

Department of Veterans Affairs (VA)
Preliminary Plan for Periodic Review of Existing Regulations

I. VA's Executive Summary of its Preliminary Plan and Compliance with Executive Order (E.O.) 13563, "Improving Regulation and Regulatory Review."

E. O. 13563 emphasizes the importance of maintaining a consistent culture of retrospective review and analysis throughout the executive branch of Government. Federal agencies with responsibilities for regulating the activities of state, local, or tribal governments, or public and private entities often find that before a rule is tested, it is difficult to be certain of its consequences, including its costs and benefits. VA is different from those agencies in that VA generally does not regulate the activities of other entities. VA's mission is to administer benefit programs, provide health care, and perform mortuary services for America's Veterans. Consequently, in complying with this executive order, VA's focus is on sustaining an ongoing method for identifying, updating, or simplifying significant rules that are obsolete, outdated, confusing, or that place unnecessary burdens on Veterans or their beneficiaries. VA has engaged in several major regulation rewrite projects in the past to accomplish those goals and it continues to do so.

Consistent with VA's commitment to public participation in the rulemaking process, VA is seeking views from the public on any rules that should be amended, eliminated, updated, or simplified. Members of the public, VA employees, and Veterans Service Organizations (VSO) serving Veterans often have useful information and perspectives on the benefits and burdens of existing VA requirements. They may have suggestions for how regulatory provisions might be updated, streamlined, revised, or repealed to better achieve VA's regulatory objectives, while minimizing any regulatory burdens. In short, engaging the public in an open, transparent process is an important step in VA's review of its existing regulations.

II. Scope of VA's Plan.

- a. VA's plan applies to its three Administrations and all VA Staff Offices. VA's Administrations are: the Veterans Health Administration (VHA), the Veterans Benefits Administration (VBA), and the National Cemetery Administration (NCA).
- b. The types of documents covered under this plan include all existing VA regulations in the Code of Federal Regulations (CFR) and regulations currently under development. VA does not issue significant policy guidance documents for the public and prefers to promulgate regulations when such guidance is necessary. Even so, VA maintains an online means for the public to comment on significant guidance documents. VA conducts information collection activities in conjunction with administering

benefits, but when a program or benefit no longer is in effect, the associated information collection activity would terminate as well.

III. Public Access and Participation.

VA solicited public input for VA's retrospective review of regulations by posting an article online as a "Hot Topic" on VA's home page (<http://www.va.gov/>). The article, entitled: "*VA Seeks Public's Views on How to Improve Regulations,*" contained a direct link to a Web page managed by VA's Office of Regulation Policy and Management (ORPM) in the Office of the General Counsel (OGC) (<http://www.va.gov/orpm/>), and provided an electronic form for submitting comments. VA's comment form provides spaces for a person's name, email address, and comment on a VA regulation. It contains the following information:

"In accordance with Executive Order 13536 "Improving Regulation and Regulatory Review," January 18, 2011, and OMB Guidance Memorandum M-11-10, February 2, 2011, VA encourages comments on VA regulations that should be modified, streamlined, expanded or repealed to make VA regulatory programs more effective or less burdensome in achieving VA's regulatory objectives. This includes any regulations that are outmoded, ineffective, insufficient or excessively burdensome on the public. Use the form below for your comments."

IV. VA's Current Efforts Already Underway Independent of E.O. 13563.

- a. Summary of pre-existing agency efforts (independent of E.O. 13563) already underway to conduct retrospective analysis of existing rules.

ORPM was established in 2004 to centrally manage all VA regulations, and it maintains a database for tracking all regulations under development, including a list of all needed future rulemakings. VA's Administrations and Staff Offices routinely conduct supporting reviews coinciding with VA's publication of its Semi-Annual Unified Agenda of Federal Regulatory and Deregulatory Actions. Since 2004, ORPM also has supervised major regulation rewrite projects for VA's Acquisition regulations, Vocational Rehabilitation and Employment regulations, and Freedom of Information Act regulations. In addition, ORPM currently is conducting one of the most comprehensive regulation rewrite efforts in the Federal Government. For the past 9 years VA's Compensation and Pension Regulation Rewrite Project has been reorganizing and rewriting all of VA's compensation and pension regulations and making improvements on a major scale. This massive project was designed to

address and correct what the courts found to be VA's "confusing tapestry" of compensation and pension regulations.¹

The VHA also established an independent Office of Regulatory Affairs (VHAORA) in 2009, which is designed to be proactive. ORPM played a significant role in the decision to devote resources to the promulgation and management of VHA's regulations. Recently, this VHA office was put under the direct supervision of VHA's Chief of Staff, further emphasizing the important role that it now plays in the development of VHA's national regulatory agenda. Since 2009, VHAORA has initiated and led several large and important regulatory renovations to eliminate outdated regulations, including rewrites of the regulations governing payment of per diem to State Veterans Homes, beneficiary travel to obtain medical care, and the Fisher House program (housing for veterans' families while the veteran is hospitalized away from home).

- b. What specific rules, if any, were already under consideration for retrospective analysis?

In addition to the major rewrite efforts already accomplished, VA's ongoing Compensation and Pension Regulation Rewrite Project eventually will replace all of VA's adjudication regulations in 38 CFR Part 3. A new 38 CFR Part 5 will be created with approximately 390 revised sections, which are designed to make these regulations easier to find, read, understand, and apply.

The Rewrite Project consists of a thorough retrospective analysis of VA rules that are:

- outmoded because they relate to laws that have been repealed or to veteran populations that no longer exist;
- ineffective due to poor organizational structure or ambiguities; or
- insufficient because they fail to incorporate court holdings and binding VA General Counsel Opinions.

To remedy these defects, VA has modified, streamlined, expanded, or repealed hundreds of its regulations. This lengthy process has been exceptionally transparent. VA received hundreds of pages of public comments on the proposed regulations and met personally with the major veterans organizations to obtain their input. When the final rule is published, scheduled for 2012, it should significantly improve the accuracy and timeliness of VA's processing of veterans' disability claims. Because VA does not generally regulate other entities in terms of setting regulatory standards and enforcing compliance, VA's rulemaking activities primarily

¹ Hattlestad v. Derwinski, 3 Vet. App. 213 (1992).

are related to implementing new laws and improving VA's benefit programs. Consequently, VA's retrospective analysis measures normally focus on the need to update existing regulations.

ORPM also ensures VA's compliance with the Regulatory Flexibility Act, 5 U.S.C. 610, which requires that economically significant regulations to be reviewed every 10 years (see table below).

**List of VA's Published Regulations Requiring a Section 610 Review
Under the Regulatory Flexibility Act (RFA)**

RIN	Title of RIN	Date Published	FR Location	Review Required before:
AI71(F)	Simplified Acquisition Procedures for Health Care Resources	01/24/2003	68 FR 3465	01/23/2013
AM92(F)	VA Acquisition Regulation: Supporting Veteran-Owned and Service-Disabled Veteran-Owned Small Businesses	12/08/2009	74 FR 64619	12/09/2019
AN37(F)	Payment for Outpatient Care and Health Care Professional Services at Non-Departmental Facilities	12/17/2010	75 FR 78901	12/16/2020

V. Elements of Preliminary Plan/Compliance with E.O. 13563

- a. VA's plan encourages the development of a strong, ongoing culture of retrospective analysis.

The establishment of ORPM as the central manager for all VA regulations continues to be the best insurance that the goals and objectives of this Presidential executive order and OMB guidance will be pursued in a consistent manner. ORPM not only manages regulations under development, but also maintains a "checklist" and database for regulatory projects that need to be completed in the future. ORPM provides a single point of contact for VA's leadership and serves as an assistance forum for program offices to ensure that VA regulations are comprehensively reviewed and continuously updated. Public input into VA's rulemaking process will continue to be obtained through ORPM's Web site and www.regulations.gov.

- b. Factors and processes VA will use in setting priorities.

ORPM sets VA's regulatory priorities and performance metrics in consultation with VA's senior leadership. ORPM maintains an actionable

list of VA's highest regulatory priorities based upon input from VA's Chief of Staff and the Under Secretaries for Benefits, Health, and Memorial Affairs. All other VA regulations under development are monitored for compliance with VA's performance standards for timely completion. Regulation rewrite projects and future regulatory actions on ORPM's checklist will be integrated into existing priorities, based upon their significance, urgency, and the availability of regulatory resources.

- c. The initial list of candidate rules for review over the next two years.

VA's primary focus over the next two years will be on completing the major reorganization and rewrite of all compensation and pension regulations found in 38 CFR Part 3. To allow for increased public participation, VA intends to publish a comprehensive proposed rule in November 2011 that combines all of the 20 proposed rule packages previously published. It will contain VA's initial responses to the public comments and give the public another opportunity to comment. VA intends to publish a comprehensive final rule the following year, and implement the new Part 5 for claims filed on or after the effective date.

VBA also has initiated an extensive program to review all of the Schedules for Rating Disabilities contained in Part 4 of the CFR. This program involves conducting public forums and revising and updating the rating schedules for 15 major body systems.

Updating regulations associated with new legislation is a continuous process for VA, and other periodic reviews will be conducted based upon VA's priorities and available resources. Generally, VA's rulemaking processing priorities include VA's designated high priority regulations, all active projects already assigned public Regulation Identifier Numbers (RINs), active work plans in progress, and VA's list of future rulemaking actions.

In conjunction with this preliminary plan, VA program offices provided lists of future regulatory actions needed to update or revise existing regulations. See the attached appendices.

- d. VA's structure and senior staffing responsible for retrospective review.

VA's General Counsel (Will A. Gunn) is the agency's Regulatory Policy Officer. The General Counsel, Deputy General Counsel (John H. (Jack) Thompson), and the Director, Regulation Policy and Management (Robert C. McFetridge) serve as the Secretary's delegates for VA rulemaking pursuant to 38 CFR 2.6(e)(1). The ORPM Director and his staff manage the day-to-day operations of VA's rulemaking activities.

Email address: Robert.McFetridge@va.gov

- e. VA's plan ensures that the agency's retrospective team and the process maintain sufficient independence from the offices responsible for writing and implementing regulations.

ORPM was established 9 years ago as VA's centralized regulations manager, specifically for this purpose. VA's regulations are drafted on a decentralized basis and implemented by the responsible program offices.

- f. VA's actions designed to strengthen internal review expertise.

ORPM conducts training sessions for new regulation writers and provides guidance for program offices engaged in rulemaking activities. Although the requirements of this executive order were not accompanied by additional resources, VA's budget includes a plan to supplement ORPM's and expertise with additional full time employees in OGC. Execution of this plan is subject to the availability of funding.

- g. VA's plan for retrospective analysis over the next two years and beyond.

ORPM will maintain VA's ongoing ability to receive public comments on existing regulations through ORPM's Web site and www.regulations.gov. VA employees also will be able to continue to submit recommendations for regulatory improvements through ORPM's Web site. VA's Chief of Staff directed that VA's Administrations and Staff Offices inform ORPM of regulations that might fall under the executive order's retrospective guidelines. ORPM received over 120 proposed regulatory actions from 25 reporting offices. Most of the proposed actions reflect the need to update existing regulations in accordance with new laws passed by Congress. The public also is submitting comments on a regular basis, but very few submissions assert that VA's regulations are outmoded, ineffective, insufficient, or excessively burdensome on the public. Very few information collection activities have been cited as burdensome because VA generally only requests information or evidence that is necessary to verify a veteran's entitlement to health care or benefits. Each public submission received is referred to the appropriate program office for consideration and an appropriate response. ORPM will monitor any rulemaking actions that result until they are completed or withdrawn from ORPM's checklist.

VA also has undertaken various initiatives to reduce nonregulatory burdens for individuals applying for benefits or otherwise participating in VA benefit programs. In one such initiative, VA has created Disability

Benefit Questionnaires (DBQs) to be completed by VA physicians, VA contractors, and private physicians conducting examinations related to VA's Compensation and Pension benefit programs. The DBQs will streamline the claims process for Veterans by reducing the questions asked to only those pertinent to rating disabilities (based on VA's Schedule for Rating Disabilities in 38 CFR part 4). Streamlining the process by which a Veteran submits relevant medical evidence to VA for the purpose of rating disabilities is essential to providing timely delivery of benefits to our Nation's Veterans. The targeted questions in the DBQs will improve the quality and timeliness of medical evidence necessary to support a Veteran's claim for disability benefits, which will enable VA to adjudicate claims faster, reducing any claims processing burdens that may exist. Notices concerning these information collection activities have been published for public comment.

h. VA's plan for this initial analysis.

The majority of public comments submitted suggest changes to benefit programs that are driven by statutes, rather than discretionary regulations. Consequently, ORPM is forwarding these submissions to program officials for appropriate responses. ORPM will take action on any submissions falling within the purposes of E.O. 13563. They will be coordinated with the responsible program office and added to ORPM's checklist for future regulatory actions. They will be integrated with VA's approximately 140 existing rulemaking actions currently being monitored by ORPM.

i. VA's plans for revising rules on an ongoing basis.

As discussed above, ORPM provides an effective, ongoing means for revising VA regulations. The updating of VA regulations to reflect Congressional action is a continuous responsibility for ORPM and all VA program officials.

j. VA's coordination with other federal agencies that have similar interests or jurisdiction.

VA routinely coordinates its rulemaking actions with other Federal agencies, such as the Department of Defense, which might have similar interests or related responsibilities. This coordination frequently is performed during OMB's 90-day review periods, pursuant to E.O. 12866, Regulatory Planning and Review.

VI. Components of Retrospective Cost-Benefit Analysis.

- a. Metrics VA will use to evaluate regulations after they have been implemented.

VA program officials routinely evaluate the effectiveness of their programs. Because most VA's programs are based upon statute, the effectiveness of these statutory programs frequently is evaluated by Senate and House Committees on Veterans' Affairs. These programs, and any discretionary programs implemented by VA, usually are evaluated based upon the benefits they provide to Veterans and their families.

For example, VHA has several metrics used to track the timeliness of claims processed for care by non-VA providers as well as interest paid on claims that were not paid timely. These metrics are monitored on a monthly basis to ensure that VHA facilities are processing claims within required timeframes and not incurring additional expenses to the government through interest penalty fees. Facilities that are not meeting timeliness targets are required to submit action plans identifying how they will improve in the coming month.

- b. Data available with which to conduct robust retrospective analyses.

VA program offices maintain data on the effectiveness of their programs. The Administrations and Staff Offices report to VA's senior leadership on the effectiveness of their programs during Monthly Performance Reviews (MPRs). MPRs focus on financial and program performance. In this context, VA's leaders discuss and make decisions on mission-critical issues within the context of performance, budget, and workload targets and associated results. VHA, for example, conducts regular audits of payments made for services provided by non-VA providers under the Purchased Care Program. This includes an analysis of the services provided to ensure they are age and sex-appropriate, as well as the amount of payment to ensure compliance with the payment methodology contained in 38 CFR. This information is then analyzed to identify any improvements needed either in program operations or through future regulatory changes.

- c. The use of experimental designs in retrospective analyses.

VA does not need to use experimental designs in retrospective analyses because VA generally does not regulate other entities. Congress or VA may authorize and evaluate "pilot programs" when unsure of the direction or extent a new benefit program should take. Statutorily mandated pilot programs often include analytical reporting requirements to Congress on the results of the program.

VII. Publishing VA's Plan Online.

- a. VA will publish its periodic review plan on ORPM's website (www.va.gov/orpm) and on VA's Open Government website (www.va.gov/open/).
- b. ORPM's point of contact is its Office Manager, John Lawson (John.Lawson@va.gov). VA's Open Gov representative is Lauren Bailey (Lauren.Bailey@va.gov).

Appendix A

Veterans Health Administration (VHA)

VHA is responsible for regulations, in whole or in part, that appear in title 38 CFR Parts 1, 12, 16, 17, 46, 47, 51, 52, 53, 59, 60, 61, 62, and 70. Within these parts, they have identified several significant regulations that are in need of revision. Most of the required revisions are either underway or are in the development stage. The list notes those regulatory revisions that have been assigned a Regulation Identifier Number (RIN) by the Regulatory Information Service Center (RISC).

Appendix A		
38 CFR section	Title or subject of regulation(s)	RIN (if applicable)
1.461	Sharing of Medical Information Revises rules on information sharing to facilitate transfer of medical information between treating physicians in DoD and VHA to make them more effective.	
17.35 & 17.141	Foreign Medical Program Revisions will update regulations to modernize the program and incorporate new law (Caregivers legislation).	
17.36	Enrollment Revisions will update VA's medical enrollment policy to increase veteran access to VA care.	
17.38	Medical Benefits Package Regulation is being updated to accurately reflect the statutory	

	benefits that VHA provides.	
17.110	<p>Copayments for Medications</p> <p>Regulation revision reflects a change in policy to provide a lower copayment for certain medications.</p>	AN93
17.149-17.154	<p>Prosthetics & medical equipment</p> <p>Regulatory revisions represent significant changes in policy designed to improve benefits delivery, and implement new legal requirements.</p>	<p>AN51</p> <p>(service dogs only)</p>
17.270-17.278	<p>CHAMPVA Program</p> <p>Regulatory revisions represent significant changes in policy designed to improve benefits delivery, and implement new legal requirements.</p>	
Parts 51 & 52	<p>State Home Per Diem for Nursing, Home, Domiciliary, and Adult Day Health Care</p> <p>Regulatory revisions represent significant changes in policy designed to improve benefits delivery, and implement new legal requirements.</p>	AN82
60.1-60.10	<p>Fisher Houses</p> <p>Regulatory revisions represent significant changes in policy designed to improve benefits delivery, and implement new</p>	AN79

	legal requirements.	
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Appendix B

Veterans Benefits Administration (VBA)

Compensation Service and Pension and Fiduciary Service

The below list contains all compensation and pension related regulations that Compensation Service and Pension and Fiduciary Service plan to modify, streamline, expand, or repeal to make VA's regulatory program more effective or less burdensome in achieving its regulatory objective.

Compensation Service, on behalf of VA, is tasked with reviewing all body systems contained in the VA Schedule for Rating Disabilities (VASRD) (38 CFR part 4), which is the schedule used by VA adjudicators to assign compensation levels for disabilities resulting from diseases and injuries incurred during or aggravated by military service. By ensuring that criteria for disability evaluations are based upon current medical science and that compensation levels fairly reflect industrial impairment, Compensation Service will improve the effectiveness of its regulations. By statute, these regulations must be based upon the average impairment of earning capacity (in civil occupations) from each disease or injury. 38 U.S.C. 1155.

- 38 CFR 3.156(a) New and material evidence [Response to CAVC]
- 38 CFR 4.2 Interpretation of examination reports [Response to CAVC]
- 38 CFR 4.40 Functional loss
- 38 CFR 4.41 History of injury
- 38 CFR 4.42 Complete medical examination of injury cases
- 38 CFR 4.43 Osteomyelitis
- 38 CFR 4.44 The bones
- 38 CFR 4.45 The joints
- 38 CFR 4.46 Accurate measurement
- 38 CFR 4.55 Principles of combined ratings for muscle injuries
- 38 CFR 4.56 Evaluation of muscle disabilities
- 38 CFR 4.57 Static foot deformities
- 38 CFR 4.58 Arthritis due to strain

38 CFR 4.59	Painful motion
38 CFR 4.61	Examination
38 CFR 4.62	Circulatory disturbances
38 CFR 4.63	Loss of use of hand or foot
38 CFR 4.64	Loss of use of both buttocks
38 CFR 4.66	Sacroiliac joint
38 CFR 4.67	Pelvic bones
38 CFR 4.68	Amputation rule
38 CFR 4.69	Dominant hand
38 CFR 4.70	Inadequate examinations
38 CFR 4.71	Measurement of ankylosis and joint motion
38 CFR 4.71a	Schedule of Ratings—musculoskeletal system
38 CFR 4.73	Schedule of Ratings—muscle injuries
38 CFR 4.75	General considerations for evaluating visual impairment
38 CFR 4.76	Visual acuity
38 CFR 4.76a	Computation of average concentric contraction of visual fields
38 CFR 4.77	Visual fields
38 CFR 4.78	Muscle function
38 CFR 4.79	Schedule of ratings-eye
38 CFR 4.85	Evaluation of hearing impairment
38 CFR 4.86	Exceptional patterns of hearing impairment
38 CFR 4.87	Schedule of Ratings—Ear
38 CFR 4.87a	Schedule of Ratings—other sense organs

38 CFR 4.88a	Chronic fatigue syndrome
38 CFR 4.88b	Schedule of Ratings—infectious diseases, immune disorders and nutritional deficiencies
38 CFR 4.88c	Ratings for inactive nonpulmonary tuberculosis initially entitled after August 19, 1968
38 CFR 4.89	Ratings for inactive nonpulmonary tuberculosis in effect on August 19, 1968
38 CFR 4.96	Special provisions regarding evaluation of respiratory conditions
38 CFR 4.97	Schedule of Ratings—respiratory system
38 CFR 4.100	Application of the evaluation criteria for diagnostic codes 7000-7007, 7011, and 7015-7020
38 CFR 4.104	Schedule of Ratings—cardiovascular system
38 CFR 4.110	Ulcers
38 CFR 4.111	Postgastrectomy syndromes
38 CFR 4.112	Weight loss
38 CFR 4.113	Coexisting abdominal conditions
38 CFR 4.114	Schedule of Ratings—digestive system
38 CFR 4.115	Nephritis
38 CFR 4.115a	Ratings of the genitourinary system—dysfunctions
38 CFR 4.115b	Ratings of the genitourinary system—diagnoses
38 CFR 4.116	Schedule of Ratings—gynecological conditions and disorders of the breast
38 CFR 4.117	Schedule of Ratings—Hemic and Lymphatic Systems
38 CFR 4.118	Schedule of Ratings—Skin
38 CFR 4.119	Schedule of Ratings—Endocrine System

- 38 CFR 4.120 Evaluations by comparison
- 38 CFR 4.121 Identification of epilepsy
- 38 CFR 4.122 Psychomotor epilepsy
- 38 CFR 4.123 Neuritis, cranial or peripheral
- 38 CFR 4.124 Neuralgia, cranial or peripheral
- 38 CFR 4.124a Schedule of Ratings—neurological conditions and convulsive disorders
- 38 CFR 4.125 Diagnosis of mental disorders
- 38 CFR 4.126 Evaluation of disability from mental disorders
- 38 CFR 4.127 Mental retardation and personality disorders
- 38 CFR 4.128 Convalescence ratings following extended hospitalization
- 38 CFR 4.129 Mental disorders due to traumatic stress
- 38 CFR 4.130 Schedule of Ratings—mental disorders
- 38 CFR 4.150 Schedule of Ratings—dental and oral conditions

Loan Guaranty Service

Loan Guaranty Service has reviewed its existing regulations and identified the following regulations that could be considered “outmoded” and therefore in need of updating.

- 38 CFR 36.4203 Eligibility of the veteran for the manufactured home loan benefit under 38 U.S.C. 3712
- 38 CFR 36.4204 Loan purposes, maximum loan amounts and terms
- 38 CFR 36.4205 Computation of guaranty
- 38 CFR 36.4206 Underwriting standards, occupancy, and non-discrimination requirements
- 38 CFR 36.4207 Manufactured home standards

- 38 CFR 36.4208 Manufactured home location standards
- 38 CFR 36.4209 Reporting requirements
- 38 CFR 36.4210 Joint loans
- 38 CFR 36.4211 Amortization – prepayment
- 38 CFR 36.4212 Interest rates and late charges
- 38 CFR 36.4213 Capacity of parties
- 38 CFR 36.4214 Geographical limits
- 38 CFR 36.4215 Maintenance of records
- 38 CFR 36.4217 Delivery of notice
- 38 CFR 36.4218 Payment in full; termination of guaranty
- 38 CFR 36.4219 Incorporation by reference
- 38 CFR 36.4220 Substantive and procedural requirements; waiver
- 38 CFR 36.4221 Delegation of authority
- 38 CFR 36.4222 Hazard insurance
- 38 CFR 36.4223 Interest rate reduction refinancing loan
- 38 CFR 36.4224 Refinancing existing manufactured home loan including purchase of lot
- 38 CFR 36.4225 Authority to close manufactured home loans on the automatic basis
- 38 CFR 36.4226 Withdrawal of authority to close manufactured home loans on the automatic basis
- 38 CFR 36.4227 Advertising and solicitation requirements

Education Service

Since 2008, Education Service’s priority has been to create and update regulations governing the Post-9/11 GI Bill program. At this time, Education Service is working to

update the existing Post-9/11 GI Bill regulations to include provisions of the “Post-9/11 GI Bill Improvements Act of 2010” enacted January 4, 2011.

Although VA is already complying with the relevant statutes, Education Service needs to update existing regulations to reflect the following statutory changes.

Post-9/11 GI Bill (Update Part 21, subpart P)

- The Marine Gunnery Sergeant John David Fry Scholarship (Public Law (P.L.) 111-32) authorizes an educational assistance for children of active duty members of the Armed Forces who die in the line of duty after September 10, 2001.
- P.L. 111-377 (Post-9/11 Veterans Education Assistance Improvements Act of 2010).

Dependents’ and Survivors’ Educational Assistance Program (Update 38 CFR 21.3001, subpart C)

- The Veterans Benefits Act of 2003 exempts surviving spouses who remarry after age 57 from having their DEA eligibility terminated.
- The Veterans Benefits Improvement Act of 2004 increases the DEA eligibility period from 10 years to 20 years for a surviving spouse of a Serviceperson who died of a service connected disability while on active duty.
- The Veterans Benefits, Health Care, and Information Technology Act of 2006 expands eligibility for DEA to the spouse or child of a Serviceperson who is hospitalized or receiving outpatient medical care, services, or treatment and is determined by VA to have a total disability permanent in nature incurred or aggravated in the line of duty and who is likely to be discharged or released from active duty for such disability.

Apprenticeship and on-the-job training (Update Part 21, subparts C, D, K, L)

- The Veterans Programs Enhancement Act of 1998 waives the periodic wage increase requirement for on-job training programs offered by Federal, state, or local governments.
- The Veterans Benefits and Health Care Improvement Act of 2000 expands the definition of educational institution to include an organization or entity that offers a licensing or certification test
- The Veterans Education and Benefits Expansion Act of 2001 expands the definition of educational institution to include certain private technology entities.
- The Veterans Benefits Act of 2003 authorizes payment of Veterans’ educational assistance benefits for certain self-employment training programs and certain entrepreneurship courses and terminated the Education Loan Program.

- The Veterans Benefits Improvement Act of 2004 authorizes a 10 percent rate increase in the VA monthly educational assistance allowance payable to individuals pursuing an apprenticeship or on-job training program for Veterans receiving benefits under the Post-Vietnam Era Veterans' Educational Assistance Program; authorizes VA to pay educational assistance benefits to Veterans for competency-based apprenticeships; and makes technical and conforming amendments regarding the definition of a training establishment, in addition to record-keeping requirements for qualified providers of entrepreneurship courses.

Work-Study (Update Part 21, Subpart D)

- The Veterans Programs Enhancement Act of 1998 eliminates the requirement that all work-study students receive an advance payment and limits VA from issuing an advance payment unless requested by the student.
- The Veterans Education and Benefits Expansion Act of 2001 authorizes three additional work-study activities:
 - Outreach services to Servicemembers and Veterans furnished under the supervision of a State approving agency employee;
 - Hospital and domiciliary care and medical treatment to Veterans in a State home when VA pays an allowance to the State for such care; and
 - Any activity relating to the administration of a national cemetery or a State Veterans' cemetery.
- The Veterans Benefits Act of 2010 extends the authority to perform certain work-study activities through June 2013 and expands the definition of "qualifying work-study activities" effective October 1, 2011, to include —
 - Any activity of a State veterans agency related to providing benefits assistance to Veterans under VA law;
 - A position working in the Center of Excellence for Veteran Student Success, as established under part T, title VIII of the Higher Education Act of 1965;
 - A position working in a cooperative program administered by the VA and a institution of higher learning; and
 - Any other Veterans-related position in an institution of higher learning.

Cost of Living Adjustments (Update Part 21, subparts C, K, L)

- Montgomery GI Bill (chapter 30)
 - FY 2005 through present
- Montgomery GI Bill Selected Reserve (chapter 1606)
 - FY 2006 through present
- DEA (chapter 35)
 - FY 2005 through present

National Exams and other miscellaneous issues (Part 21, Incorporate new provisions in subparts C, D, K, L, P)

- The Veterans Benefits Improvements Act of 2004 authorizes VA to reimburse claimants for the fee charged for (1) national tests for admission to institutions of higher learning and (2) national tests providing an opportunity for course credit at institutions of higher learning.
- It also amends the calculation for determining entitlement charges for individuals who made additional contributions to MGIB and for licensing and certification entitlement charges under chapter 35.

National Call to Service (Part 21, Add new subpart)

- The Bob Stump National Defense Authorization Act for Fiscal Year 2003 authorizes the Department of Defense (and Homeland Security for Coast Guard enlistments) to offer the National Call to Service (NCS) program to individuals who have not previously served in the armed forces.

Reserve Educational Assistance Program (Part 21, Add new subpart)

- The Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 authorizes the Department of Defense to provide educational assistance to individuals with at least 90 continuous days on active duty in support of a contingency operation after September 10, 2001.

Miscellaneous Amendments (Update Part 21, subparts C, D, K, L)

Several changes are needed in multiple subparts of the regulations to improve clarity. Many of the changes are technical in nature while some changes need to be made to reflect policy decisions, court findings, etc. Examples of the types of changes needed include”

- Update 35 regulations to indicate that children may receive benefits under two parents simultaneously.
- Update 35 regulations to indicate that the period of eligibility for a spouse begins on the date of marriage.
- Update 1606 regulations to remove 14-year delimiting date.
- Amend several regulations to update references.
- Update advance pay regulations for active duty members to conform to statutory requirements.

Vocational Rehabilitation and Employment Service (VR&E)

Regulations Identified for Revision or Clarification

Implementation of Public Law 111-377

21.260 Subsistence Allowance

21.264 Election of payment

21.270 Interval Pay

Updates related to Public Law 110-181, including

21.40 Basic Entitlement

21.260 Subsistence Allowance

21.282 Effective Date of Induction / Retroactive induction

21.76 Independent Living

21.160 Independent Living Services

Entrance / Re-entrance into a program of Rehabilitation

21.284 Re-entrance into a program of rehabilitation

21.198 "Discontinued" status

21.196 "Rehabilitated" status

"Limited" Employment Services per Circular 28-97-1 (38 USC 3117)

21.47 Eligibility for Employment Assistance

21.40 Basic Entitlement

Beneficiary Travel

21.370 Intraregional Travel at government expense

21.372 Interregional Travel at government expense

21.376 Travel expenses for initial evaluation and counseling

Non-Paid Work Experience Combination Training Rates (see also 21.4270, 21.4262)

21.124 Combination course defined

21.299 NPWE defined

21.260 Subsistence allowance

Flight Training (see also 21.4235, 21.4270, 21.4233, 21.4263)

21.134 Limitation on flight training

21.290 Training and rehabilitation resources

Medical Services under Chapter 31

21.240 Medical treatment, care, and services