.

Section 668.150(b)(17) proposes that all certified test administrators are required to report to the test publisher or State, respectively, the nature of the disability and any accommodations provided when approved ATB tests are given to individuals with disabilities.

Section 668.151 – Administration of tests.

Section 668.151(g)(4) & (5) proposes that institutions where approved ATB test are given by certified test administrators either at assessment centers or by an independent test administrators, maintain the name and address of the test administrator who administered the test. The proposed regulations also require that if the individual who took the test has a disability and as a result was unable to be evaluated by the use of a conventional test or required test accommodations, that documentation of the individual's disability and of the testing arrangements must be maintained by the institution.

Section 668.152 – Administration of tests by assessment centers.

The proposed regulations require that if the test assessment center scores the approved ATB test that it must provide a copy of the completed test to the test publisher or State, as applicable, on a weekly basis to include either; the name, address, and any other identifier provided by the test publisher or State of the test administrator who administered the test; or a report of all test-takers' scores and institutions to which the scores were sent and the name, address, and any other identifier provided by the test publisher or State of the test administrator who administered the test.

Section 668.153 – Administration of tests for individuals whose native language is not English or for individuals with disabilities.

The proposed regulations require that the test administrator must ensure that there is documentation to support the determination that the individual has a disability and requires accommodations, however, the burden associated with this proposed requirement is in the maintenance of the documentation by the institution in §668.151(g) (5).

Student Assistance General Provisions:

Subpart J – Approval of Independently Administered Tests

The Department of Education is responsible for evaluating the quality of the State plans and tests submitted under the provisions articulated by the Secretary. Department staff

will read the submitted tests and use services contracted through psychometricians to evaluate the submitted ATB tests using the Secretary's guidelines in these established regulations to determine if the tests meet the conditions for approval by the Secretary.

Postsecondary institutions will evaluate the test scores obtained by the student applicants for Federal student assistance to determine whether the student is eligible under the law for Title IV, HEA program assistance.

3. Consideration of Improved Information Technology

Although there are no legal or technical obstacles to the use of technology in this information collection activity, the process for applicants to submit their tests for approval is generally not conducive to any more sophisticated use of technology. However, over time we have seen ATB test publishers move from “paper and pencil” tests to computer-based testing and would expect this trend to expand. As testing continues to move into computer-based formats, the reporting of the test results by test publishers to the institutions the student plans to attend may become more automated, until then States and test publishers will continue to provide students with a paper output report or electronic output document, and institutions with an electronic output document.

4. Efforts to Identify Duplication

The information supplied for State provided plans, for ATB test publisher applications for test approval, and in the students' test score results is not duplicated on any other information collection.

5. Burden Minimization as Applied to Small Business

The information collected in this application represents the minimum necessary. We expect little to no additional impact since most of the ATB test publishers also produce non-ATB tests using similar instruments and processes, therefore the burden associated with using an ATB test is minimized.

6. Consequences of Less Frequent Data Collection

The request for approval of a State process is continuously based upon (1) activities that are included in the process and (2) student outcomes. To date, there have been zero State submissions for approval.

The request for ATB test approval from test publishers will continue to be as often as the test developers determine it is in their interest to apply for the Secretary's approval or as the five year agreement reaches its expiration consistent with the regulations in Subpart J. The submission of the student's test score results from the test publisher to the institution generally, will occur only once. In other cases, where the institution is a two-year or

four-year degree granting institution or a public postsecondary vocational institution and the institution has a qualified assessment center, the center may score the student's ATB test and provide the results to the student's institution.

7. Special Circumstances Governing Data Collection

This application is consistent with all of the guidelines in 5 CFR 1320.6, except for the request for five copies of the tests. These tests are copyrighted and cannot be duplicated by the Department for review purposes. Therefore, the Department is requesting a waiver for 5 CFR 1320.6. Five copies of the tests are required because the tests are reviewed and analyzed by Department staff and several testing experts under contract with the Department, before any test approval is granted by the Secretary.

8. Consultation Outside the Agency

The NPRM for this collection will publish in the Federal Register on Thursday, June 17, 2010.

Prior to the approval of any ATB test that is submitted to the Secretary for approval, the Department contract with psychometrician(s) (testing experts) to provide technical assistant to the Department. The psychometrician provides an expert opinion on the submission relative to the regulatory requirements and consistent with professional testing standards. These proposed regulations were negotiated by the Department with members of the community over three negotiated sessions in early 2010.

9. Payments or Gifts to Respondents

There are no payments or gifts to respondents.

10. Assurance of Confidentiality

There is assurance of confidentiality provided to the respondents concerning the application for State plans or test approval and assurance of confidentiality for the submission of test scores.

11. Questions of a Sensitive Nature

There are no questions of a sensitive nature in this application.

12. Annual Hour Burden for Respondents/Recordkeepers

Section 668.144 – Application for test approval.

Section 668.144(c)(16)(i) & (d)(7)(i) proposes that a test publisher and a State, respectively, as part of its ATB test application describe its process to determine how a test administrator has the necessary training, knowledge, skills and integrity to test students.

We estimate that a test publisher or State will on average take 1.5 additional hours to develop its process to establish that a test administrator has the necessary training, knowledge, skills and integrity to test students. Each test publisher or State had to already had a process to determine training, knowledge and skills, the new proposed requirement is a process to determine the integrity of the test administrator and to report their process to the Secretary in its submission for approval.

AFFECTED ENTITIES and BURDEN:

FOR PROFIT:

$$8 \text{ approved ATB tests} \times 1.5 \text{ hours} = 12 \text{ hours}$$

# of Responses:	# of Respondents:	# of Burden Hours:
8	8	12

Section 668.144(c)(16)(ii) & (d)(7)(ii) proposes that a test publisher and a State, respectively, will determine how a test administrator has the ability and facilities to keep its test secure against disclosure or release.

We estimate that a test publisher or State will on average take 1 additional hour to develop its process to establish how a test administrator has the ability and facilities to keep its test secure against disclosure or release and to report their process to the Secretary in its submission for approval.

AFFECTED ENTITIES and BURDEN:

FOR PROFIT:

$$8 \text{ approved ATB tests} \times 1 \text{ hour} = 8 \text{ hours}$$

# of Responses:	# of Respondents:	# of Burden Hours:
8	8	8

Section 668.144(c)(17) & (d)(8) proposes that a test publisher and a State, respectively, will explain to the Secretary its test anomaly analysis; how it will identify potential test irregularities and make a determination that test irregularities have occurred; an explanation of the process and procedures for corrective action, including decertification of a certified test administrator; and report information on when and how it will notify a test administrator, the Secretary, the institutions where the test irregularities occurred, that the test administrator has been decertified.

We estimate that a test publisher or State will on average take 75 hours to develop its test anomaly process and to establish its test anomaly analysis and explain it to the Secretary. That explanation must include its test irregularity detection process, its corrective action process, including its decertification of test administrator process, as well as its reporting processes.

AFFECTED ENTITIES and BURDEN:

FOR PROFIT:

8 approved ATB tests X 75 hours = 600 hours

# of Responses:	# of Respondents:	# of Burden Hours:
8	8	600

Section 668.144(c)(18) & (d)(9) proposes that a test publisher and a State, respectively, will describe to the Secretary the types of accommodations available to individuals with disabilities, including an explanation of any accessible technologies and a description of the process for a test administrator to identify and report when accommodations for individuals with disabilities were provided.

We estimate that a test publisher or State will on average take 1 hour to develop and describe to the Secretary the types of accommodations available to individuals with disabilities, the process the test administrator will use to support the identification of the disability and the process to report when accommodations were used.

AFFECTED ENTITIES and BURDEN:

FOR PROFIT:

8 approved ATB tests X 1 hour = 8 hours

# of Responses:	# of Respondents:	# of Burden Hours:
8	8	8

Sub-total for 34 CFR 668.144:

# of Responses:	# of Respondents:	# of Burden Hours:
32	32	628

Section 668.150 – Agreement between the Secretary and a test publisher or a State.

Section 668.150(b)(2) proposes that each test publisher or State to obtain a certification statement from each prospective test administrator indicating that he or she is not currently decertified and that if the test administrator becomes decertified by another test publisher or State that the test administrator will immediately notify all other test publishers or States for whom the test administrator administers ATB tests.

We estimate that a test publisher or State will on average take 1 hour to develop its process to obtain a certification statement from each prospective test administrator. We estimate that it will take each prospective test administrator .17 hours (10 minutes) to access, read, certify and submit the written certification to the test publisher or State, as applicable. We estimate that each test publisher or State, as applicable, will take .08 hours (5 minutes) to review each certification.

AFFECTED ENTITIES and BURDEN:
INDIVIDUALS:

3,774 test administrators	X	.17 hours	=	642 hours
# of Responses:		# of Respondents		# of Burden Hours
3,774		3,774		642

FOR PROFIT:

Process development:				
8 tests	X	1 hours	=	8 hours
# of Responses:		# of Respondents		# of Burden Hours
8		8		8

Review of submitted certifications:

3,774 test administrators	X	.08 hours	=	302 hours
# of Responses:		# of Respondents		# of Burden Hours
3,774		3,774		302

Section 668.150(b)(6) proposes that the test publisher or State, respectively, immediately notify the test administrator, the Secretary, and the institutions where the test administrator previously administered the ATB tests when it decertifies a test administrator.

We estimate that 1 percent of the universe of test administrators or 38 test administrators will become decertified. We estimate that it will take test publishers and States 1 hour per decertification to notify the test administrators, the Secretary, and the affected institutions for a total of 38 hours of burden.

AFFECTED ENTITIES and BURDEN:
FOR-PROFIT:

Test publishers -				
3,774 test administrators	X	.01 = 38	X 1 hour	= 38 hours
# of Responses:		# of Respondents:		# of Burden Hours:

Section 668.150(b)(7) proposes that when the test publisher or State makes a determination that ATB tests have been improperly administered, the proposed regulations require that the affected students and prospective students must be notified by the respective test publisher or State. In addition, the proposed regulations require that the respective test publisher or State are required to provide a report to the Secretary on the results of their review and determination of improper ATB test administration, the notifications to the institutions, students and prospective students.

We estimate that it will take each test publisher or State, as applicable, 5 hours to develop their process to determine when ATB tests have been improperly administered. We estimate that 481,763 ATB tests will be provided per year and estimate that 1 % of those tests could be improperly administered or 4,818 affected students or prospective students would require notification from the test publisher or State. We estimate that the notification process and any follow-up contact to average .33 hours (20 minutes) per contact and .25 hours (15 minutes) per student.

AFFECTED ENTITIES and BURDEN:
INDIVIDUALS:

ATB test takers:				
4,818	X	.25 hours	=	1,205 hours
# of Responses:		# of Respondents		# of Burden Hours
4,818		4,818		1,205

FOR PROFIT:

ATB test publishers:				
8	X	5 hrs to dev. process to determine when an		
ATB test has been improperly administered =				40 Hrs
# of Responses:		# of Respondents		# of Burden Hours
8		8		40

Test publishers contacting students who have been improperly tested:				
4,818	X	.33 hours	=	1,590 hours
# of Responses:		# of Respondents:		# of Burden Hours:
4,818		4,818		1,590

Section 668.150(b)(8) proposes that when a test publisher or State, respectively,

re-certifies a previously decertified test administrator after the three year decertification period, the proposed regulations require the test publisher or State to report to the Secretary information on previously decertified test administrators that it re-certifies.

**AFFECTED ENTITIES and BURDEN:
FOR PROFIT:**

Test publishers:

$$3,774 \text{ test administrators} \times .01 \text{ decertified} = 38 \text{ decertifications}$$

$$38 \text{ decertifications} \times .02 \% = 1 \text{ recertification}$$

recertified after the 3-yr period

# of Responses:	# of Respondents:	# of Burden Hours:
1	1	1

Section 668.150(b)(13) proposes to require that test publishers or a State analyze the test scores for all ATB test takers every 18 months to determine if there are any irregular patterns that raises an inference of improper test administration.

We estimate that a test publisher or State will on average take 75 hours to conduct its test anomaly process to establish its test anomaly analysis and report the results to the Secretary at the end of each 18-month period. That explanation must include its test irregularity detection process results, its corrective action process results, including its decertification of test administrator process results, as well as its reporting processes.

**AFFECTED ENTITIES and BURDEN:
FOR PROFIT:**

$$8 \text{ approved ATB tests} \times 75 \text{ hours} = 600 \text{ hours}$$

# of Responses:	# of Respondents:	# of Burden Hours:
8	8	600

Section 668.150(b)(15) proposes to require that the test publisher or State immediately report to the Secretary if it finds any credible information indicating that the approved ATB test has been compromised.

We estimate 481,763 ATB tests will be taken each year, of that number we estimate that in .01 % of the tests or 482 cases will be compromised and therefore required to be reported to the Secretary. We estimate the collection of credible information and its reporting to the Secretary to take 1 hour per incidence.

AFFECTED ENTITIES and BURDEN:
FOR PROFIT:

Test publishers data collection and reporting of compromised ATB tests:

$$481,763 \quad X \quad .001 \quad = \quad 482 \text{ cases} \quad X \quad 1 \text{ hour} \quad = \quad 482 \text{ hours}$$

# of Responses:	# of Respondents:	# of Burden Hours:
482	482	482

Section 668.150(b)(16) proposes that the test publisher or State immediately report to the Office of the Inspector General of the Department of Education any credible information indicating that a test administrator or institution may have engaged in fraud or other criminal misconduct.

We estimate 481,763 ATB tests will be taken each year, of that number we estimate that in .01 % of the tests or 48 cases that will be credible information indicating that a test administrator or institution may have engaged in fraud or other criminal conduct. We estimate the collection of credible information and its reporting to the Office of the Inspector General to take 1 hour per incidence.

AFFECTED ENTITIES and BURDEN:
FOR PROFIT:

Test publishers data collection and reporting of compromised ATB tests:

$$481,763 \quad X \quad .001 \quad = \quad 482 \text{ cases} \quad X \quad 1 \text{ hour} \quad = \quad 482 \text{ hours}$$

# of Responses:	# of Respondents:	# of Burden Hours:
482	482	482

Section 668.150(b)(17) proposes that all certified test administrators are required to report to the test publisher or State, respectively, the nature of the disability and any accommodations provided when approved ATB tests are given to individuals with disabilities.

We estimate that the average amount of time that a test publisher or State, as applicable, will take to develop its process for having test administrators report the nature of the test taker's disability and any accommodation provided to the individual with the disability to be 2 hours per test.

AFFECTED ENTITIES and BURDEN:
FOR PROFIT:

Test publishers:

$$8 \text{ tests} \quad X \quad 2 \text{ hours for development \& implementation} \quad = \quad 16 \text{ hours}$$

# of Responses:	# of Respondents:	# of Burden Hours:
8	8	16

Census information indicates that 12 % of the U.S. population is severely disabled, we estimate that 57,812 of the ATB test takers will be individuals with disabilities. We estimate that on average it will take .08 hours (5 minutes) per case to report the nature of the disability and any accommodation that the test administrator made for the test taker.

**AFFECTED ENTITIES and BURDEN:
INDIVIDUALS:**

Test administrators:
 481,763 ATB test takers X 12% with disabilities =
 57,812 cases X .08 hours per case reported = 4,625 hours

# of Responses:	# of Respondents:	# of Burden Hours:
57,812	57,812	4,625

Sub-total for 34 CFR 668.150:

# of Responses:	# of Respondents:	# of Burden Hours:
76,031	76,031	10,031

Section 668.151 – Administration of tests.

Section 668.151(g)(4) proposes that institutions where approved ATB test are given by certified test administrators either at assessment centers or by an independent test administrators, maintain the name and address of the test administrator who administered the test. Section 668.151(g)(5) proposes that if the individual who took the test has a disability and as a result was unable to be evaluated by the use of a conventional test or required test accommodations, that documentation of the individual’s disability and of the testing arrangements must be maintained by the institution.

Section 668.151(g)(5) - We estimate that on average it will take an institution .08 hours (5 minutes) per ATB test to collect and maintain the identifier information on each test administrator for each ATB test provided, therefore we estimate a total burden of 38,581 hours. In addition, for the estimated 57,812 ATB test takers who are individuals with disabilities that it will take an additional .08 hours (5 minutes) per test taker to collect and maintain documentation on the individual’s disability and the testing accommodations that were made by the test administrator for the ATB test-taker.

AFFECTED ENTITIES and BURDEN:

Section 668.151(g)(4) –
PROPRIETARY INSTITUTIONS:

Burden associated with the proposed requirement that institutions maintain the identifier information for all certified ATB test administrators.

481,763 ATB test takers X .36% (proprietary institutions as a percentage of all participating institutions) 173,445 X .08 hours = 13,875 hours

# of Responses:	# of Respondents:	# of Burden Hours:
173,445	173,445	13,875

PRIVATE NON-PROFIT INSTITUTIONS:

Burden associated with the proposed requirement that institutions maintain the identifier information for all certified ATB test administrators.

481,763 ATB test takers X .31% (private non-profit institutions as a percentage of all participating institutions) 149,347 X .08 hours = 11,947 hours

# of Responses:	# of Respondents:	# of Burden Hours:
149,356	149,356	11,947

PUBLIC INSTITUTIONS:

Burden associated with the proposed requirement that institutions maintain the identifier information for all certified ATB test administrators.

481,763 ATB test takers X .33% (public institutions as a percentage of all participating institutions) 158,962 X .08 hours = 12,718 hours

# of Responses:	# of Respondents:	# of Burden Hours:
158,962	158,962	12,718

Section 668.151(g)(5) –

AFFECTED ENTITIES and BURDEN:

PUBLIC INSTITUTIONS:

Burden associated with the proposed requirement that institutions collect and maintain documentation of the individual ATB test-takers disability and of any accommodating provided by the certified test administrator to the ATB test-taker (668.151(g)(5)).

PUBLIC INSTITUTIONS:

57,812 cases of individuals with disabilities taking an ATB test X .33 (public institutions as a percentage of all participating institutions) 19,078 X .08 hours per case reported = 1,526 hours

# of Responses:	# of Respondents:	# of Burden Hours:
19,078	19,078	1,526

PRIVATE NON-PROFIT INSTITUTIONS:

57,812 cases of individuals with disabilities taking an ATB test X .31 (private non-profit institutions as a percentage of all participating institutions) 17,922 X .08 hours per case reported = 1,434 hours

# of Responses:	# of Respondents:	# of Burden Hours:
17,922	17,922	1,434

PROPRIETARY INSTITUTIONS:

57,812 cases of individuals with disabilities taking an ATB test X .36 (proprietary institutions as a percentage of all participating institutions) 20,812 X .08 hours per case reported = 1,665 hours

# of Responses:	# of Respondents:	# of Burden Hours:
20,812	20,812	1,665

Sub-total for 34 CFR 668.151:

# of Responses:	# of Respondents:	# of Burden Hours:
539,575	539,575	43,166

Section 668.152 – Administration of tests by assessment centers.

The proposed regulations require that if the test assessment center scores the approved ATB test that it must provide a copy of the completed test to the test publisher or State, as applicable, on a weekly basis to include either; the name, address, and any other identifier provided by the test publisher or State of the test administrator who administered the test; or a report of all test-takers' scores and institutions to which the scores were sent and the name, address, and any other identifier provided by the test publisher or State of the test administrator who administered the test.

We estimate that of the 3,774 test administrators, approximately one-third or 1,256 of the test administrators are at test assessment centers.

AFFECTED ENTITIES and BURDEN:

3,774 test administrators X .3328 = 1,256 test administrators at assessment centers

PRIVATE NON-PROFIT INSTITUTIONS:

We estimate that 18% of the test assessment centers giving ATB tests are at private non-profit institutions.

$$\begin{array}{rcl}
 1,256 \text{ assessment centers} & \times .18 & = & 226 \\
 & & & \underline{\underline{X .08 \text{ hours (5 minutes)}}} \\
 & & & \underline{\underline{X 52 \text{ weeks}}}
 \end{array}$$

equals 940 hours of additional burden.

# of Responses:	# of Respondents:	# of Burden Hours:
226	226	940

PUBLIC INSTITUTIONS:

We estimate that 82% of the test assessment centers giving ATB tests are at public institutions.

$$\begin{array}{rcl}
 1,256 \text{ assessment centers} & \times .82 & = & 1,030 \\
 & & & \underline{\underline{X .08 \text{ hours (5 minutes)}}} \\
 & & & \underline{\underline{X 52 \text{ weeks}}}
 \end{array}$$

equals 4,285 hours of additional burden.

# of Responses:	# of Respondents:	# of Burden Hours:
1,030	1,030	4,285

Sub-total for 34 CFR 668.152:

# of Responses:	# of Respondents:	# of Burden Hours:
1,256	1,256	5,225

Section 668.153 – Administration of tests for individuals whose native language is not English or for individuals with disabilities.

The proposed regulations require that the test administrator must ensure that there is documentation to support the determination that the individual has a disability and requires accommodations, however, the burden associated with this proposed requirement is in the maintenance of the documentation by the institution in §668.151(g)(5) - see above.

Total Respondents, Responses and Burden Hours:

# of Respondents	# of Responses	# Hrs Burden
Section 668.144 – Application for test approval.		
32	32	628
Section 668.150 – Agreement between the Secretary and a test publisher or a State.		
76,031	76,031	10,031

Section 668.151 – Administration of tests.

539,575	539,575	43,165
---------	---------	--------

Section 668.152 – Administration of tests by assessment centers.

1,256	1,256	5,225
-------	-------	-------

Sub-total:

616,894	616,894	59,049
---------	---------	--------

Current
Inventory:

# of Respondents	# of Responses	# Hrs Burden
1,165	360,010	181,110

Total:

# of Respondents	# of Responses	# Hrs Burden
618,059	976,904	240,159

For additional information, please see the supplementary document “Burden Analysis – 1845-0049 – RIN 1840-AD02”.

13. Start-up Cost Burden to the Respondents

Test publishers sell their approved tests to institutions (using an independent test administrator) and to assessment centers who administer tests to students in order to determine a student’s ability-to-benefit for Title IV programs. Under section 487 of the HEA and 34 CFR 668.14, a school cannot charge any student a fee for processing or handling of an application, form, or data required to determine a student’s eligibility for Title IV assistance. This would include ATB tests. Therefore, there is no cost to the respondents that take ability-to-benefit tests. Also, it is not possible to estimate the cost per respondent for the ATB tests for approval because the amount of recordkeeping and burden time required to prepare a State Plan or test for approval varies from State to State and publisher to publisher within a potentially wide range of variables.

14. Estimated Annual Cost to the Federal Government

There are no additional costs to the Federal government as a result of the proposed regulations.

15. Reasons for Changes to Burden Hours Estimated

The burden estimate from the previously approved collection activity was 1,165 respondents and 181,110 burden hours. The implementation of the proposed regulations as a result of the Negotiated Rulemaking process created additional information collection burden.

16. **Collection of Information with Published Results**

This information will not be used for statistical purposes.

17. **Approval to Not Display Expiration Date**

There is no reason to seek approval to not display the expiration date for OMB approval of the information collection.

18. **Exception to the Certification Statement**

No exceptions.