

Dated: February 1, 2013.

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*OSD Federal Register Liaison Officer,
Department of Defense.*

[FR Doc. 2013-03416 Filed 2-25-13; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF EDUCATION

34 CFR Chapter IV

[Docket ID ED-2012-OVAE-0053]

Final Requirements, Definitions, and Selection Criteria—Native American Career and Technical Education Program (NACTEP)

[Catalog of Federal Domestic Assistance (CFDA) Number: 84.101A.]

AGENCY: Office of Vocational and Adult Education, Department of Education.

ACTION: Final requirements, definitions, and selection criteria.

SUMMARY: The Assistant Secretary for Vocational and Adult Education announces requirements, definitions, and selection criteria under the Native American Career and Technical Education Program (NACTEP). The Assistant Secretary may use these requirements, definitions, and selection criteria for a competition in fiscal year (FY) 2013 and possibly in later years. We take this action to notify all interested parties and eligible applicants in particular, of the requirements, definitions, and selection criteria that we may use in upcoming competitions under section 116 of the Carl D. Perkins Career and Technical Education Act of 2006 (the Act).

DATES: *Effective Date:* March 28, 2013.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

Purpose of Program: Under NACTEP, the Secretary provides grants, cooperative agreements, or enters into contracts with Indian tribes, tribal organizations, or Alaska Native entities to improve career and technical education programs that are consistent with the purposes of the Act and that benefit Native Americans and Alaska Natives.

Program Authority: 20 U.S.C. 2301 et seq., particularly 2326(a)-(g).

We published a notice of proposed requirements, definitions, and selection criteria for this program in the **Federal Register** on November 20, 2012 (77 FR 69579) (November 20, 2012 Notice), which contained background information and our reasons for proposing our requirements, definitions, and selection criteria. Except for minor technical changes, there are no differences between the proposed requirements, definitions, and selection criteria and the final requirements, definitions and selection criteria.

Public Comment: In response to our invitation in the November 20, 2012 Notice, we received three comments in support of our proposals and one request for clarification of certain elements of our Notice. The following is a discussion of those comments with our responses. We made no changes in response to comments we received.

Analysis of Comments:

Comment: Two comments we received were from current NACTEP grantees supporting our proposed requirements, definitions, and selection criteria. These commenters indicated that their current NACTEP grants had enabled them to serve the career and technical education needs of their Indian student populations in the face of high unemployment rates and great need for career and technical education. One of the commenters represented a reservation with an unemployment rate of 66 percent where most reservation inhabitants are living in poverty. This commenter indicated that its current NACTEP grant had had a considerable positive effect on the reservation and members of the commenters' tribe by preparing the tribe's students to fulfill expected local workforce needs during the period covered by the current grant. Both commenters agreed with the Department's proposed approach of retaining programmatic elements developed for the first NACTEP competition following enactment of the Act for grant competitions funded with appropriations under this statute.

Discussion: We agree with the commenters, and in this notice we announce as final the NACTEP requirements, definitions, and selection criteria we proposed in our November 20, 2012 Notice.

Change: None.

Comment: We received one comment saying that the approach of retaining current requirements developed following the 2006 reauthorization of the Act was one of consistency and strength and would provide for program continuity. This commenter expressed the view that the Department's approach

had worked well for NACTEP and that there was no need to make changes.

The commenter also requested that the Department not impose a page limit for applications in the next competition so as to allow applicants the greatest flexibility in their applications.

Discussion: With regard to the comment about our overall approach, we agree with the commenter, and in this notice we announce as final the NACTEP requirements, definitions, and selection criteria we proposed in our November 20, 2012 Notice.

The commenter requested that we not impose application page limitations. We do not do so through these requirements, definitions, or selection criteria.

Change: None.

Comment: We received one comment requesting clarification of the November 20, 2012 Notice's "Authorized Programs, Services, and Activities" section, (subsection II within the "Proposed Requirements" section), asking whether applicants would be required to meet all three elements under "Authorized programs" or any combination of those elements. Also with regard to "Authorized Programs, Services, and Activities," the commenter asked for clarification on challenging academic standards in reading/language arts and in mathematics, stating that the November 20, 2012 Notice proposed the integration of academics with career and technical education only at the secondary level. This commenter also asked where the term "special population" is defined.

Discussion: Yes, applicants are required to meet all three elements under "Authorized programs." To ensure consistency with the Act, in the "Authorized Programs, Services, and Activities" section of our November 20, 2012 Notice, we require alignment of NACTEP projects with other programs authorized under the Act, including requirements that recipients of Perkins funds provide individuals with coherent and rigorous content aligned with challenging academic standards and relevant technical knowledge and skills and improve career and technical education programs. Section 116(e) of the Act requires the Assistant Secretary to ensure that activities funded under NACTEP will improve career and technical education programs. And, section 3(5) of the Act defines the term "career and technical education" as requiring certain elements.

Therefore, we require that NACTEP programs meet all of the elements of the Act's definition of "career and technical education." In addition, we require

NACTEP programs with CTE at the secondary level provide individuals with coherent and rigorous academic curriculum aligned with challenging academic content standards and student academic achievement standards in reading or language arts and in mathematics that the State in which the applicant is located has established under the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 6301 et seq.) (ESEA). Also, projects must develop new programs, services, or activities or improve or expand on existing programs, services, or activities that are consistent with the purposes of the Act, and must fund, by which we meant support, career and technical education programs, services, or activities that are entirely new, would improve or expand existing career and technical education programs, or would inherently improve career and technical education. We provided a note to explain what we meant by a program, service or activity that “inherently improves” career and technical education.

By identifying these program elements in detail, we intend to clearly identify those programmatic elements that NACTEP applicants would be required to include and address in their applications and in their proposed projects, to fully reflect NACTEP program requirements of section 116 and, where appropriate, of the broader Act.

As to the commenter’s second request for clarification, in addition to the elements we are requiring for all NACTEP-funded programs, we are requiring that NACTEP programs with CTE at the secondary level, provide individuals with coherent and rigorous academic curriculum aligned with challenging academic content standards and student academic achievement standards in reading or language arts and in mathematics that the State in which the applicant is located has established under the ESEA.

Based on the Act’s definition of “career and technical education,” we are requiring that all programs, activities, or services funded under NACTEP provide coherent sequences of courses including organized educational activities that include competency-based applied learning that contributes to the academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, general employability skills, technical skills, and occupation-specific skills, and knowledge of all aspects of an industry, including entrepreneurship, of an individual. Contrary to the commenter’s conclusion on this point, our proposed

requirement for competency-based applied learning referred broadly to authorized activities and included career and technical education activities at postsecondary level.

As to the commenter’s third request for clarification, we did not define the term “special populations” in our November 20, 2012 Notice because this term is defined in the section 3(29) of the Act. As we indicated in the Notice, we did not intend to include in our November 20, 2012 Notice, nor were seeking public comment on, statutory requirements or definitions.

Note that we changed the introductory paragraph in section II of the requirements to more accurately reflect the definition of “career and technical education” in section 3(5) of the Act.

Change: We changed the introductory paragraph in section II of the requirements from stating we announce the requirements “to align NACTEP with other authorized programs that require recipients of funds under the Act to develop challenging academic standards and improve career and technical education” to specify that we announce the requirements “to align NACTEP with other authorized programs that require recipients of funds under the Act to provide coherent and rigorous content aligned with challenging academic standards and improve career and technical education programs.”

Comment: None.

Discussion: We inadvertently left out the word “race” in paragraph (e)(1) of the proposed selection criteria. We correct this omission in the final selection criteria. *Change:* With the addition of the word, “race,” paragraph (e)(1) now reads, “the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.”

Final Requirements, Definitions, and Selection Criteria:

Final Requirements:

I. Demonstration of Eligibility

(a) The Assistant Secretary for Vocational and Adult Education announces that an eligible applicant (as determined by the Act) must include documentation in its application showing that it and, if appropriate, its consortium members, are eligible to apply.

(b) As defined in the Indian Self-Determination and Education Assistance Act (ISDEA) (25 U.S.C. 450b(l)), the term “tribal organization”

means the recognized governing body of any Indian tribe; any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities; provided, that in any case where a contract is let or grant made to an organization to perform services benefiting more than one Indian tribe, the approval of each such Indian tribe shall be a prerequisite to the letting or making of such contract or grant. In accordance with this statutory definition, any tribal organization proposing to provide NACTEP services for the benefit of more than one Indian tribe must first obtain the approval of each Indian tribe it proposes to serve and must submit documentation of such approval with its NACTEP application and that documentation of tribal approval is a prerequisite to the awarding of a NACTEP grant to any tribal organization proposing to serve more than one Indian tribe.

II. Authorized Programs, Services, and Activities

Consistent with the Act, the Assistant Secretary for Vocational and Adult Education announces the following requirements, to align NACTEP with other authorized programs that require recipients of funds under the Act to provide coherent and rigorous content aligned with challenging academic standards and improve career and technical education programs.

(a) *Authorized programs.* Section 116(e) of the Act requires the Secretary to ensure that activities funded under NACTEP “will improve career and technical education programs” (20 U.S.C. 2326(e)). Therefore, under NACTEP the Assistant Secretary will award grants to carry out projects that—

(1) Propose organized educational activities offering a sequence of courses that—

(i) Provide individuals with coherent and rigorous content aligned with challenging academic standards and relevant technical knowledge and skills needed to prepare for further education and careers in current or emerging professions;

(ii) Provide technical skill proficiency, an industry-recognized credential, a certificate, or an associate degree; and

(iii) Include competency-based applied learning that contributes to the academic knowledge, higher-order reasoning and problem-solving skills,

work attitudes, general employability skills, technical skills, and occupation-specific skills, and knowledge of all aspects of an industry, including entrepreneurship, of an individual. Projects may include prerequisite courses (other than remedial courses) that meet the definitional requirements of section 3(5) of the Act. (20 U.S.C. 2302(5)) In addition, at the secondary level, coherent and rigorous academic curriculum must be aligned with challenging academic content standards and student academic achievement standards in reading or language arts and in mathematics that the State in which the applicant is located has established under the ESEA. Contacts for State ESEA programs may be found on the Internet at: www.ed.gov/about/contacts/state/index.html.

(2) Develop new programs, services, or activities or improve or expand existing programs, services, or activities that are consistent with the purposes of the Act. In other words, the Department will support “expansions” or “improvements” that include, but are not limited to, the expansion of effective programs or practices; upgrading of activities, equipment, or materials; increasing staff capacity; adoption of new technology; modification of curriculum; or implementation of new policies to improve program effectiveness and outcomes.

(3) Fund a career and technical education program, service, or activity that—

(i) Is a new program, service, or activity that was not provided by the applicant during the instructional term (a defined period, such as a semester, trimester, or quarter, within the academic year) that preceded the request for funding under NACTEP;

(ii) Will improve or expand an existing career and technical education program; or

(iii) Inherently improves career and technical education.

Note: A program, service, or activity “inherently improves career and technical education” if it—

(a) Develops new career and technical education programs of study that will be approved by the appropriate accreditation agency;

(b) Strengthens the rigor of the academic and career and technical components of funded programs;

(c) Uses curriculum that is aligned with industry-recognized standards and will result in students attaining industry-recognized credentials, certificates, or degrees;

(d) Integrates academics (other than remedial courses) with career and technical education programs through a

coherent sequence of courses to ensure learning in the core academic and career and technical subjects;

(e) Links career and technical education at the secondary level with career and technical education at the postsecondary level and facilitates students’ pursuit of a baccalaureate degree;

(f) Expands the scope, depth, and relevance of curriculum, especially content that provides students with a comprehensive understanding of all aspects of an industry and a variety of hands-on, job-specific experiences; and

(g) Offers—

(1) Work-related experience, internships, cooperative education, school-based enterprises, entrepreneurship, community service learning, and job shadowing that are related to career and technical education programs;

(2) Coaching/mentoring, support services, and extra help for students after school, on weekends and/or during the summers, so they can meet higher standards;

(3) Career guidance and academic counseling for students participating in career and technical education programs;

(4) Placement services for students who have successfully completed career and technical education programs and attained a technical skill proficiency that is aligned with industry-recognized standards;

(5) Professional development programs for teachers, counselors, and administrators;

(6) Strong partnerships among grantees and local educational agencies, postsecondary institutions, community leaders, adult education providers, and, as appropriate, other entities, such as employers, labor organizations, parents, and local partnerships, to enable students to achieve State academic standards and career and technical skills;

(7) The use of student assessment and evaluation data to improve continually instruction and staff development with the goal of increasing student achievement in career and technical education programs; or

(8) Research, development, demonstration, dissemination, evaluation and assessment, capacity-building, and technical assistance, related to career and technical education programs.

(b) *Student stipends.* In accordance with section 116(c)(2) of the Act, a portion of an award under this program may be used to provide stipends (as defined in the Definitions section of this notice) to one or more students to help

meet the students’ costs of participation in a NACTEP project. A grantee must apply the following procedures for determining student eligibility for stipends and appropriate amounts to be awarded as stipends:

(1) To be eligible for a stipend a student must—

(i) Be enrolled in a career and technical education project funded under this program;

(ii) Be in regular attendance in a NACTEP project and meet the training institution’s attendance requirement;

(iii) Maintain satisfactory progress in his or her program of study according to the training institution’s published standards for satisfactory progress; and

(iv) Have an acute economic need that—

(A) Prevents participation in a project funded under this program without a stipend; and

(B) Cannot be met through a work-study program.

(2) The amount of a stipend is the greater of either the minimum hourly wage prescribed by State or local law or the minimum hourly wage established under the Fair Labor Standards Act.

(3) A grantee may only award a stipend if the stipend combined with other resources the student receives does not exceed the student’s financial need. A student’s financial need is the difference between the student’s cost of attendance and the financial aid or other resources available to defray the student’s cost of participating in a NACTEP project.

(4) To calculate the amount of a student’s stipend, a grantee would multiply the number of hours a student actually attends career and technical education instruction by the amount of the minimum hourly wage that is prescribed by State or local law, or by the minimum hourly wage that is established under the Fair Labor Standards Act.

Example: If a grantee uses the Fair Labor Standards Act minimum hourly wage of \$7.25 and a student attends classes for 20 hours a week, the student’s stipend would be \$145 for the week during which the student attends classes ($\$7.25 \times 20 = \145.00).

Note: In accordance with applicable Department statutory requirements and administrative regulations, grantees must maintain records that fully support their decisions to award stipends and the amounts that are paid, such as proof of a student’s enrollment in a NACTEP project, stipend applications, timesheets showing the number of attendance hours confirmed in writing by an instructor, student financial status information, and evidence that a student would not be able to participate in the

NACTEP project without a stipend. (20 U.S.C. 1232f; 34 CFR 75.700–75.702; 75.730; and 75.731)

(5) An eligible student may receive a stipend when taking a course for the first time. However, generally a stipend may not be provided to a student who has already taken, completed, and had the opportunity to benefit from a course and is merely repeating the course.

(6) An applicant must include in its application the procedure it intends to use to determine student eligibility for stipends and stipend amounts, and its oversight procedures for the awarding and payment of stipends.

(c) *Direct assistance to students.* A grantee may provide direct assistance to students if the following conditions are met:

(1) The recipient of the direct assistance is an individual who is a member of a special population and who is participating in the grantee's NACTEP project.

(2) The direct assistance is needed to address barriers to the individual's successful participation in that project.

(3) The direct assistance is part of a broader, more generally focused program or activity to address the needs of an individual who is a member of a special population.

Note: Direct assistance to individuals who are members of special populations is not, by itself, a "program or activity for special populations."

(4) The grant funds used for direct assistance must be expended to supplement, and not supplant, assistance that is otherwise available from non-Federal sources. (20 U.S.C. 2391(a)) For example, generally, a postsecondary educational institution could not use NACTEP funds to provide child care for single parents if non-Federal funds previously were made available for this purpose, or if non-Federal funds are used to provide child care services for single parents participating in non-career and technical education programs and these services otherwise would have been available to career and technical education students in the absence of NACTEP funds.

(5) In determining how much of the NACTEP grant funds it will use for direct assistance to an eligible student, a grantee must consider whether the specific services to be provided are a reasonable and necessary cost of providing career and technical education programs for special populations. However, the Assistant Secretary does not envision a circumstance in which it would be a reasonable and necessary expenditure of

NACTEP project funds for a grantee to use a majority of a project's budget to pay direct assistance to students, in lieu of providing the students served by the project with career and technical education.

III. Additional Final Requirements

(a) *Career and technical education agreement.* Any applicant that is not proposing to provide career and technical education directly to its students and proposes instead to use NACTEP funds to pay one or more qualified educational entities to provide education to its students must include with its application a written career and technical education agreement between the applicant and that entity. This written agreement must describe the commitment between the applicant and each educational entity and must include, at a minimum, a statement of the responsibilities of the applicant and the entity. The agreement must be signed by the appropriate individuals on behalf of each party, such as the authorizing official or president of a tribe or tribal organization, a college president, or a college dean.

(b) *Evaluation Requirements.* To help ensure the high quality of NACTEP projects and the achievement of the goals and purposes of section 116 of the Act, each grantee must budget for and conduct an ongoing evaluation of the effectiveness of its NACTEP project. An independent evaluator must conduct the evaluation. The evaluation must—

(1) Be appropriate for the project and be both formative and summative in nature;

(2) Include—

(i) Applicable performance measures for NACTEP;

(ii) Qualitative and quantitative data with respect to—

(A) Academic and career and technical competencies demonstrated by the participants and the number and kinds of academic and work credentials acquired by individuals, including participation in programs providing skill proficiency assessments, industry certifications, or training at the associate degree level that is articulated with an advanced degree option;

(B) Enrollment, completion, and placement of participants by gender for each occupation for which training was provided;

(C) Job or work skill attainment or enhancement, including participation in apprenticeship and work-based learning programs, and student progress in achieving technical skill proficiencies necessary to obtain employment in the field for which the student has been prepared, including attainment or

enhancement of technical skills in the industry the student is preparing to enter;

(D) Activities during the formative stages of the project to help guide and improve the project, as well as a summative evaluation that includes recommendations for disseminating information on project activities and results;

(E) The number and percentage of students who obtained industry-recognized credentials, certificates, or degrees;

(F) If available, the outcomes of students' technical assessments, by type and scores; and

(G) The rates of attainment of a proficiency credential or certificate, in conjunction with a secondary school diploma.

(3) Measure the effectiveness of the project, including—

(i) A comparison between the intended and observed results; and

(ii) A demonstration of a clear link between the observed results and the specific treatment given to project participants;

(4) Measure the extent to which information about or resulting from the project was disseminated at other sites, such as through the grantee's development and use of guides or manuals that provide step-by-step directions for practitioners to follow when initiating similar efforts; and

(5) Measure the long-term impact of the project, such as, follow-up data on students' employment, sustained employment, promotions, and further/continuing education or training, or the impact the project had on tribal economic development or career and technical education activities offered by tribes.

Final Definitions:

The Assistant Secretary for Vocational and Adult Education announces the following definitions for program terms not defined in the Act, by cross-references in the Act to other Federal statutes, or in the Education Department General Administrative Regulations:

Acute economic need means an income that is at or below the national poverty level according to the latest available data from the U.S. Department of Commerce or the U.S. Department of Health and Human Services Poverty Guidelines.

Direct assistance to students means tuition, dependent care, transportation, books, and supplies that are necessary for a student to participate in a project funded under this program.

Stipend means a subsistence allowance for a student that is necessary

for the student to participate in a project funded under this program.

Final Selection Criteria:

The Assistant Secretary for Vocational and Adult Education announces the following selection criteria for evaluating an application under this program. We may apply one or more of these criteria in any year in which this program is in effect. We will announce the maximum possible points assigned to each criterion in the notice inviting applications, in the application package, or both.

(a) *Need for project.* In determining the need for the proposed project, we consider the extent of the need for the services to be provided or the activities to be carried out by the proposed project, as evidenced by data on such phenomena as local labor market demand or occupational trends, or from surveys, recommendations from accrediting agencies, or tribal economic development plans.

(b) *Significance.* In determining the significance of the proposed project, we consider the following factors:

(1) The potential contribution of the proposed project toward increasing the understanding of educational needs, issues, or strategies for providing career and technical education to American Indians and Alaska Natives.

(2) The likelihood that the proposed project will result in system change or improvement in the applicant's educational program as evidenced by the types of training and activities identified in the project application.

(3) The extent to which the proposed project is likely to build local capacity to provide, improve, or expand services that address the career and technical needs of the target population.

(c) *Quality of the project design.* In determining the quality of the design of the proposed project, we consider the following factors:

(1) The extent to which goals, objectives, and outcomes are clearly specified and measurable (e.g., identification of the requirements for each course of study to be provided under the project, the technical skill proficiencies to be taught and the industry-recognized standards or competency assessments to be used, including related training areas and a description of the industry certifications, credentials, certificates, or degrees that students may earn; expected enrollments, completions, and student placements in jobs, military specialties, and continuing education/training opportunities in each career training area; the number of teachers, counselors, and administrators to be trained).

(2) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs, as evidenced by the applicant's description of programs and activities that align with the target population's needs.

(3) The extent to which the design for implementing and evaluating the proposed project plans for and is likely to result in the development of information that will guide possible dissemination of information on project practices, activities, or strategies, including information about the effectiveness of the approach or strategies employed by the project, planned dissemination activities, the kind of practices, activities, or strategies to be disseminated, the target audience for the dissemination of such practices, activities, or strategies, and the proposed uses for such disseminated practices, activities, or strategies.

(4) The extent to which the proposed project will establish linkages with or will be coordinated with similar or related efforts, and with community, State, or Federal resources, where such opportunities and resources exist.

(d) *Quality of project services.* In determining the quality of the services to be provided by the proposed project, we consider the following factors:

(1) The extent to which the training or professional development services to be provided by the proposed project would be of sufficient quality, intensity, and duration to lead to improvements in practice among the project staff and instructors, including the extent to which the proposed training and professional development plans address ways in which learning gaps will be addressed and how continuous review of performance will be conducted to identify training needs.

(2) The extent to which the services to be provided by the proposed project will create opportunities for students to receive an industry-recognized credential; become employed in high-skill, high-wage, and high-demand occupations; or both.

(3) The extent to which the services proposed in the project will create opportunities for students to acquire technical skill proficiencies, industry certifications, or the skills identified by State or industry-recognized career and technical education programs or professions. In describing the services, there must be a clear link between the services and the skill proficiencies, industry certifications, credentials, certificates, or degrees that students may earn.

(e) *Quality of project personnel.* In determining the quality of project personnel, we consider the following factors:

(1) The extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(2) The qualifications, including relevant training, expertise, and experience, of the project director, key personnel, and project consultants.

(3) The extent to which the project will use instructors who are certified to teach in the field in which they will provide instruction.

(f) *Adequacy of resources.* In determining the adequacy of resources for the proposed project, we consider the following factors:

(1) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization(s) and the tribal entity or entities to be served.

(2) The extent to which the budget is adequate and costs are reasonable in relation to the objectives of the proposed project.

(3) The relevance and demonstrated commitment (e.g., through written career and technical education agreements, memoranda of understanding, letters of support and commitment, or commitments to employ project participants, as appropriate) of the applicant, members of the consortium, local employers, or tribal entities to be served by the project.

(4) The potential for continued support of the project after Federal funding ends.

(g) *Quality of the management plan.* In determining the quality of the management plan for the proposed project, we consider the following factors:

(1) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and the milestones and performance standards for accomplishing project tasks.

(2) The extent to which the time commitments of the project director and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

(3) The adequacy of mechanisms for ensuring high-quality products and services from the proposed project.

(h) *Quality of the project evaluation.* In determining the quality of the

evaluation, we consider the following factors:

(1) The extent to which the methods of evaluation proposed by the grantee are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(2) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and the Government Performance and Results Act of 1993 (GPRA) performance measures, and will produce quantitative and qualitative data, to the extent possible.

(3) The extent to which the methods of the evaluation include processes that consider the validity and integrity of data collection and analysis; accessibility of appropriate and timely data; accurate descriptions of performance; collection processes that yield unbiased, unprejudiced, and impartial data results; and the extent to which representation of the data clearly communicates an accurate picture of performance.

(4) The extent to which the methods of evaluation will provide performance feedback and continuous improvement toward achieving intended outcomes.

(5) The quality of the evaluation to be conducted by an external evaluator with the necessary background and technical expertise to carry out the evaluation.

Additional Selection Factors

In accordance with the requirement in section 116(e) of the Act, we have included the following additional selection factors and will award additional points to any application addressing the following factors, as indicated.

We will award—

(a) Up to 10 additional points to applications that propose exemplary approaches that involve, coordinate with, or encourage tribal economic development plans; and

(b) Five points to applications from tribally controlled colleges or universities that—

(1) Are accredited or are candidates for accreditation by a nationally recognized accreditation organization as an institution of postsecondary career and technical education; or

(2) Operate career and technical education programs that are accredited or are candidates for accreditation by a nationally recognized accreditation organization and issue certificates for completion of career and technical education programs (20 U.S.C. 2326(e)).

This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection

criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use one or more of these requirements, definitions, and selection criteria, we invite applications through a notice in the **Federal Register**.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is “significant” and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a “significant regulatory action” as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities in a material way (also referred to as an “economically significant” rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles stated in the Executive order.

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this final regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits

(including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency “to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.” The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include “identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.”

We are issuing these final requirements, definitions, and selection criteria only on a reasoned determination that their benefits would justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department’s programs and activities.

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Dated: February 21, 2013.

Brenda Dann-Messier,

Assistant Secretary for Vocational and Adult Education.

[FR Doc. 2013-04424 Filed 2-25-13; 8:45 am]

BILLING CODE 4000-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-HQ-OAR-2012-0943, FRL-9784-6]

Findings of Failure To Submit a Complete State Implementation Plan for Section 110(a) Pertaining to the 2008 Lead National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is finding that seven states have not made complete state implementation plan (SIP) submissions to address certain SIP elements, as required by the Clean Air Act (CAA). Specifically, the EPA is determining that these seven states have not submitted complete SIPs that provide the basic CAA program elements necessary to implement the 2008 lead national ambient air quality standards (NAAQS). The EPA refers to these SIP submissions as “infrastructure” SIPs. Of the seven states, three are incomplete only due to prevention of significant deterioration (PSD)-related elements, for which a federal implementation plan (FIP) is in place. The remaining 43 states have made complete submissions. Each finding of failure to submit establishes a 24-month deadline for the EPA to promulgate FIPs to address the outstanding SIP elements unless prior to the EPA promulgating a FIP an affected state submits, and the EPA approves, a SIP that corrects the deficiency.

DATES: The effective date of this rule is March 28, 2013.

FOR FURTHER INFORMATION CONTACT: General questions concerning this notice should be addressed to Ms. Mia South: telephone (919) 541-5550, email south.mia@epa.gov; or Mr. Larry Wallace: telephone (919) 541-0906, email wallace.larry@epa.gov, Office of

Air Quality Planning and Standards, Air Quality Policy Division, Mail Code C504-2, 109 TW Alexander Drive, Research Triangle Park, NC 27709.

SUPPLEMENTARY INFORMATION: Section 553 of the Administrative Procedures Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. The EPA has determined that there is good cause for making this rule final without prior proposal and opportunity for comment because no significant EPA judgment is involved in making a finding of failure to submit SIPs, or elements of SIPs, required by the CAA, where states have made no submissions, or incomplete submissions, to meet the requirement. Thus, notice and public procedure are unnecessary. The EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

For questions related to specific states mentioned in this notice, please contact the appropriate EPA Regional Office:

Regional offices	States
EPA Region I: Dave Conroy, Air Program Branch Manager, Air Programs Branch, EPA New England, 1 Congress Street, Suite 1100, Boston, MA 02203-2211.	Massachusetts and Vermont.
EPA Region II: Richard Ruvo, Acting Chief, Air Programs Branch, EPA Region II, 290 Broadway, 21st Floor, New York, NY 10007-1866.	New Jersey.
EPA Region III: Cristina Fernandez, Air Program Manager, Air Quality Planning Branch, EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2187.	Maryland and Pennsylvania.
EPA Region V: John Mooney, Air Program Branch Manager, Air Programs Branch, EPA Region V, 77 West Jackson Street, Chicago, IL 60604.	Illinois.
EPA Region VI: Guy Donaldson, Chief, Air Planning Section, EPA Region VI, 1445 Ross Avenue, Dallas, TX 75202-2733.	Oklahoma.
EPA Region VIII: Monica Morales, Air Program Manager, Air Quality Planning Unit, EPA Region VIII Air Program, 1595 Wynkoop St. (8P-AR), Denver, CO 80202-1129.	Colorado and South Dakota.
EPA Region IX: Doris Lo, Acting Air Program Manager, Air Planning Office, EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105.	Hawaii.
EPA Region X: Debra Suzuki, Air Program Manager, Air Planning Unit, EPA Region X, Office of Air, Waste, and Toxics, Mail Code AWT-107, 1200 Sixth Avenue, Seattle, WA 98101.	Oregon and Washington.

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