

safety that might disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of Information and Regulatory Affairs has not designated this as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321-4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section

2.B.2 of the Instruction. Therefore, this proposed rule is categorically excluded, under figure 2-1, paragraph (32)(e) of the Instruction, from further environmental documentation. There are no expected environmental consequences of the proposed action that would require further analysis and documentation.

List of Subjects in 33 CFR Part 117 Bridges.

Regulations

For the reasons discussed in the preamble, the Coast Guard proposes to temporarily amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05-1(g); Department of Homeland Security Delegation No. 0170.1; section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

2. From May 1, 2006 to June 1, 2007, amend § 117.1047 by suspending paragraph (c) and adding paragraph (e) to read as follows:

§ 117.1047 Hoquiam River.

* * * * *

(e) From May 1, 2006 to June 1, 2007, the draw of the Simpson Avenue Bridge, mile 0.5, shall open on signal if at least 2 hours notice is given by marine radio, telephone, or other suitable means to the Washington Department of Transportation. The opening signal is two prolonged blasts followed by two short blasts.

Dated: February 3, 2006.

R.R. Houck,

Rear Admiral, U.S. Coast Guard, Commander, Thirteenth Coast Guard District.

[FR Doc. E6-2426 Filed 2-21-06; 8:45 am]

BILLING CODE 4910-15-P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900-AL43

Administration of VA Educational Benefits—Centralized Certification

AGENCY: Department of Veterans Affairs.

ACTION: Withdrawal of proposed rule and promulgation of a new proposed rule.

SUMMARY: This document withdraws the proposed rule, Administration of VA

Educational Benefits—Centralized Certification, published in the **Federal Register** on June 30, 2003 and promulgates a new proposed rule on the same subject. The new proposed rule would amend Department of Veterans Affairs (VA) rules governing certification of enrollment in approved courses for the training of veterans and other eligible persons under education benefit programs VA administers. Under this new proposed rule, VA would permit educational institutions with multi-state campuses to submit certifications to VA from a centralized location. VA considered comments received on the previous proposed rule when drafting this new proposed rule.

DATES: Comments on this proposed rule must be received on or before April 24, 2006.

ADDRESSES: Written comments may be submitted by: mail or hand-delivery to Director, Regulations Management (OOREG1), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; fax to (202) 273-9026; or e-mail through <http://www.Regulations.gov>. Comments should indicate that they are submitted in response to "RIN 2900-AL43." All comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 273-9515 for an appointment.

FOR FURTHER INFORMATION CONTACT: Lynn M. Nelson, Education Advisor, Veterans Benefits Administration, Department of Veterans Affairs (225C), 810 Vermont Avenue, NW., Washington, DC 20420, 202-273-7294.

SUPPLEMENTARY INFORMATION: On June 30, 2003, in 68 FR 38657, VA published a proposed rule that would have amended subpart D of 38 CFR part 21, regarding approval criteria for branches and extensions of educational institutions. Under the proposed rule, VA would have permitted educational institutions with multi-state campuses to submit required certifications from a centralized location. This document withdraws the proposed rule of June 30, 2003, 68 FR 38657. In its place, we are promulgating a new proposed rule concerning the same subject matter. Interested persons were given 60 days to submit comments on the initial proposed rule and VA considered those comments when drafting this new proposed rule. The differences between the now withdrawn proposed rule and the new proposed rule are explained below. In addition, this document addresses the public comments that VA

received in response to the withdrawn proposed rule.

I. Background

Educational institutions are required, under sections 3675 and 3676, title 38, United States Code (U.S.C.), to maintain certain records in order for their courses to be approved for the training of veterans and other eligible persons under the educational assistance programs VA administers. Generally, these records contain information about students' grades and progress, prior training, charges for tuition and fees, and other administrative and policy records that show the institution satisfactorily meets all the applicable approval criteria in 38 U.S.C. 3675 and 3676. In addition, under 38 U.S.C. 3690(c) (38 U.S.C. 3034 and 10 U.S.C. 16136(b) provide the authority to apply § 3690(c) to educational assistance provided under 38 U.S.C. chapter 30 and 10 U.S.C. chapter 1606), each institution must make its records and accounts pertaining to eligible veterans and eligible persons who receive educational assistance under chapters 30, 31, 32, 35, and 36 of title 38, U.S.C. and chapter 1606 of title 10, U.S.C. available for examination by authorized representatives of the Government. Furthermore, by application of 38 U.S.C. 3684 each educational institution offering a course in which a veteran or eligible person is enrolled under chapter 30, 31, 32, 35, or 36 of title 38, U.S.C., or chapter 1606 of title 10, U.S.C., must report to VA the following information:

- The enrollment of each such veteran or eligible person; and
- The interruption or termination of the education of each such person. The school official that prepares and submits the above required certifications to VA is known as the "Certifying Official."

Under VA's existing regulations, each educational institution (and generally each of its branches or extensions) must maintain its own administrative records for its students. In addition, a Certifying Official must be present at each location to prepare and submit the required certifications to VA. Over the years, we have referred to the branch's or extension's ability to maintain its own records and to submit its own certifications as the branch or extension having its own "administrative capability." There are limited exceptions to the rule that each campus or extension must have its own administrative capability. One exception is permitted when the parent facility is within the same State as the branch or extension and the parent facility maintains a centralized recordkeeping system, specifies the

branch location when certifying enrollments to VA, and can identify the records of students at each location. Another exception allows the State approving agency to combine the approval of the courses offered at the branch or extension with the courses offered at the parent school if the branch or extension is located within the same State and:

- The course offering at the branch or extension consists of a small number of unit subjects that do not comprise a program of education or a set curriculum large enough to allow pursuit on a continuing basis;
- The course offering at the branch or extension is given on a temporary basis (no more than a few cycles of training); or
- The facilities at the branch or extension contain insufficient space for an administrative capability to be developed.

When an educational institution's branches or extensions meet the requirements of the exceptions in the above paragraph, the Certifying Official is (or Certifying Officials are) located at the parent facility and there is no Certifying Official present at the branch or extension.

II. Comments

VA received comments both in favor of and against the withdrawn proposed rule. Favorable comments were submitted by:

- Three representatives from private for-profit educational institutions that offer courses at multiple locations;
- The Legislative Director for the National Association of Veterans Program Administrators (NAVPA) on behalf of NAVPA (NAVPA is an organization for Certifying Officials); and
- A representative from a state educational institution.

All five of the above individuals have experience with Certifying Official duties.

VA received 24 letters against the proposed rule. One of the 24 letters was from the President of the National Association of State Approving Agencies (NASAA) on behalf of the NASAA membership. Each state has a department or agency known as the State approving agency (SAA). Each SAA is responsible, under 38 U.S.C. 3671, for approving courses for veterans training offered in their state. In addition to the letter from the national association, 19 SAAs representing their individual states sent in letters similar to the letter from NASAA. The remaining four comments against the proposed rule were submitted by:

- A former college vice president;
- The President of the New Jersey Association of Veteran Program Administrators (NJAVPA) on behalf of NJAVPA (NJAVPA is an organization for Certifying Officials in New Jersey);
- A veteran who is a former Certifying Official commenting from a veteran's and a Certifying Official's perspective; and
- A Certifying Official from a community college that has five campuses.

The comments in favor of the withdrawn proposed rule say that the change would improve service to veterans and other eligible individuals. In addition, the educational institution representatives in favor of the withdrawn proposed rule feel that centralizing their Certifying Officials would allow them to better manage their resources. The comments against the withdrawn proposed rule fell into these main categories:

- Decline in service to veterans and other eligible individuals;
- Adversely impacts state recordkeeping laws;
- State approving agencies (SAAs) may not be able to fulfill their contracted responsibilities; and
- Lessens the approval criteria for out-of-state institutions;

We address the comments, both for and against, in the following paragraphs.

A. Some providing comments perceived that the proposed change would adversely impact state recordkeeping laws; that State approving agencies might not be able to fulfill their contracted responsibilities; and that the proposed rule would lessen the approval criteria for out-of-state institutions. Based on comments from the SAAs and NASAA, it was apparent that VA needed to redefine the meaning of "administrative capability." Our proposed definition of "administrative capability" in the withdrawn proposed rule was that "administrative capability" meant the ability to:

- Maintain all records and accounts that 38 CFR 21.4209 requires;
- Designate and have a certifying official on site; and
- Provide VA with the reports and certifications that 38 CFR 21.4203, 21.4204, 21.7252, and 21.7652 require based on source data on site, without referral to another location of an educational institution for documentation.

It now is apparent that including both the recordkeeping requirement and the VA certification element in the definition of "administrative capability," clouded our intent that

(subject to the existing exceptions in § 21.4266(b) and (c)) only the certification duties could be centralized. To alleviate confusion, we are revising our previously proposed definition of “administrative capability” and also proposing a definition for the term “Certifying Official.” In this document we propose to define “administrative capability” to mean “the ability to maintain all records and accounts that § 21.4209 requires.” We propose to define the term “Certifying Official” to mean “a representative of an educational institution designated to provide VA with the reports and certifications that §§ 21.4203, 21.4204, 21.5810, 21.5812, 21.7152, and 21.7652 require.”

The revision of the withdrawn proposed rule makes it clear that VA is not proposing to change the existing rules for approval of branches and extensions, other than to permit an educational institution with multi-state campuses the option of centralizing its Certifying Official function. Under this proposed rule, each branch or extension still must maintain all records that 38 CFR 21.4209 requires, unless one of the exceptions in § 21.4266(d) applies. Generally, these records contain information about students’ grades and progress, prior training, charges for tuition and fees, and other administrative and policy records that show the institution satisfactorily meets all the applicable approval criteria in 38 U.S.C. 3675 and 3676.

In this proposed rule, we clarify, in revised § 21.4266(e), that the State approving agency may combine the approval of courses offered by an extension of an educational institution with the approval of courses offered at the main campus (or the branch campus it is dependent on) only if the extension and the campus it is dependent on are within the same State. (The proposed rule would not change jurisdiction for approval of courses by the State approving agencies (SAAs). For example, an educational institution in New York with a branch in California must have its courses offered in New York approved by the New York SAA and the courses offered at its California branch approved by the California SAA.) The language in the withdrawn proposed rule did not clearly express that combined approvals only apply to locations within the same State. In addition, we clarify in § 21.4266(e) that (in accordance with § 21.4251) an extension of a proprietary educational institution that offers courses that do not lead to a standard college degree is still subject to the minimum period of operation requirements. The

information was included because we recently learned that some individuals erroneously concluded the minimum period of operation rule did not apply when approvals were combined.

In this document, we propose adding § 21.4266(f) to clearly express the existing exceptions and the proposed additional exception to the requirement that each location where a course is offered must have a Certifying Official present. In proposed § 21.4266(f)(1) and (f)(2), we show the two exceptions that are permitted under existing regulations. In proposed § 21.4266(f)(3) we show the proposed additional exception that would apply to educational institutions with multi-state campuses who choose to centralize their Certifying Official functions. An educational institution with multi-state campuses may centralize Certifying Official functions if the institution:

- Submits all required reports and certifications via electronic submission through VA’s internet-based education certification application;
- Shows the VA facility code for the location that has administrative capability for the location where the student is training when submitting required reports and certifications to VA;
- Provides the Certifying Official full access to the administrative records and accounts that § 21.4209 requires for each student attending the location (or locations) for which the Certifying Official serves as the designated Certifying Official. The records may be originals, certified copies, or in an electronically formatted record keeping system; and
- Designates an employee, at each location of the educational institution that does not have a Certifying Official present, who will serve as a point of contact for the Certifying Official, veterans and other eligible persons, VA, and the SAA. This employee must have access (other than to transmit certifications) to VA’s Internet-based education certification application to provide information to VA beneficiaries, the SAA and VA.

Based on the comments we received, we are proposing rules that an educational institution with multi-state campuses must follow if it chooses to centralize its Certifying Official function. These proposed rules are based on concerns of the State approving agency representatives and to ensure program integrity. The new proposed rules the affected educational institutions must follow are explained in the following paragraphs.

1. Submit all required reports and certifications via VA’s Internet-based

education certification application. The electronic certification application has safeguards to help prevent fraud that are not available in a paperless environment. In addition the application provides VA with a means to extract electronic reports showing all certifications for VA students submitted by an educational institution. VA can extract this information separately for each location. These reports will be helpful for compliance surveys performed by VA or the SAA.

The SAAs expressed concern that their compliance review and supervisory visits would be hampered if the certification documents are maintained at a location outside of their individual states. This proposed rule requires that there must be an employee (at the location that does not have a Certifying Official present) designated to act as a point of contact for VA, the SAA, veterans, reservists, servicemembers and other eligible persons. The point of contact must have access (other than to transmit certifications) to VA’s Internet-based education certification application and must allow the SAA or VA representative conducting a site visit to view any VA enrollment certification data on any VA student attending that location. (The data displayed in VA’s Internet-based education certification application is not a new collection of information under the Paperwork Reduction Act. The Office of Management and Budget (OMB) approved the collection of enrollment data on VA Form 22–1999 which includes collecting the information via the Internet-based application. The OMB approval number is 2900–0073 and is valid until October 31, 2006.)

2. Show the VA facility code for the location that has administrative capability for the location where the student is training when submitting required reports and certifications to VA. This proposed rule is necessary so that VA can ensure that veterans and other eligible persons are certified properly. The facility code identifies the location that has administrative capability for the location where the student is enrolled. Administrative capability may be at the location the student is attending, or it may exist at another location of the educational institution within the same state. This code tells VA the location of the educational institution in the state where the student is enrolled, and which location of that institution has administrative capability. This will assist in extracting reports for compliance review and program integrity. In addition to program

integrity, the Internet-based application uses the facility code to automatically route the electronic certifications to the VA regional processing office (RPO) that has jurisdiction over the location where the student is training. VA also uses the facility code to extract statistical data for administrative purposes. (This is not a new collection of information. Certifying Officials show the VA facility code on all enrollment certifications and reports submitted to VA. We included this proposed rule for clarity so that educational institutions that centralize their Certifying Official functions understand they must continue to reflect the VA facility code for the location that has administrative capability for the location where the student is pursuing the course, rather than the facility code of the centralized location from where the certifications are prepared.)

3. Provide the Certifying Official full access to administrative records and accounts that 38 CFR 21.4209 requires for each location the official serves as the designated Certifying Official. This proposed rule is necessary so that the Certifying Official has proper access to report enrollment information. We clarified this requirement in this proposed rule because many readers of the withdrawn proposed rule thought the withdrawn proposed rule would give educational institutions with multi-state campuses the authority to move all administrative records from branches and extensions to one central location. While the Certifying Officials must have access to the records, it was not our intent to say all administrative records would be maintained at the national level and that the administrative records would not be available at the state level. Many states require the branches to maintain administrative records and accounts locally for state licensure requirements. If an educational institution wants to submit VA certifications from a central location, the institution must ensure the individual submitting those certifications has access to all administrative records and accounts to properly certify enrollment information for veterans and other eligible persons.

B. Service to veterans and other eligible individuals. Those commenting against centralizing the Certifying Official function strongly feel that service will decline because there will not be a designated person on campus to:

- Assist with the certification process;
- Provide guidance on VA benefits;
- Provide information on individual State veterans benefits; or

- Serve as a continuing advocate for veterans' education at the facility.

They are also concerned that submitting certifications to VA from a centralized national location rather than directly from the campus where the student is attending will delay reporting and ultimately delay receipt of benefits. In addition, they feel that veterans might have to incur long distance phone charges and may have trouble accessing staff in the centralized office if the veteran resides in a different time zone than the centralized office. Several individuals expressed concerns that educational institutions may choose to centralize certification duties in an effort to reduce their administrative overhead costs and subsequently not properly staff the office at the central location.

Those in favor of the option of centralizing the Certifying Official function feel service to veterans will improve. In several of the branches and extensions, a Certifying Official performs other duties and does not solely concentrate on veteran's certifications. It is an ancillary duty. Those educational institutions that prefer to centralize their certifying officials state that by allowing them this option they could dedicate staff members who specialize in VA certification. Thus, their quality of service would improve. By centralizing their Certifying Official functions, those institutions feel they could better train and manage their Certifying Officials.

VA currently permits educational institutions offering distance learning courses to submit certifications from a central location for all students enrolled in their distance learning programs, regardless of where the student resides. VA has not experienced major problems with educational institutions that perform certifications for their campuses in their distance learning programs.

Many Certifying Officials serve as knowledgeable source persons for VA education program information and assistance. Several individuals commenting strongly feel that these services will decline if educational institutions are permitted to centralize their Certifying Official functions. It is important to note that although many Certifying Officials serve as knowledgeable source persons and veterans advocates, providing a valuable service to veterans and VA, there is no statutory provision that requires them to do so. In addition, there is no evidence to support the allegation that an educational institution that chooses to centralize its Certifying Official function would stop providing quality service to

its veteran customers. The majority of educational institutions that have multi-state campuses are not public institutions. The majority of veterans, servicemembers, reservists, and other eligible persons entitled to VA educational assistance attend public educational institutions. (For example, during fiscal year 2003, 81% of individuals in receipt of Montgomery GI Bill educational assistance attended public educational institutions.) A private educational institution that is not concerned with assisting veterans and other eligible persons, and providing good customer service, risks losing those students as customers.

Some providing comments perceive that only a local Certifying Official would have access to information about State benefits for veterans, servicemembers or other eligible individuals. While it may require some effort to obtain this information, a centralized office can obtain all the information about State benefits from the Internet. Most financial aid offices provide information about the types of funding available for those seeking financial aid. The educational institutions that have expressed an interest in centralizing their Certifying Official function already have a central financial aid office.

Although several individuals commented that nothing replaces "face-to-face" contact, and veterans will lose that benefit if a Certifying Official is not present on each campus, there are also individuals who prefer to conduct their business via email or telephone rather than in person. One SAA official commented that she has seen service decline within her State at some campuses when certification was centralized into one location. (Centralized certification within a State is permitted under existing regulations in certain instances.) She felt the decline was due to the physical separation and that the physical separation resulted in a disconnect between the veteran and the certification process. VA concedes that in some instances the service may decline, but it also may improve. Even under existing regulations, a veteran might receive better service from one campus Certifying Official than he/she would receive from the Certifying Official at another branch of the educational institution. However, VA cannot assume that all service would improve or all service would decline if centralized certification were permitted for educational institutions that have campuses in more than one state.

The school representatives interested in centralizing their Certifying Official

functions stated, in their official comments on the withdrawn proposed rule, that they would still provide face-to-face representation at all their locations. It is only the individuals who certify and submit reports that they wish to centrally locate. One school representative stated it would be similar to the way they centrally administer Federal financial aid. The central location processes the paperwork and the local campus counsels the students and provides general information about aid that is available. In this proposed rule, we added a proposed requirement that there must be a designated point-of-contact at each location that does not have a Certifying Official present who will be available for VA, the Certifying Official, the SAA, and the student.

C. Several SAAs and NASAA suggested having a requirement that each educational institution that centralizes its Certifying Official function, must:

- Have a knowledgeable point-of-contact for student, VA, and SAA contact purposes at each approved location without a Certifying Official present;
- Grant access to all student records, including VA certification documents, to the point-of-contact;
- Maintain a list of everyone who has applied for, received, or expresses a formal interest in using GI Bill benefits;
- Submit certifications to the VA Regional Processing Office that has jurisdiction of the State or territory in which the student is enrolled;
- Maintain adequate toll free numbers or lines for use by students with the capability to measure missed calls;
- Maintain adequate full-time campus personnel at the location the Certifying Official is present to ensure:
 - That certifications and changes are timely submitted
 - Student progress is monitored
 - Course-to-program applicability is monitored; and
 - Calls from veterans and SAAs are answered timely

In addition, the SAA's suggested that VA:

- Permit centralized certification on a test basis;
- Establish a minimum ratio of veteran students to campus personnel;
- Establish a maximum timeframe to submit enrollment certifications (recommended a two-week timeframe); and
- Conduct an annual survey the first five years after the final rule permitting centralized certification to measure customer satisfaction with respect to centralized certification.

Several of the suggestions would require VA to impose more rules on

educational institutions that choose to centralize their Certifying Official functions than on those educational institutions that choose not to centralize. We do not believe, however, that it would be equitable for VA to require that only educational institutions that choose to centralize their Certifying Official functions would be subject to employee/veteran ratios, timeframe measurements, mandatory telephone line requirements; and maintenance of lists of persons interested in GI Bill benefits. VA does not see a need to regulate these matters. When problems arise with the certification process, VA's Education Liaison Representatives (ELR), the SAA official, the Certifying Official, and the educational institution work together to resolve the issues. In those instances where liaison assistance and/or training assistance do not resolve the issues, the approval is withdrawn.

Educational institutions, whether opting to centralize their Certifying Official functions or not, will continue to submit enrollment information to the VA regional processing office (RPO) that has jurisdiction over the campus that has administrative capability for the location where the student is enrolled. This will be controlled automatically in VA's internet-based education certification application by routing certifications to the RPO by the VA facility code identifier.

VA is exploring expanding our annual customer satisfaction survey of education assistance recipients to include questions that cover the certification process for new and continuing students.

In this document we propose a rule, for those educational institutions opting to centralize their Certifying Official functions, that they must designate a point-of-contact at each branch or extension location that does not have a Certifying Official present. This was suggested by the SAAs. This will ensure veterans and other eligible persons know who will assist them as well as provide VA and the SAAs a point-of-contact for compliance reviews.

VA also received a comment expressing concern that veterans would not be able to receive an advance payment if educational institutions centralize the Certifying Official function. We do not find that this would occur. An advance payment is a payment that equals the monthly amount of educational assistance due for the month in which the course begins and the following month. The check is made out to the student and is mailed to the school in advance of the start of the term. Students will still be

able to receive an advance payment at the location that has administrative capability for the location where they are training. VA determines where to send the payment by using the VA facility code as an identifier. Less than 10% of students receive advance payments. Most students prefer VA to send payments electronically to their individual bank accounts.

The SAAs expressed concerns that permitting educational institutions to centralize their Certifying Official functions may lead to incidents of fraud, waste, and abuse. VA carefully considered these concerns. By adding the proposed rule that those who centralize must use VA's Internet-based education certification application, VA can monitor certification submissions for each location by reports extracted from the application. VA can provide SAAs with listings of students enrolled and certified for the location that the SAA is visiting to assist in the review. In addition, the SAA may view individual enrollment records in VA's Internet-based education certification application during a supervisory visit at a location that does not have a Certifying Official present. The designated point of contact will have access to the Internet-based education certification application and allow the SAA to view enrollment data stored in the application. The ability to review the enrollments will also help VA employees who conduct compliance reviews to ensure veterans and other eligible persons are properly certified.

In addition to the reports, the existing provisions in 38 CFR 21.4210 permit VA to suspend or discontinue payments of educational assistance to all veterans, servicemembers, reservists, and other eligible persons and to disapprove further enrollments or reenrollments if evidence supports a substantial pattern of veterans, servicemembers, reservists, or other eligible persons who are receiving educational assistance to which they are not entitled because the educational institution offering the course has violated recordkeeping or reporting requirements. If VA obtained evidence of substantial violations of recordkeeping or reporting, VA could suspend and discontinue payments to students at all locations served by the centralized Certifying Official (or Officials). The rules in § 21.4210 provide VA enough latitude, if there were substantial problems, that offering centralized certification on a test basis is not necessary.

Some SAAs are concerned that, without a Certifying Official present at each location, reductions and terminations will not be reported timely

and thus more overpayments will occur. Whether the Certifying Officials are centralized or not, they each must follow the same reporting and certification regulations. VA will not lessen those requirements just because an educational institution decided to centralize. Again, VA can suspend or discontinue payment of educational assistance to all VA students enrolled at all locations for violations of reporting and certification regulations. Additionally, the student is still responsible to report his or her enrollment changes directly to VA. Students in receipt of benefits under the Montgomery GI Bill—Active Duty and the Montgomery GI Bill—Selected Reserve programs must verify their enrollment monthly. The student is required to report changes in enrollment as part of the verification. VA does not make payment under these two programs until the student's verification is received.

It is important to note that the proposed rule only would permit, not require, educational institutions with multi-state campuses to centralize their Certifying Official functions. Under existing rules, educational institutions with campuses within the same State (and who have a centralized recordkeeping system) may centralize their Certifying Official functions. Many educational institutions will have no interest in changing the way they currently do business, especially those locations that have many veterans, servicemembers, or reservists enrolled. This proposed rule provides more flexibility to an educational institution that has many campuses, and that may not have significant veteran enrollment.

Paperwork Reduction Act

This document contains a provision in proposed 38 CFR 21.4266(f)(3)(i) that would require an educational institution to submit required certifications electronically using VA's Internet-based education certification application if the institution chooses to centralize its Certifying Official function. The proposed requirement is a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521) that would need approval by the Office of Management and Budget (OMB). Accordingly, under section 3507(d) of the Act, VA has submitted a copy of this rulemaking action to OMB for review.

OMB assigns a control number for each collection of information it approves. VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

VA has approval to collect the information either by paper or electronically under OMB Control No. 2900–0073 (Enrollment Certification). Under the existing approval, educational institutions choose whether to submit their certifications by paper or electronically. The proposed requirement in 38 CFR 21.4266(f)(3) would require electronic submission by those educational institutions centralizing their Certifying Official functions and would require revision to the existing approval. The existing OMB approval expires October 31, 2006. In a separate document VA is requesting an extension of approval. That document will be published in the **Federal Register** in the near future and will provide the public an opportunity to comment on the collection.

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 an expenditure by State, local, or tribal governments, in the aggregate or by the private sector, of \$100 million or more (adjusted annually for inflation) in any given year. This proposed rule would have no such effect on State, local, or tribal governments, or 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 Order classifies a rule as a significant regulatory action requiring review by the Office of Management and Budget if it meets any one of a number of specified conditions, including: Having an annual effect on the economy of \$100 million or more, creating a serious inconsistency or interfering with an action of another agency, materially altering the budgetary impact of entitlements or the rights of entitlement recipients, or raising novel legal or policy issues. VA has examined the economic, legal, and policy implications of this proposed rule and has concluded that it is a significant regulatory action because it raises novel policy issues.

Regulatory Flexibility Act

The Secretary of Veterans Affairs (VA) 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 only those educational institutions that choose to centralize their Certifying Official functions. Centralizing certifying functions would be at the option of the educational institution should they desire to consolidate their certifying functions. Some educational institutions with multi-state campuses requested VA expand current regulations to permit them to centralize their Certifying Official functions. Those education institutions believe centralizing their functions will allow them to better manage and allocate their resources. Existing VA regulations do not permit educational institutions with multi-state campuses to centralize their Certifying Official functions. The economic effect on small entities would essentially entail a cost savings associated with the consolidation of certifying functions. By centralizing the functions, the institutions desiring this option say they could dedicate less full-time employees to the centralizing duties and at the same time have those employees specialize. According to the staff members of educational institutions interested in centralizing, their training costs would be reduced by having a centralized staff dedicated to VA certification and serving veterans. The option in this proposed rule that would liberalize current regulations to permit centralizing the certification functions would not impact a substantial number of small entities. Of the 6,900 post secondary educational institutions approved by Department of Education for Title IV funds, only 3 of those institutions commented on the previous proposed rule that would have permitted centralized certification. Less than 10 educational institutions have expressed interest in centralized certification, but those that have are very interested in the proposed change that would allow them the option. Pursuant to 5 U.S.C. 605(b), this proposed rule, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance Program Numbers

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this proposed rule are 64.117, Survivors and Dependents Educational Assistance; 64.120, Post-Vietnam Era Veterans' Educational Assistance; and 64.124, All-Volunteer Force Educational Assistance. This proposed rule also affects the Montgomery GI Bill Selected Reserve

program. There is no Catalog of Federal Domestic Assistance number for the Montgomery GI Bill Selected Reserve program.

List of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflicts of interests, Defense Department, 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: September 30, 2005.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

For the reasons set out above, 38 CFR part 21 (subpart D) is proposed to be amended as follows.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart D—Administration of Educational Assistance Programs

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

Authority: 10 U.S.C. 2141 note, ch. 1606; 38 U.S.C. 501(a), chs. 30, 32, 34, 35, 36, unless otherwise noted.

2. Section 21.4266 is revised to read as follows:

§ 21.4266 Approval of courses at a branch campus or extension.

(a) *Definitions.* The following definitions apply to the terms used in this section.

(1) *Administrative capability.* The term *administrative capability* means the ability to maintain all records and accounts that § 21.4209 requires.

(2) *Certifying Official.* *Certifying Official* means a representative of an educational institution designated to provide VA with the reports and certifications that §§ 21.4203, 21.4204, 21.5810, 21.5812, 21.7152, and 21.7652 require.

(3) *Main campus.* The term *main campus* means the location where the primary teaching facilities of an educational institution are located. If an educational institution has only one teaching location, that location is its main campus. If it is unclear which of the educational institution's teaching facilities is primary, the main campus is the location of the primary office of its Chief Executive Officer.

(4) *Branch campus.* The term *branch campus* means a location of an educational institution that:

- (i) Is geographically apart from and operationally independent of the main campus of the educational institution;
- (ii) Has its own faculty, administration and supervisory organization; and
- (iii) Offers courses in education programs leading to a degree, certificate, or other recognized education credential.

(5) *Extension.* The term *extension* means a location of an educational institution that is geographically apart from and is operationally dependent on the main campus or a branch campus of the educational institution.

(Authority: 38 U.S.C. 3675, 3676, 3684)

(b) *State approving agency jurisdiction.* (1) The State approving agency for the State where a residence course is being taught has jurisdiction over approval of that course for VA education benefit purposes.

(2) The fact that the location where the educational institution is offering the course may be temporary will not serve to change jurisdictional authority.

(3) The fact that the main campus of the educational institution may be located in another State from that in which the course is being taught will not serve to change jurisdictional authority.

(Authority: 38 U.S.C. 3672)

(c) *Approving a course offered by a branch campus or an extension of an educational institution.* Before approving a course or a program of education offered at a branch campus or an extension of an educational institution, the State approving agency must ensure that:

(1) Except as provided in paragraph (d) of this section, each location where the course or program is offered has administrative capability; and

(2) Except as provided in paragraph (f) of this section, each location where the course or program is offered has a Certifying Official on site.

(Authority: 38 U.S.C. 3672)

(d) *Exceptions to the requirement that administrative capability exist at each location.* (1) A State approving agency may approve a course or program offered by a branch campus that does not have its own administrative capability if:

- (i) The main campus of the educational institution within the same State maintains a centralized recordkeeping system that includes all records and accounts that § 21.4209 requires for each student attending the

branch campus without administrative capability. These records may be originals, certified copies, or in an electronically formatted recordkeeping system; and

(ii) The main campus can identify the records of students at the branch campus for which it maintains centralized records.

(2) The State approving agency may approve a course or program offered by an extension that does not have its own administrative capability if:

(i) The extension and the main campus or branch campus it is dependent on are located within the same State;

(ii) The main campus or branch campus the extension is dependent on has administrative capability for the extension; and

(iii) The State approving agency combines the approval of the course(s) offered by the extension with the approval of the courses offered by the main campus or branch campus the extension is dependent on.

(e) *Combined approval.* The State approving agency may combine the approval of courses offered by an extension of an educational institution with the approval of the main campus or the branch campus that the extension is dependent on, if the extension is within the same State as the campus it is dependent on. Combining the approval of courses offered by an extension, with the approval of courses offered by the main campus or branch campus the extension is dependent on, does not negate the minimum period of operation requirements in § 21.4251 for courses that do not lead to a standard college degree offered by an extension of a proprietary educational institution. The State approving agency will list the extension and courses approved on the notice of approval sent to the educational institution pursuant to § 21.4258 of this part.

(f) *Exceptions to the requirement that each location where the course or program is offered must have a Certifying Official on site.* Exceptions to the requirement in paragraph (c) of this section, that each location with an approved course or program of education must have a Certifying Official on site, will be permitted for:

(1) Extensions of an educational institution when the State approving agency combines the approval of the courses offered by the extension with a branch campus or main campus. (See paragraph (e) of this section.)

(2) Educational institutions with more than one campus within the same State if the main campus:

(i) Maintains a centralized recordkeeping system. (See paragraph (d)(1) of this section.);

(ii) Has administrative capability for the branch campus (or branch campuses) within the same State; and

(iii) Centralizes its Certifying Official function at the main campus.

(3) Educational institutions with multi-state campuses when an educational institution wants to centralize its Certifying Official function into one or more locations if:

(i) The educational institution submits all required reports and certifications that §§ 21.4203, 21.4204, 21.5810, 21.5812, 21.7152, and 21.7652 require via electronic submission through VA's internet-based education certification application;

(ii) The educational institution designates an employee, at each teaching location of the educational institution that does not have a Certifying Official present, to serve as a point-of-contact for veterans, servicemembers, reservists, or other eligible persons; the Certifying Official(s); the State approving agency of jurisdiction; and VA. The designated employee must have access (other than to transmit certifications) to VA's internet-based education certification application to provide certification information to veterans, servicemembers, reservists, or other eligible persons, State approving agency representatives, and VA representatives;

(iii) Each Certifying Official uses the VA facility code for the location that has administrative capability for the teaching location where the student is training when submitting required reports and certifications to VA; and

(iv) Each Certifying Official has full access to the administrative records and accounts that § 21.4209 requires for each student attending the teaching location(s) for which the Certifying Official has been designated responsibility. These records may be originals, certified copies, or in an electronically formatted recordkeeping system.

(Authority: 38 U.S.C. 3672)

[FR Doc. 06-1652 Filed 2-21-06; 8:45 am]

BILLING CODE 8320-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2005-TX-0003; FRL-8034-8]

Approval and Promulgation of State Implementation Plans; Texas; Revision to the Rate of Progress Plan for the Beaumont/Port Arthur Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve revisions to the Texas State Implementation Plan (SIP) Post-1996 Rate of Progress (ROP) Plan, the 1990 Base Year Inventory, and the Motor Vehicle Emissions Budgets (MVEB) established by the ROP Plan, for the Beaumont/Port Arthur (BPA) ozone nonattainment area submitted November 16, 2004. The intended effect of this action is to approve revisions submitted by the State of Texas to satisfy the reasonable further progress requirements for 1-hour ozone nonattainment areas classified as serious and demonstrate further progress in reducing ozone precursors. We are approving these revisions in accordance with the requirements of the Federal Clean Air Act (the Act).

DATES: Written comments should be received on or before March 24, 2006.

ADDRESSES: Comments may be mailed to Mr. Thomas Diggs, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the Rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Carl Young, Air Planning Section (6PD-L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone 214-665-6645, young.carl@epa.gov.

SUPPLEMENTARY INFORMATION: In the final rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives relevant adverse comments, the

direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: February 6, 2006.

Richard E. Greene,

Regional Administrator, Region 6.

[FR Doc. 06-1564 Filed 2-21-06; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 61

[EPA-R10-OAR-2006-0001; FRL-8035-6]

Partial Approval of the Clean Air Act, Section 112(I), Delegation of Authority to the Washington State Department of Health

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to partially approve a delegation request submitted by the Washington State Department of Health (WDOH). WDOH has requested delegation authority to implement and enforce the National Emission Standards for Hazardous Air Pollutants for radionuclide air emission. This action is being taken under the Clean Air Act (CAA or the Act).

DATES: Written comments must be received on or before March 24, 2006.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R10-OAR-2006-0001, by one of the following methods:

A. <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. E-Mail: zhen.davis@epa.gov.

C. Mail: Davis Zhen, Federal and Delegated Air Programs Unit, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Mail Stop: AWT-107, Seattle, WA 98101.

D. Hand Delivery: U.S. Environmental Protection Agency Region 10, Attn: Davis Zhen (AWT-107), 1200 Sixth