

**SUMMARY:** This document provides a notice of public hearing on proposed regulations that would require annual country-by-country reporting by certain United States persons that are the ultimate parent entity of a multinational enterprise group.

**DATES:** The public hearing is being held on Friday, May 13, 2016, at 10 a.m. The IRS must receive outlines of the topics to be discussed at the public hearing by Friday, April 29, 2016.

**ADDRESSES:** The public hearing is being held in the IRS Auditorium, Internal Revenue Service Building, 1111 Constitution Avenue NW., Washington, DC 20224. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building.

Send Submissions to CC:PA:LPD:PR (REG-109822-15), Room 5205, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday to CC:PA:LPD:PR (REG-109822-15), Couriers Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224 or sent electronically via the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov) (IRS REG-109822-15).

**FOR FURTHER INFORMATION CONTACT:** Concerning the proposed regulations, Melinda Harvey at (202) 317-6934; concerning submissions of comments, the hearing and/or to be placed on the building access list to attend the hearing Oluwafunmilayo Taylor at (202) 317-6901 (not toll-free numbers).

**SUPPLEMENTARY INFORMATION:** The subject of the public hearing is the notice of proposed rulemaking (REG-109822-15) that was published in the **Federal Register** on Wednesday, December 23, 2015 (80 FR 79795).

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing that submitted written comments by March 22, 2016, must submit an outline of the topics to be addressed and the amount of time to be denoted to each topic by Friday, April 29, 2016.

A period of 10 minutes is allotted to each person for presenting oral comments. After the deadline for receiving outlines has passed, the IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available, free of charge, at the hearing or in the Freedom of Information Reading Room (FOIA RR) (Room 1621) which is located at the 11th and Pennsylvania Avenue NW.,

entrance, 1111 Constitution Avenue NW., Washington, DC 20224.

Because of access restrictions, the IRS will not admit visitors beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this document.

**Martin V. Franks,**

*Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).*

[FR Doc. 2016-08882 Filed 4-15-16; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF EDUCATION

### 34 CFR Chapter II

[Docket ID ED-2016-OESE-0004; CFDA Number: 84.368A.]

#### Proposed Priorities—Enhanced Assessment Instruments

**AGENCY:** Office of Elementary and Secondary Education, Department of Education.

**ACTION:** Proposed priorities.

**SUMMARY:** The Assistant Secretary for Elementary and Secondary Education proposes priorities under the Enhanced Assessment Instruments Grant program, also called the Enhanced Assessment Grants (EAG) program. The Assistant Secretary may use one or more of these priorities for competitions using funds from fiscal year (FY) 2016 and later years. Depending on the availability of funds and the use of other priorities under the EAG authority, the Assistant Secretary may also choose not to use one or more of these priorities for competitions using funds from FY 2016 and later years. These proposed priorities are designed to support projects to improve States' assessment systems.

**DATES:** We must receive your comments on or before May 18, 2016.

**ADDRESSES:** Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID and the term "Enhanced Assessment Grants—Comments" at the top of your comments.

• **Federal eRulemaking Portal:** Go to [www.regulations.gov](http://www.regulations.gov) to submit your comments electronically. Information on using [Regulations.gov](http://Regulations.gov), including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under the "Help" tab.

• **Postal Mail, Commercial Delivery, or Hand Delivery:** If you mail or deliver your comments about these proposed priorities, address them to the Office of Elementary and Secondary Education, Attention: Enhanced Assessment Grants—Comments, U.S. Department of Education, 400 Maryland Avenue SW., Room 3e124, Washington, DC 20202-6132.

**Privacy Note:** The Department of Education's (Department's) policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov). Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

**FOR FURTHER INFORMATION CONTACT:** Donald Peasley. Telephone: (202) 453-7982 or by email: [donald.peasley@ed.gov](mailto:donald.peasley@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:

**Invitation to Comment:** We invite you to submit comments regarding this notice. To ensure that your comments have maximum effect in developing the notice of final priorities, we urge you to identify clearly the specific proposed priority that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866 and 13563 and their overall requirement of reducing regulatory burden that might result from these proposed priorities. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about these proposed priorities by accessing [regulations.gov](http://regulations.gov). You may also inspect the comments in room 3e124, 400 Maryland Avenue SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays.

**Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record:** On request we will

provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR**

**FURTHER INFORMATION CONTACT.**

*Purpose of Program:* The purpose of the EAG program is to enhance the quality of assessment instruments and systems used by States for measuring the academic achievement of elementary and secondary school students.

*Program Authority:* Section 6112 of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001 (NCLB), and section 1203(b)(1) of the ESEA, as amended by the Every Student Succeeds Act (Pub. L. 114–95) (ESSA).

*Proposed Priorities:*

This notice contains three proposed priorities.

*Background:*

Section 6112 of the ESEA, as amended by the NCLB, and section 1203(b)(1) of the ESEA, as amended by the ESSA, authorize the Department to make competitive grant awards to State educational agencies (SEAs) and consortia of SEAs to help them enhance the quality of their assessment instruments and assessment systems.<sup>1</sup> Under these provisions, State grantees must meet at least one of the program's statutory priorities, including collaborating with organizations to improve the quality, validity, reliability, and efficiency of academic assessments; measuring student academic achievement using multiple measures from multiple sources; measuring student growth on State assessments; and evaluating student academic achievement through the development of comprehensive academic assessment instruments and methods.

The grants awarded under this competitive grant award program in section 6112 will also lay the groundwork for some new opportunities in the recently reauthorized Elementary and Secondary Education Act of 1965,

as amended by the Every Student Succeeds Act. For example, the reauthorization of ESEA, will allow up to seven States or consortia of States to receive an initial demonstration authority to establish an innovative assessment and accountability system for a new approach to assessment for a trial period of up to five years. This can provide SEAs with an opportunity to demonstrate what is possible when assessment systems are redesigned with student learning at the center. The EAG program provides SEAs with support to develop innovative assessment tools and approaches which have the potential to be used by all States, including those approved under the innovative assessment and accountability demonstration authority, and be more widely adopted at scale. In addition, the EAG program provides SEAs with support in developing innovative summative assessment tools and approaches that can be used within the broader context of the multiple measures of student achievement and school accountability of the new ESSA and the President's Testing Action Plan.

Through this notice, the Department proposes three additional priorities for the EAG program that are designed to support States in continuously improving their assessment systems to measure college- and career-readiness. We believe that an essential part of educating students involves assessing students' progress toward meeting the high standards they need to be ready for college and the workplace. Assessments provide necessary information for States, districts, educators, families, the public, and students themselves to measure progress and improve outcomes for all learners. As such, we recognize the importance of continuously improving and innovating to ensure assessments are fair, of high quality and not duplicative, can be completed in the minimum necessary time while validly and reliably measuring a student's knowledge and skills, and reflect the expectation that students will be prepared for success in college and careers.

*Proposed Priority 1—Developing Innovative Assessment Item Types and Design Approaches.*

*Background:* The President's Testing Action Plan highlighted the need to reduce the time spent on unnecessary, duplicative, or low-quality testing and improve assessment efficiency and quality to provide educators and parents with more timely and actionable data on students' progress. SEAs and LEAs need to continue developing new methods for collecting evidence about what students know and are able to do as it relates to

State learning standards, including by creating innovative item types and design approaches, for example, by developing modular assessments that are given throughout the school year instead of a single summative assessment given at the end of the school year.

Although traditional assessment items such as multiple-choice questions have advantages, innovative item types such as performance tasks, simulations, and interactive, multi-step, technology-rich items that support competency-based assessments or portfolio assessments which demonstrate applied skills, have the potential to provide a more comprehensive view of a student's knowledge and mastery of standards. Examples include: Items that provide multi-step mathematics problems where students demonstrate their approaches to solving each step; items that permit graphs or other visual response types; and simulated game environments where students interact with stimuli and interaction information is collected.

As States implement more rigorous standards, it is important that assessment strategies are aligned with the higher-level cognitive skills students are expected to master.<sup>2</sup> For example, performance tasks and simulations provide an opportunity for students to apply their understanding and demonstrate their abilities in real-world scenarios. Rather than simply requiring a student to select a response from a list of options, competency-based assessments can allow students to interact with material and concepts to formulate responses. Students' responses to, and performance on, such innovative item types provide insight into their higher-level thinking and problem-solving skills and allow educators to better understand students' mastery of content and concepts.<sup>3</sup>

We believe that good assessments should require the same kind of complex work that students do in an effective classroom or in the real world, including demonstration and application of knowledge and skills. Further, assessments should present information and questions that push students' critical thinking skills so that students gain valuable experience while taking them. The inclusion of new, innovative item types will help to ensure that taking an assessment is a worthwhile experience for students.

<sup>1</sup> The Consolidated Appropriations Act, 2016 (Pub. L. 114–113) appropriated funds for the EAG program under section 6112 of the ESEA, as amended by the NCLB. As such, the upcoming EAG competition will be conducted under that authority. The Department is also establishing these priorities under the authority in section 1203(b)(1) of the ESEA, as amended by the ESSA, which, if funded, would replace the EAG program under section 6112. These priorities may also be used in any competition conducted after FY 2016 under that authority.

<sup>2</sup> Darling-Hammond, Linda, et al. (2013). Criteria for High-Quality Assessment (SCOPE, CRESST, LSRI Policy Brief). [https://edpolicy.stanford.edu/sites/default/files/publications/criteria-higher-quality-assessment\\_1.pdf](https://edpolicy.stanford.edu/sites/default/files/publications/criteria-higher-quality-assessment_1.pdf).

<sup>3</sup> Gorin, Joanna S. (2007). Test Design with Cognition in Mind.

Modular assessment approaches also can help SEAs and LEAs support students and educators in a number of significant ways by breaking down large, summative assessment forms with many items into smaller forms with fewer items (e.g., testing only one mathematics or reading competency). This will allow students to be assessed on specific competencies when they are ready and capable of demonstrating proficiency. This can allow advanced students to move ahead rapidly while providing students who need extra support the flexibility and additional time they need to learn and succeed, as well as the opportunity to demonstrate competence in the areas they have mastered.

Modules can also provide educators with more individualized, easily-integrated assessments which are used together to provide a summative analysis of each learner.

*Proposed Priority:* Under this priority, SEAs must:

(a) Develop, evaluate, and implement new, innovative item types for use in summative assessments in reading/language arts, mathematics, or science;

(1) Development of innovative item types under paragraph (a) may include, for example, performance tasks; simulations; or interactive, multi-step, technology-rich items that can support competency-based assessments or portfolio projects;

(2) Projects under this priority must be designed to develop new methods for collecting evidence about a student's knowledge and abilities and ensure the quality, validity, reliability, and fairness of the assessment and comparability of student data; or

(b) Develop new approaches to transform traditional, end-of-year summative assessment forms with many items into a series of modular assessment forms, each with fewer items.

(1) To respond to paragraph (b), applicants must develop modular assessment approaches which can be used to provide timely feedback to educators and parents as well as be combined to provide a valid, reliable, and fair summative assessment of individual learners.

(c) Applicants proposing projects under either paragraph (a) or (b) must provide a dissemination plan such that their projects can serve as models and resources that can be shared with States across the Nation.

*Proposed Priority 2—Improving Assessment Scoring and Score Reporting.*

*Background:* By improving assessment scoring and score reporting,

SEAs can enhance the testing experience for students and provide more timely and relevant information to parents and educators. While developing high-quality assessments that measure student knowledge and skills against States' standards is an essential part of building strong assessment systems, ensuring that assessment results are available sooner, and provide clear and actionable information is also critically important.

With continued advancements in technology to support and enhance education in the classroom, it is also becoming possible to improve the testing experience for students by using technology to automatically score non-multiple choice assessment items.

Automated scoring can decrease the time needed for scoring and releasing results, lower costs, improve score consistency, and reduce the need for training of, and coordination among, human scorers.<sup>4</sup> Recent research has examined existing automated scoring systems for short and extended constructed responses and found these automated scoring systems to be similar to human scorers.<sup>5</sup>

Building on the work done to date and developing better technological tools to score assessments would be advantageous to SEAs, LEAs, educators, and students. Automated scoring would allow SEAs to incorporate more non-multiple choice items, such as essays and constructed responses, in assessments while not adding significantly to the time or cost to score the tests. Assessment results could be returned more quickly to students and educators, who could in turn respond to the results data through timely implementation of additional teaching, supports, or interventions that would help students master content.<sup>6</sup> The

<sup>4</sup> Williamson, David M., Xiaoming Xi, and F. Jay Breyer. (2012). A Framework for Evaluation and Use of Automated Scoring. *Educational Measurement: Issues and Practice*. Volume 31, Issue 1, Pages 2–13.

<sup>5</sup> Shermis, Mark D., and Ben Hamner. (2012). Contrasting State-of-the-Art Automated Scoring of Essays: Analysis, National Council on Measurement in Education. [www.scoreright.org/NCME\\_2012\\_Paper3\\_29\\_12.pdf](http://www.scoreright.org/NCME_2012_Paper3_29_12.pdf); Shermis, Mark D. (2013). Contrasting State-of-the-Art in the Machine Scoring of Short-Form Constructed Responses. *Educational Assessment*. [www.tandfonline.com/doi/pdf/10.1080/10627197.2015.997617](http://www.tandfonline.com/doi/pdf/10.1080/10627197.2015.997617).

<sup>6</sup> For example, the Institute of Education Sciences has recently invested in projects that are promising examples of how technology can be leveraged to improve scoring. The aim of one such project is to develop a computerized oral reading fluency assessment (see <https://ies.ed.gov/funding/grantsearch/details.asp?ID=1492>). Traditional oral reading fluency assessments require one-on-one administration and hand-scoring, a time-consuming and resource-intensive process that is prone to scoring errors. The assessment under development

inclusion of additional non-multiple choice items can also enhance the testing experience for students by requiring more engaging and complex demonstrations of knowledge. To improve scoring, applicants responding to this priority could propose projects to build, test, or enhance automated scoring systems for use with non-multiple choice items in reading/language arts, mathematics, and science. For example, an applicant could propose to build, test, or improve a system for reviewing brief or extended student-constructed responses. Applicants could propose projects that will research, build, or test systems that can score assessments and provide diagnostic information to educators and parents.

Score reporting, when done well, provides valuable feedback to educators that can be used to guide instruction and supports for students. This feedback is most relevant when it is available soon after the assessment is administered and when it is actionable for students, parents, and educators. The Department also recognizes a need to improve the design and content of the reports such that they clearly communicate information to stakeholders.

Efforts to improve the usefulness of score reports could include: Incorporating information about what students' results mean; including multiple levels of information (e.g., overall proficiency, mastery of different standards or skills);<sup>7</sup> providing examples of questions that were likely to be answered correctly or incorrectly (and why); and connecting students and their families to useful resources or aids to address identified areas for improvement. Improving communications related to score reporting could include: Presenting information in easily comprehensible formats (e.g., graphically or numerically); tailoring reporting formats to different audiences or for different modes of dissemination; making results available in a timelier manner (i.e., delivered to teachers and parents as

uses speech recognition software to record and score students' oral reading fluency, making processes more efficient and less prone to scoring errors. Another such project is aimed at developing a new assessment tool to measure the science and math skills of middle school English learners (see <https://ies.ed.gov/funding/grantsearch/details.asp?ID=1475>). It features auto-scoring to give immediate feedback to teachers and students.

<sup>7</sup> Zapata-Rivera, Diego, and Rebecca Zwick. (2011). Improving Test Score Reporting: Perspectives from the ETS Score Reporting Conference. [www.ets.org/Media/Research/pdf/RR-11-45.pdf](http://www.ets.org/Media/Research/pdf/RR-11-45.pdf).

soon as possible after the assessments are administered).

*Proposed Priority:* Under this priority, SEAs must:

(a) Develop innovative tools that leverage technology to score assessments;

(1) To respond to paragraph (a), applicants must propose projects to reduce the time it takes to provide test results to educators, parents, and students and to make it more cost-effective to include non-multiple choice items on assessments. These innovative tools must improve automated scoring of student assessments, in particular non-multiple choice items in reading/language arts, mathematics, and science; or

(b) Propose projects, in consultation with organizations representing parents, students, and teachers, to address needs related to score reporting and improve the utility of information about student performance included in reports of assessment results and provide better and more timely information to educators and parents;

(1) To respond to paragraph (b), applicants must include one or more of the following in their projects:

(i) Developing enhanced score reporting templates or digital mechanisms for communicating assessment results and their meaning;

(ii) Improving the assessment literacy of educators and parents to improve the interpretation of test results to support teaching and learning in the classroom; and

(iii) Developing mechanisms for secure transmission and individual use of assessment results by students and parents.

(c) Applicants proposing projects under either paragraph (a) or (b) must provide a dissemination plan such that their projects can serve as models and resources that can be shared with States across the Nation.

*Proposed Priority 3—Inventory of State and Local Assessment Systems.*

*Background:* Recently, there has been significant discussion about the amount of time students spend in formal testing, including classroom, district, and State assessments. While the Department believes that assessments are important tools for measuring progress and improving outcomes for all students, we also recognize that too much testing, or unnecessary testing, takes valuable time away from teaching and learning in the classroom.<sup>8</sup>

In response to this issue, some SEAs, local educational agencies (LEAs), and schools are currently in the process of reviewing assessments administered to students in kindergarten through grade 12 to better understand if each assessment is of high quality, maximizes instructional goals, has clear purpose and utility, and is designed to provide information on students' progress toward achieving proficiency on State standards. To support such efforts, the Department made the development of tools to inventory State and local assessment systems an invitational priority in the FY 2015 EAG competition. Through this proposed priority, the Department would fund States that are reviewing and streamlining their statewide assessments and working with some or all of their LEAs to review and streamline local assessments, including eliminating redundant and unnecessary assessments.

This priority would support the identification of promising practices that could be followed by other SEAs, LEAs, and schools to maximize the utility of their assessments to parents, educators, and students.

*Proposed Priority:*

(a) Under this priority, SEAs must—

(1) Review statewide and local assessments to ensure that each test is of high quality, maximizes instructional goals, has a clear purpose and utility, and is designed to help students demonstrate mastery of State standards;

(2) Determine whether assessments are serving their intended purpose to help schools meet their goals and to eliminate redundant and unnecessary testing; and

(3) Review State and LEA activities related to test preparation to make sure those activities are focused on academic content and not on test-taking skills.

(b) To meet the requirements in paragraph (a), SEAs must ensure that tests are—

(1) Worth taking, meaning that assessments are a component of good instruction and require students to perform the same kind of complex work they do in an effective classroom and the real world;

(2) High quality, resulting in actionable, objective information about students' knowledge and skills, including by assessing the full range of relevant State standards, eliciting complex student demonstrations or applications of knowledge, providing an

accurate measure of student achievement, and producing information that can be used to measure student growth accurately over time;

(3) Time-limited, in order to balance instructional time and the need for assessments, for example, by eliminating duplicative assessments and assessments that incentivize low-quality test preparation strategies that consume valuable classroom time;

(4) Fair for all students and used to support equity in educational opportunity by ensuring that accessibility features and accommodations level the playing field so tests accurately reflect what all students, including students with disabilities and English learners, know and can do;

(5) Fully transparent to students and parents, so that States and districts can clearly explain to parents the purpose, the source of the requirement (if appropriate), and the use by teachers and schools, and provide feedback to parents and students on student performance; and

(6) Tied to improving student learning as tools in the broader work of teaching and learning.

(c) Approaches to assessment inventories under paragraph (a) must include:

(1) Review of the schedule for administration of all assessments required at the Federal, State, and local levels;

(2) Review of the purpose of, and legal authority for, administration of all assessments required at the Federal, State, and local levels; and

(3) Feedback on the assessment system from stakeholders, which could include information on how teachers, principals, other school leaders, and administrators use assessment data to inform and differentiate instruction, how much time teachers spend on assessment preparation and administration, and the assessments that administrators, teachers, principals, other school leaders, parents, and students do and do not find useful.

(d) Projects under this priority—

(1) Must be no longer than 12 months;

(2) Must include a longer-term project plan, understanding that, beginning with FY 2017, there may be dedicated Federal funds for assessment audit work as authorized under section 1202 of the ESEA, as amended by the ESSA, and understanding that States and LEAs may use other Federal funds, such as the State assessment grant funds, authorized under section 1201 of the ESEA, as amended by the ESSA, consistent with the purposes for those funds, to implement such plans; and

<sup>8</sup> As a part of the President's Testing Action Plan, The Department has recently released a Dear Colleague Letter to State Chief School Officers providing examples of existing Federal funding

streams, and best practices, which can be utilized at the State and local levels to improve assessment systems and reduce unnecessary testing: <http://www2.ed.gov/admins/lead/account/saa/16-0002signedcsso222016ltr.pdf>.

(3) Are eligible to receive a maximum award of \$200,000.

*Award 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)).

*Final Priorities:*

We will announce the final priorities in a notice in the **Federal Register**. We will determine the final priorities after considering responses to this notice and other information available to the Department. 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 these priorities, we invite applications through a notice in the **Federal Register**.

**Paperwork Reduction Act of 1995**

As part of its continuing effort to reduce paperwork and respondent burden, the Department provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This helps ensure that: the public understands the Department's collection instructions, respondents can provide the requested data in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the Department can properly assess the impact of collection requirements on respondents.

These proposed priorities contain information collection requirements that

are approved by OMB under the Departmental application control number 1894-0006; this proposed regulation does not affect the currently approved data collection.

**Executive Orders 12866 and 13563**

**Regulatory Impact Analysis**

Under Executive Order 12866, the Secretary must determine whether this proposed 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 proposed 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 proposed 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 proposed priorities only on a reasoned determination that their benefits would justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that would 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 would not unduly interfere with State, local, and 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.

The proposed priorities included in this notice would benefit students, parents, educators, administrators, and other stakeholders by improving the quality of State assessment instruments and systems. The proposed priority for an inventory of State and local assessment systems would encourage States to ensure that assessments are of high quality, maximize instructional goals, and have clear purpose and utility. Further, it would encourage States to eliminate unnecessary or redundant tests. The proposed priority for improving assessment scoring and score reporting would allow for States to score non-multiple choice assessment items more quickly and at a lower cost

and ensure that assessments provide timely, actionable feedback to students, parents, and educators. The proposed priority for developing innovative assessment item types and design approaches, including the development of modular assessments, would yield new, more authentic methods for collecting evidence about what students know and are able to do and provide educators with more individualized, easily integrated assessments that can support competency-based learning and other forms of personalized instruction.

**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:** Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotope, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

**Electronic Access to This Document:** The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: [www.gpo.gov/fdsys](http://www.gpo.gov/fdsys). At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: [www.federalregister.gov](http://www.federalregister.gov). Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: April 12, 2016.

**Ann Whalen,**

*Senior Advisor to the Secretary Delegated the Duties of Assistant Secretary for Elementary and Secondary Education.*

[FR Doc. 2016-08726 Filed 4-15-16; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 131

[EPA-HQ-OW-2016-0012; FRL-9944-70-OW]

RIN 2040-AF60

### Aquatic Life Criteria for Copper and Cadmium in Oregon

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) proposes to establish federal Clean Water Act (CWA) aquatic life criteria for freshwaters under the state of Oregon's jurisdiction, to protect aquatic life from the effects of exposure to harmful levels of copper and cadmium. In 2013, EPA determined that the freshwater acute cadmium criterion and freshwater acute and chronic copper criteria that Oregon adopted in 2004 did not meet CWA requirements to protect aquatic life in the state. Therefore, EPA proposes to establish federal freshwater criteria for cadmium and copper that take into account the best available science, EPA policies, guidance and legal requirements, to protect aquatic life uses in Oregon.

**DATES:** Comments must be received on or before June 2, 2016.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OW-2016-0012, at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

EPA is offering two virtual public hearings so that interested parties may

also provide oral comments on this proposed rule. The first hearing will be on Monday, May 16, 2016 from 4:00pm to 6:00pm Pacific Time. The second hearing will be on Tuesday, May 17, 2016 from 9:00am to 11:00am Pacific Time. For more details on the public hearings and a link to register, please visit <http://www.epa.gov/wqs-tech/water-quality-standards-regulations-oregon>.

**FOR FURTHER INFORMATION CONTACT:** Erica Fleisig, Office of Water, Standards and Health Protection Division (4305T), Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: (202) 566-1057; email address: [fleisig.eric@epa.gov](mailto:fleisig.eric@epa.gov).

**SUPPLEMENTARY INFORMATION:** This proposed rule is organized as follows:

- I. General Information
  - Does this action apply to me?
- II. Background
  - A. Statutory and Regulatory Authority
  - B. EPA's Disapproval of Oregon's Freshwater Copper and Cadmium Criteria
  - C. General Recommended Approach for Deriving Aquatic Life Criteria
- III. Freshwater Cadmium Aquatic Life Criteria
  - A. EPA's National Recommended Cadmium Criteria
  - B. Proposed Acute Cadmium Criterion for Oregon's Freshwaters
  - C. Implementation of Proposed Freshwater Acute Cadmium Criterion in Oregon
- IV. Freshwater Copper Aquatic Life Criteria
  - A. EPA's National Recommended Copper Criteria
  - B. Proposed Acute and Chronic Copper Criteria for Oregon's Freshwaters
  - C. Implementation of Proposed Freshwater Acute and Chronic Copper Criteria in Oregon
  - D. Ongoing State Efforts To Develop Copper Criteria for Oregon's Freshwaters
  - E. Incorporation by Reference
- V. Critical Low-Flows and Mixing Zones
- VI. Endangered Species Act
- VII. Under what conditions will federal standards be not promulgated or withdrawn?
- VIII. Alternative Regulatory Approaches and Implementation Mechanisms
  - A. Designating Uses
  - B. Site-Specific Criteria
  - C. Variances
  - D. Compliance Schedules
- IX. Economic Analysis
  - A. Identifying Affected Entities
  - B. Method for Estimating Costs
  - C. Results
- X. Statutory and Executive Order Reviews
  - A. Executive Order 12866 (Regulatory Planning and Review) and Executive Order 13563 (Improving Regulation and Regulatory Review)
  - B. Paperwork Reduction Act
  - C. Regulatory Flexibility Act
  - D. Unfunded Mandates Reform Act
  - E. Executive Order 13132 (Federalism)