$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting approximately 1 hour that will prohibit entry within a 840-feet radius in Presque Isle bay in Erie, PA. for a fireworks display. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T09–0574 to read as follows:

§ 165.T09–0574 Safety Zone; Flagship League Mariners Ball Fireworks; Presque Isle Bay; Erie, PA.

(a) *Location.* The following area is a safety zone: All waters of the Presque Isle Bay, from surface to bottom, encompassed by a 840-feet radius around 42°07′16.70″ N, 080°07′59.34″ W.

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Buffalo (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) In accordance with the general regulations in section § 165.23, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the COTP Buffalo or a designated representative.

(2) Vessel operators desiring to enter or operate within the safety zone must contact the COTP Buffalo or her designated representative to obtain permission to do so. The COTP Buffalo or her designated representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the COTP Buffalo, or her designated representative.

(d) *Enforcement period.* The regulated area described in paragraph (a) is effective from 8:50 p.m. through 10 p.m. on August 20, 2021.

Dated: July 30, 2021.

L.M. Littlejohn,

Captain, U.S. Coast Guard, Captain of the Port Buffalo.

[FR Doc. 2021–16707 Filed 8–4–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF EDUCATION

34 CFR Chapter III

[Docket ID ED–2021–OSERS–0018]

Final Priority—Technical Assistance and Dissemination To Improve Services and Results for Children With Disabilities and Technical Assistance on State Data Collection—National Assessment Center

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Final priority.

SUMMARY: The Department of Education (Department) announces a priority for the Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities and Technical Assistance on State Data Collection program, Assistance Listing Number 84.326G. The Department may use the priority for competitions in fiscal year (FY) 2021 and later years. We will use the priority to award a cooperative agreement for a National Assessment Center (Center) to focus attention on an identified need to address national, State, and local assessment issues related to students with disabilities, including students with disabilities who are also English learners (ELs).

DATES: Effective September 7, 2021.

FOR FURTHER INFORMATION CONTACT: David Egnor, U.S. Department of Education, 400 Maryland Avenue SW, Room 5163, Potomac Center Plaza, Washington, DC 20202–5076. Telephone: (202) 245–7334 or (202) 856–6409. Email: *david.egnor@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Purpose of Programs: The purpose of the Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities program is to promote academic achievement and to improve results for children with disabilities by providing technical assistance (TA), supporting model demonstration projects, disseminating useful information, and implementing activities that are supported by scientifically based research. The purpose of the Technical Assistance on State Data Collection program is to improve the capacity of States to meet the Individuals with Disabilities Education Act (IDEA) data collection and reporting requirements. In addition, the Consolidated Appropriations Act, 2021, gives the Secretary authority to use funds reserved under section 611(c) of the IDEA to administer and carry out other services and activities to improve data collection, coordination, quality, and use under Parts B and C of the IDEA.

Program Authority: 20 U.S.C. 1411, 1416, 1463, and 1481; and the Consolidated Appropriations Act, 2021, Div. H, Title III of Public Law 116–260, 134 Stat. 1182.

Note: Projects will be awarded and must be operated in a manner consistent with the nondiscrimination requirements contained in Federal civil rights laws.

Applicable Program Regulations: 34 CFR 300.702.

We published a notice of proposed priorities (NPP) for this program in the **Federal Register** on March 25, 2021 (86 FR 15830). That document contained background information and our reasons for proposing the particular priorities.

Under section 681 of the IDEA, the Secretary may give priority to the activities listed in section 681(d) without regard to the rulemaking procedures in section 553 of the Administrative Procedure Act (APA). The activities required to be conducted under Proposed Priority 1 are activities listed in section 681(d), whereas the activities required to be conducted under Proposed Priority 2 include activities that are outside the exemption from rulemaking under IDEA section 681(d). As a result, pursuant to the notice and comment rulemaking requirements of section 553 of the APA, in the NPP, the Department specifically invited comments regarding Proposed Priority 2, including: (1) The program requirements under Proposed Priority 2; and (2) the application and administrative requirements under the common elements section of Proposed Priority 1 and Proposed Priority 2, but only as the requirements apply to Proposed Priority 2. We appreciate commenters' input on Proposed Priority 1. For the purposes of this notice of final priority (NFP), we address only the comments on Proposed Priority 2, including the associated application and administrative requirements.

We make substantive changes to Proposed Priority 2 by adding a focus on increasing the capacity of parents of students with disabilities to understand the statutory and regulatory bases for, and benefits of, including all students with disabilities in State and districtwide assessments and other assessments used for educational programming and instructional purposes. These substantive changes impact how Proposed Priority 2 focuses attention on the important role that parents play in addressing an identified need to address national, State, and local assessment issues related to students with disabilities, including students with disabilities who are also English learners (ELs).

There are also editorial differences between Proposed Priority 2 and its requirements and the final priority and requirements. In this NFP, we refer to Proposed Priority 2 as the priority, and to the Proposed Priority 2 application and administrative requirements common to Proposed Priority 1 and 2, as the requirements.

Public Comment: In response to our invitation in the NPP, eight parties submitted comments on the priority and requirements.

Generally, we do not address technical and other minor changes, or suggested changes the law does not authorize us to make under the applicable statutory authority. In addition, we do not address general comments that raised concerns not directly related to the priority or requirements.

Analysis of Comments and Changes: An analysis of the comments and of any changes in the priority since publication of the NPP follows.

Comment: Four commenters recommended that the Center include a focus on increasing the capacity of parents to understand the statutory, regulatory, and instructional programming bases for including all students with disabilities in State and districtwide assessments. These commenters noted that parents lack sufficient information regarding the participation of students with disabilities in State and districtwide assessments.

Discussion: We agree with the commenters regarding the importance of increasing the capacity of parents to understand the statutory, regulatory, and instructional programming bases for including all students with disabilities in State and districtwide assessments as well as other assessments used for educational programming and instructional purposes. Increasing parents' understanding in this area is likely to help ensure their meaningful involvement in decisions States make in analyzing and using diagnostic, interim, and summative assessment data to better achieve their State-Identified Measurable Result (SIMR), for those States that have a SIMR related to assessment, while at the same time incentivizing States to ensure the data reviewed and analyzed by the parents are of the highest quality; and thus improve data quality and use under IDEA Part B, consistent with section 611(c) of the IDEA and the Consolidated Appropriations Act, 2021, which authorizes the Secretary to use funds reserved under section 611(c) of the IDEA to administer and carry out other services and activities to improve data collection, coordination, quality, and use under Parts B and C of the IDEA. Therefore, we are revising the priority to require applicants to propose how the Center will increase the awareness of and understanding by parents of students with disabilities, regarding how students with disabilities are included in, and benefit from, participation in State and districtwide assessments and other assessments used for educational programming and instructional purposes to improve instruction of students with disabilities and support the implementation of the SIMR.

Changes: We have revised the expected outcomes of the priority by requiring applicants propose how the Center will increase parents of students with disabilities' awareness of and understanding of how students with disabilities are included in, and benefit from, participation in diagnostic, interim and summative assessments.

Comment: One commenter recommended revising references to ''interim'' assessments to ''formative'' assessments, noting that ''interim'' implies a less prescriptive and formal process than ''formative.''

Discussion: We understand the point the commenter makes in general regarding the common meanings of the terms ''interim'' and ''formative''; however, we disagree with the commenter that these distinctions apply to large-scale State and districtwide academic assessments. Interim assessments are more prescriptive and formal than formative assessments. Interim academic assessments typically focus on measuring student achievement based on a subset of State or school district established grade-level academic content standards. As such, they are designed to measure individual and collective student growth and are used to evaluate the effectiveness of teaching practices, programs, and initiatives; and project whether a student, class, or school is on track to achieve established proficiency benchmarks. Interim assessments can also provide information regarding the instructional needs of individual students, but to a lesser extent than formative assessments. In contrast, formative assessments typically are connected to a discrete instructional unit, the results of which are intended to help educators guide the learning process of individual students, rather than measure student performance against State or districtwide academic content and achievement standards.

Changes: None.

Comment: One commenter stated that the structure of the notice was confusing, and, in response to Executive Order 12866 and the Presidential memorandum ''Plain Language in Government Writing,'' recommended ways to reformat the proposed priority to improve clarity.

Discussion: The formatting for the notice published in the **Federal Register** was consistent with the Department's formatting requirements for publishing proposed priorities. However, we

appreciate the commenter's feedback and will consider the commenter's formatting recommendations for future proposed priorities. In addition, we have described above our reasons for the structure of the NPP, and this NFP.

Changes: None.

Final Priority

Targeted and Intensive Technical Assistance to States on the Analysis and Use of Diagnostic, Interim, and Summative Assessment Data To Support Implementation of States' Identified Measurable Results

The purpose of this priority is to (1) assist those States that have a SIMR related to assessment in analyzing and using diagnostic, interim, and summative assessment data to better achieve the SIMR as described in their IDEA Part B State Systemic Improvement Plans (SSIPs); and (2) assist State efforts to provide technical assistance (TA) to local educational agencies (LEAs) in analyzing and using State and districtwide assessment data, for those States that have a SIMR related to assessment, to better achieve the SIMR, as appropriate.

The Center must achieve, at a minimum, the following expected outcomes:

(a) Increased capacity of State educational agency (SEA) personnel in States that have a SIMR related to assessment results to analyze and use diagnostic, interim and summative assessment data to better achieve the SIMR as described in the IDEA Part B SSIPs, including using diagnostic, interim and summative assessment data to evaluate and improve educational policy, inform instructional programs, and improve instruction for students with disabilities;

(b) Increased capacity of SEA personnel to provide TA to LEAs to analyze and use diagnostic, interim and summative assessment data to improve instruction of students with disabilities and support the implementation of the SIMR; and

(c) Increased capacity of parents of students with disabilities to understand how students with disabilities are included in, and benefit from, participation in diagnostic, interim and summative assessments to improve instruction of students with disabilities and support implementation of the SIMR.

In addition to these program requirements, to be considered for funding under this priority, applicants must meet the application and administrative requirements under the priority *Technical Assistance and Dissemination To Improve Services and Results for Children With Disabilities—National Assessment Center* and the following application and administrative requirements, which are:

(a) Demonstrate, in the narrative section of the application under ''Significance,'' how the proposed project will—

(1) Address the needs of SEAs and LEAs to analyze and use diagnostic, interim, and summative assessment data in instructional decision-making to improve teaching and learning for students with disabilities. To meet this requirement the applicant must—

(i) Present applicable national, State, and local data demonstrating the needs of SEAs and LEAs to analyze and use diagnostic, interim, and summative assessment data in instructional decision-making to improve teaching and learning for students with disabilities;

(ii) Demonstrate knowledge of current educational issues and policy initiatives related to analyzing and using diagnostic, interim, and summative assessment data in instructional decision-making to improve teaching and learning for students with disabilities; and

(iii) Describe the current level of implementation related to analyzing and using diagnostic, interim, and summative assessment data in instructional decision-making to improve teaching and learning for students with disabilities; and

(2) Improve the analysis and use of diagnostic, interim, and summative assessment data to improve teaching and learning for students with disabilities.

(b) Demonstrate, in the narrative section of the application under ''Quality of project services,'' how the proposed project will—

(1) Ensure equal access and treatment for members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. To meet this requirement, the applicant must describe how it will—

(i) Identify the needs of the intended recipients for TA and information; and

(ii) Ensure that products and services meet the needs of the intended recipients (*e.g.,* by creating materials in formats and languages accessible to the stakeholders served by the intended recipients);

(2) Achieve its goals, objectives, and intended outcomes. To meet this requirement, the applicant must provide—

(i) Measurable intended project outcomes; and

(ii) In appendix A, the logic model [1] by which the proposed project will achieve its intended outcomes that depicts, at a minimum, the goals, activities, outputs, and intended outcomes of the proposed project;

(3) Use a conceptual framework (and provide a copy in Appendix A) to develop project plans and activities, describing any underlying concepts, assumptions, expectations, beliefs, or theories, as well as the presumed relationships or linkages among these variables, and any empirical support for this framework;

Note: The following websites provide more information on logic models and conceptual frameworks: *www.osepideasthatwork.org/logicModel* and *www.osepideasthatwork.org/resources-grantees/program-areas/ta-ta/tad-project-logic-model-and-conceptual-framework.*

(4) Be based on current research and make use of evidence-based [2] practices (EBPs). To meet this requirement, the applicant must describe—

(i) The current research on the effectiveness of analyzing and using diagnostic, interim, and summative assessment data in instructional decision-making to improve teaching and learning for students with disabilities; and

(ii) How the proposed project will incorporate current EBPs in the development and delivery of its products and services;

(5) Develop products and provide services that are of high quality and sufficient intensity and duration to achieve the intended outcomes of the proposed project. To address this requirement, the applicant must describe—

(i) How it proposes to identify or develop the knowledge base on analyzing and using diagnostic, interim, and summative assessment data in instructional decision-making to improve teaching and learning for students with disabilities;

(ii) Its proposed approach to universal, general TA,[3] which must

[1] Logic model (also referred to as a theory of action) means a framework that identifies key project components of the proposed project (*i.e.,* the active ''ingredients'' that are hypothesized to be critical to achieving the relevant outcomes) and describes the theoretical and operational relationships among the key project components and relevant outcomes.

[2] For the purposes of this priority, ''evidence-based'' means, at a minimum, evidence that demonstrates a rationale (as defined in 34 CFR 77.1), where a key project component included in the project's logic model is informed by research or evaluation findings that suggest the project component is likely to improve relevant outcomes.

[3] ''Universal, general TA'' means TA and information provided to independent users through their own initiative, resulting in minimal

identify the intended recipients, including the type and number of recipients, that will receive the products and services under this approach;

(iii) Its proposed approach to targeted, specialized TA,[4] which must identify—

(A) The intended recipients, including the type and number of recipients, that will receive the products and services under this approach; and

(B) Its proposed approach to measure the readiness of potential TA recipients to work with the project, assessing, at a minimum, their current infrastructure, available resources, and ability to build capacity at the local level; and

(iv) Its proposed approach to intensive, sustained TA,[5] which must identify—

(A) The intended recipients, including the type and number of recipients, that will receive the products and services under this approach;

(B) Its proposed approach to measure the readiness of SEA and LEA personnel to work with the project, including their commitment to the initiative, alignment of the initiative to their needs, current infrastructure, available resources, and ability to build capacity at the SEA and LEA levels;

(C) Its proposed plan for assisting SEAs (and LEAs, in conjunction with SEAs) to build or enhance training systems that include professional development based on adult learning principles and coaching;

(D) Its proposed plan for working with appropriate levels of the education system (*e.g.,* SEAs, regional TA providers, LEAs, schools, and families) to ensure that there is communication between each level and that there are systems in place to support the collection, analysis, and use of diagnostic, interim, and summative assessment data in instructional decision-making to improve teaching and learning for students with disabilities; and

(E) Its proposed plan for collaborating and coordinating with Department-funded TA investments, where appropriate, in order to align complementary work and jointly develop and implement products and services to meet the purposes of this priority;

(6) Develop products and implement services that maximize efficiency. To address this requirement, the applicant must describe—

(i) How the proposed project will use technology to achieve the intended project outcomes;

(ii) With whom the proposed project will collaborate and the intended outcomes of this collaboration; and

(iii) How the proposed project will use non-project resources to achieve the intended project outcomes; and

(7) Develop a dissemination plan that describes how the applicant will systematically distribute information, products, and services to varied intended audiences, using a variety of dissemination strategies, to promote awareness and use of the Center's products and services.

(c) In the narrative section of the application under ''Quality of the project evaluation,'' include an evaluation plan for the project developed in consultation with and implemented by a third-party evaluator.[6] The evaluation plan must—

(1) Articulate formative and summative evaluation questions, including important process and outcome evaluation questions. These questions should be related to the project's proposed logic model required in paragraph (b)(2)(ii) of these requirements;

(2) Describe how progress in and fidelity of implementation, as well as project outcomes, will be measured to answer the evaluation questions. Specify the measures and associated instruments or sources for data appropriate to the evaluation questions. Include information regarding reliability and validity of measures where appropriate;

(3) Describe strategies for analyzing data and how data collected as part of this plan will be used to inform and improve service delivery over the course of the project and to refine the proposed logic model and evaluation plan, including subsequent data collection;

(4) Provide a timeline for conducting the evaluation, and include staff assignments for completing the plan. The timeline must indicate that the data will be available annually for the annual performance report (APR) and at the end of Year 2 for the review process described under the heading, *Fourth and Fifth Years of the Project;* and

(5) Dedicate sufficient funds in each budget year to cover the costs of developing or refining the evaluation plan in consultation with a ''third-party'' evaluator, as well as the costs associated with the implementation of the evaluation plan by the third-party evaluator.

(d) Demonstrate, in the narrative section of the application under ''Adequacy of resources and quality of project personnel,'' how—

(1) The proposed project will encourage 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, as appropriate;

(2) The proposed key project personnel, consultants, and subcontractors have the qualifications and experience to carry out the proposed activities and achieve the project's intended outcomes;

(3) The applicant and any key partners have adequate resources to carry out the proposed activities; and

(4) The proposed costs are reasonable in relation to the anticipated results and benefits.

(e) Demonstrate, in the narrative section of the application under ''Quality of the Management Plan,'' how—

(1) The proposed management plan will ensure that the project's intended outcomes will be achieved on time and within budget. To address this requirement, the applicant must describe—

(i) Clearly defined responsibilities for key project personnel, consultants, and subcontractors, as applicable; and

(ii) Timelines and milestones for accomplishing the project tasks;

(2) Key project personnel and any consultants and subcontractors will be allocated and how these allocations are appropriate and adequate to achieve the project's intended outcomes;

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interaction with TA center staff and including one-time, invited or offered conference presentations by TA center staff. This category of TA also includes information or products, such as newsletters, guidebooks, or research syntheses, downloaded from the TA center's website by independent users. Brief communications by TA center staff with recipients, either by telephone or email, are also considered universal, general TA.

[4] ''Targeted, specialized TA'' means TA services based on needs common to multiple recipients and not extensively individualized. A relationship is established between the TA recipient and one or more TA center staff. This category of TA includes one-time, labor-intensive events, such as facilitating strategic planning or hosting regional or national conferences. It can also include episodic, less labor-intensive events that extend over a period of time, such as facilitating a series of conference calls on single or multiple topics that are designed around the needs of the recipients. Facilitating communities of practice can also be considered targeted, specialized TA.

[5] ''Intensive, sustained TA'' means TA services often provided on-site and requiring a stable, ongoing relationship between the TA center staff and the TA recipient. ''TA services'' are defined as negotiated series of activities designed to reach a valued outcome. This category of TA should result in changes to policy, program, practice, or operations that support increased recipient capacity or improved outcomes at one or more systems levels.

[6] A ''third-party'' evaluator is an independent and impartial program evaluator who is contracted by the grantee to conduct an objective evaluation of the project. This evaluator must not have participated in the development or implementation of any project activities, except for the evaluation activities, nor have any financial interest in the outcome of the evaluation.

(3) The proposed management plan will ensure that the products and services provided are of high quality, relevant, and useful to recipients; and

(4) The proposed project will benefit from a diversity of perspectives, including those of families, educators, TA providers, researchers, and policy makers, among others, in its development and operation.

(f) Address the following application requirements. The applicant must—

(1) Include, in Appendix A, personnel-loading charts and timelines, as applicable, to illustrate the management plan described in the narrative; [7]

(2) Include, in the budget, attendance at the following:

(i) A one and one-half day kick-off meeting in Washington, DC, or virtually, after receipt of the award, and an annual planning meeting in Washington, DC, or virtually, with the OSEP project officer and other relevant staff during each subsequent year of the project period.

Note: Within 30 days of receipt of the award, a post-award teleconference must be held between the OSEP project officer and the grantee's project director or other authorized representative;

(ii) A two and one-half day project directors' conference in Washington, DC, or virtually, during each year of the project period;

(iii) Two annual two-day trips, or virtually, to attend Department briefings, Department-sponsored conferences, and other meetings, as requested by OSEP; and

(iv) A one-day intensive 3+2 review meeting in Washington, DC, or virtually, during the second year of the project period;

(3) Include, in the budget, a line item for an annual set-aside of five percent of the grant amount to support emerging needs that are consistent with the proposed project's intended outcomes, as those needs are identified in consultation with, and approved by, the OSEP project officer. With approval from the OSEP project officer, the project must reallocate any remaining funds from this annual set-aside no later than the end of the third quarter of each budget period;

(4) Maintain a high-quality website, with an easy-to-navigate design, that meets government or industry-recognized standards for accessibility;

(5) Ensure that annual project progress toward meeting project goals is posted on the project website; and

(6) Include, in Appendix A, an assurance to assist OSEP with the transfer of pertinent resources and products and to maintain the continuity of services to States during the transition to a new award at the end of this award period, as appropriate.

Fourth and Fifth Years of the Project:

In deciding whether to continue funding the project for the fourth and fifth years, the Secretary will consider the requirements of 34 CFR 75.253(a), including—

(a) The recommendations of a 3+2 review team consisting of experts who have experience and knowledge in providing technical assistance to SEA and LEA personnel in including students with disabilities in assessments and accountability systems. This review will be conducted during a one-day intensive meeting that will be held during the last half of the second year of the project period;

(b) The timeliness with which, and how well, the requirements of the negotiated cooperative agreement have been or are being met by the project; and

(c) The quality, relevance, and usefulness of the project's products and services and the extent to which the project's products and services are aligned with the project's objectives and likely to result in the project achieving its intended outcomes.

Under 34 CFR 75.253, the Secretary may reduce continuation awards or discontinue awards in any year of the project period for excessive carryover balances or a failure to make substantial progress. The Department intends to closely monitor unobligated balances and substantial progress under this program and may reduce or discontinue funding accordingly.

Types of Priorities:

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

This document does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This document does *not* solicit applications. In any year in which we choose to use this priority, we invite applications through a notice in the **Federal Register**.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Office of Management and Budget (OMB) must determine whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by 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. Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a ''major rule,'' as defined by 5 U.S.C. 804(2).

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

[7] OSEP has found that a minimum of a three-quarter time equivalency (0.75 FTE) in the role of project director (or divided between a half-time equivalency in the role of the project director and a quarter-time equivalency in the role of a co-project director) is necessary to ensure effective implementation of the management plan and that products and services provided are of high quality, relevant, and useful to recipients.

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 the final priority only on a reasoned determination that its benefits justify its 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 State, local, and Tribal governments in the exercise of their governmental functions.

In accordance with these 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.

Discussion of Potential Costs and Benefits

The Department believes that the costs associated with the final priority will be minimal, while the benefits are significant. The Department believes that this regulatory action does not impose significant costs on eligible entities. Participation in this program is voluntary, and the costs imposed on applicants by this regulatory action will be limited to paperwork burden related to preparing an application. The benefits of implementing the program to focus attention on an identified need to address national, State, and local assessment issues related to students with disabilities, including students with disabilities who are also ELs, will outweigh the costs incurred by applicants, and the costs of carrying out activities associated with the application will be paid for with program funds. For these reasons, we have determined that the costs of implementation will not be excessively burdensome for eligible applicants, including small entities.

Regulatory Alternatives Considered

The Department believes that the priority is needed to administer the program effectively.

Paperwork Reduction Act of 1995

The final priority contains information collection requirements that are approved by OMB under control number 1820–0028; the final priority does not affect the currently approved data collection.

Regulatory Flexibility Act Certification: The Secretary certifies that this final regulatory action will not have a significant economic impact on a substantial number of small entities. The U.S. Small Business Administration (SBA) Size Standards define proprietary institutions as small businesses if they are independently owned and operated, are not dominant in their field of operation, and have total annual revenue below $7,000,000. Nonprofit institutions are defined as small entities if they are independently owned and operated and not dominant in their field of operation. Public institutions are defined as small organizations if they are operated by a government overseeing a population below 50,000.

The small entities that this final regulatory action will affect are SEAs; LEAs, including charter schools that operate as LEAs under State law; institutions of higher education; other public agencies; private nonprofit organizations; freely associated States and outlying areas; Indian Tribes or Tribal organizations; and for-profit organizations. We believe that the costs imposed on an applicant by the final priority and requirements will be limited to paperwork burden related to preparing an application and that the benefits of this final priority will outweigh any costs incurred by the applicant.

Participation in Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities and Technical Assistance on State Data Collection—National Assessment Center program is voluntary. For this reason, the final priority will impose no burden on small entities unless they applied for funding under the program. We expect that in determining whether to apply for the Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities and Technical Assistance on State Data Collection—National Assessment Center program funds, an eligible entity will evaluate the requirements of preparing an application and any associated costs and weigh them against the benefits likely to be achieved by receiving a Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities and Technical Assistance on State Data Collection—National Assessment Center program grant. An eligible entity will most likely apply only if it determines that the likely benefits exceed the costs of preparing an application.

We believe that the final priority will not impose any additional burden on a small entity applying for a grant than the entity would face in the absence of the final action. That is, the length of the applications those entities would submit in the absence of the final regulatory action and the time needed to prepare an application will likely be the same.

This final regulatory action will not have a significant economic impact on a small entity once it receives a grant because it would be able to meet the costs of compliance using the funds provided under this program.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

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Katherine Neas,

Acting Assistant Secretary for the Office of Special Education and Rehabilitative Services.

[FR Doc. 2021–16853 Filed 8–3–21; 4:15 pm]

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AR25

Presumptive Service Connection for Respiratory Conditions Due to Exposure to Particulate Matter

AGENCY: Department of Veterans Affairs.

ACTION: Interim final rule.

SUMMARY: The Department of Veterans Affairs (VA) is issuing this interim final rule to amend its adjudication regulations to establish presumptive service connection for three chronic respiratory health conditions, *i.e.,* asthma, rhinitis, and sinusitis, to include rhinosinusitis, in association with presumed exposures to fine, particulate matter. These presumptions would apply to veterans with a qualifying period of service, *i.e.,* who served on active military, naval, or air service in the Southwest Asia theater of operations during the Persian Gulf War (hereafter Gulf War), as well as in Afghanistan, Syria, Djibouti, or Uzbekistan, on or after September 19, 2001, during the Gulf War. This amendment is necessary to provide expeditious health care, services, and benefits to Gulf War Veterans who were potentially exposed to fine, particulate matter associated with deployment to the Southwest Asia theater of operations, as well as Afghanistan, Syria, Djibouti, and Uzbekistan. The intended effect of this amendment is to address the needs and concerns of Gulf War Veterans and service members who have served and continue to serve in these locations as military operations in the Southwest Asia theater of operations have been ongoing from August 1990 until the present time. Neither Congress nor the President has established an end date for the Gulf War. Therefore, to provide immediate health care, services, and benefits to current and future Gulf War Veterans who may be affected by particulate matter due to their military service, VA intends to provide presumptive service connection for the chronic disabilities of asthma, rhinitis, and sinusitis, to include rhinosinusitis, as well as a presumption of exposure to fine, particulate matter. This will ease the evidentiary burden of Gulf War Veterans who file claims with VA for these three conditions, which are among the most commonly claimed respiratory conditions.

DATES:

Effective Date: This interim final rule is effective on August 5, 2021.

Applicability Date: The provisions of this interim final rule shall apply to all applications for service connection for asthma, rhinitis, and sinusitis based on service in the Southwest Asia theater of operations, as well as Afghanistan, Syria, Djibouti, or Uzbekistan, during the Persian Gulf War that are received by VA on or after August 5, 2021, or that were pending before VA, the United States Court of Appeals for Veterans Claims, or the United States Court of Appeals for the Federal Circuit on August 5, 2021.

Comment Date: Comments must be received on or before October 4, 2021.

ADDRESSES: Comments may be submitted through *www.regulations.gov* or mailed to, Compensation Service, 21C, 1800 G Street NW, Suite 644A, Washington, DC 20006. Comments should indicate that they are submitted in response to ''RIN 2900–AR25—Presumptive Service Connection for Respiratory Conditions Due to Exposure to Particulate Matter''. Comments received will be available at regulations.gov for public viewing, inspection or copies.

FOR FURTHER INFORMATION CONTACT: Jane Che, Director, VA Schedule for Rating Disabilities Program Office (210), Compensation Service, Veterans Benefits Administration (VBA), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 461–9700. (This is not a toll-free telephone number.)

SUPPLEMENTARY INFORMATION:

I. National Academies of Science, Engineering, and Medicine (NASEM) [1] and National Research Council (NRC) Reports

More than 3.7 million United States service members have participated in operations in Southwest Asia. During and after the initial Gulf War conflict, veterans began reporting a variety of health problems, as documented through the NASEM Gulf War and Health, Volumes 1 through 11. In addition, concerns continue to be raised by service members, veterans, veteran advocates, and Congress about possible adverse health consequences related to in-theater exposures to particulate matter, including smoke from open burn pits, and other airborne hazards. Several studies by NASEM have examined the possible contribution of air pollution to adverse health effects among U.S. military personnel serving in the Middle East or their descendants.[2]

a. 2010 NRC Report, Review of the Department of Defense (DoD) Enhanced Particulate Matter Surveillance Program

In February 2008 the Department of Defense issued the Department of Defense Enhanced Particulate Matter Surveillance Program (EPMSP) Final Report.[3] The purpose of the study was to provide information on the chemical and physical properties of dust collected at deployment locations. Aerosol and bulk soil samples were collected during a period of

[1] Originally, the National Academy of Medicine was the Institute of Medicine (IOM). In 2015, the IOM was reconstituted as the National Academy of Medicine (NAM), a component of the National Academies of Sciences, Engineering, and Medicine (NASEM). The term NASEM is used in this rule to refer to reports published by IOM and NAM.

[2] NASEM, Gulf War and Health Series: Volume 3: Fuels and Products of Combustion (2005), *https://doi.org/10.17226/11180* and Volume 11: Generational Health Effects of Serving in the Gulf War (2018), *https://doi.org/10.17226/25162.* NASEM, Respiratory Health Effects of Airborne Hazards Exposures in the Southwest Asia Theater of Military Operations (2020), *https://doi.org/10.17226/25837.*

[3] Department of Defense Enhanced Particulate Matter Surveillance Program (EPMSP) Final Report (2008), *https://apps.dtic.mil/sti/pdfs/ADA605600.pdf.*