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Dated: February 4, 2013.

**David M. Frank,**

*Bridge Administrator, Eighth Coast Guard District.*

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## DEPARTMENT OF EDUCATION

### 34 CFR Subtitle A

[Docket ID ED-2012-OII-0013]

RIN 1855-AA08

#### **Final Priorities, Requirements, Definitions, and Selection Criteria—Supporting Effective Educator Development [CFDA Number: 84.367D.]**

**AGENCY:** Office of Innovation and Improvement, Department of Education.

**ACTION:** Final priorities, requirements, definitions, and selection criteria.

**SUMMARY:** The Assistant Deputy Secretary for Innovation and Improvement announces priorities, requirements, definitions, and selection criteria under the Supporting Effective Educator Development (SEED) program. The Assistant Deputy Secretary may use one or more of these priorities, requirements, definitions, and selection criteria for competitions fiscal year (FY) 2013 and later years. We take this action to help national not-for-profit organizations build evidence on how best to recruit, train, and support effective teachers and school leaders; recruit and prepare effective science, technology, engineering, and mathematics teachers; and invest in efforts that increase student achievement by improving teacher and principal effectiveness.

**DATES:** These priorities, requirements, definitions, and selection criteria are effective March 14, 2013.

**FOR FURTHER INFORMATION CONTACT:** Richard Wilson, U.S. Department of Education, 400 Maryland Avenue SW., room 4W125, Washington, DC 20202. Telephone: (202) 453-6709 or by email: [SEED@ed.gov](mailto:SEED@ed.gov).

If you use a telecommunications device for the deaf or a text telephone, call the Federal Relay Service, toll free, at 1-800-877-8339.

#### **SUPPLEMENTARY INFORMATION:**

*Purpose of Program:* The SEED program provides funding for grants to national not-for-profit organizations for projects that support teacher or principal training or professional

enhancement activities and are supported by at least moderate evidence of effectiveness (as defined in this notice).

*Program Authority:* Department of Education Appropriations Act, 2012 (Pub. L. 112-74, Title III, Division F).

We published a notice of proposed priorities, requirements, definitions, and selection criteria (NPP) for this program in the **Federal Register** on September 4, 2012 (77 FR 53819). That notice contained background information and our reasons for proposing the particular priorities, requirements, definitions, and selection criteria.

These final priorities, requirements, definitions, and selection criteria contain some changes from the NPP. We fully explain these changes in the *Analysis of Comments and Changes* section in this notice.

*Public Comment:* In response to our invitation in the NPP, 18 parties submitted comments on the proposed priorities, requirements, definitions, and selection criteria.

*Analysis of Comments and Changes:* An analysis of the comments and any changes in the priorities, requirements, definitions, and selection criteria since publication of the NPP follows.

#### **Eligibility**

*Comment:* Several commenters requested that the Department alter the eligibility criteria to allow more types of entities to apply for a SEED program grant. One commenter recommended that we allow applications from large local educational agencies (LEAs) or LEAs with large numbers of students in poverty. Three commenters recommended that we allow applications from local, State, or regional not-for-profit organizations.

*Discussion:* We agree that other entities, including LEAs and local, State, and regional not-for-profit organizations, have expertise in preparing and supporting teachers and principals. However, the legislation that governs the SEED program allows for awards only to national not-for-profit organizations. Consequently, while eligible national not-for-profit applicants may partner with LEAs and local, State, and regional not-for-profit organizations to carry out their projects, the Department does not have the authority to award a SEED program grant to other types of entities.

*Change:* None.

#### **Priorities**

*Comment:* One commenter supported our focus on high-need students but also requested that we add a priority on recruiting, developing, and retaining

educators from underrepresented backgrounds to increase teacher success.

*Discussion:* We agree with the commenter on the importance of recruiting and developing educators from diverse backgrounds who reflect the backgrounds of their students. We have made this commitment explicit in option (b) of priority 4, Promoting Science, Technology, Engineering, and Mathematics (STEM) Education, which requires applicants to demonstrate how they will increase the number of individuals from groups traditionally underrepresented in STEM. We also believe that priorities 1, 2, 3, and 5 provide applicants with the flexibility to identify strategies, including those that focus on recruiting and supporting teachers and principals from underrepresented backgrounds, to improve teacher and principal effectiveness for the targeted students and schools. For these reasons, we decline to add another priority specifically focused on recruiting, developing, and retaining teachers and principals from underrepresented groups.

*Change:* None.

*Comment:* Several commenters recommended that the Department identify certain priorities as absolute or competitive.

*Discussion:* The Department generally does not designate priorities as absolute or competitive as part of a notice of final priorities, requirements, definitions, and selection criteria in order to maintain maximum flexibility in how we use the priorities in future competitions. For each future competition, we will designate priorities as absolute or competitive in the notice inviting applications.

*Change:* None.

*Comment:* One commenter recommended that we specifically cite assessment literacy—that is, the understanding and use of assessment data—as a required competency for teachers and principals in the priorities and as one of the measures in the definitions of “highly effective teacher” and “highly effective principal.” Additionally, the commenter recommended that we require applicants to evaluate assessment literacy predominantly based on performance, including classroom observations and artifact reviews, and that we require applicants to use a minimum of three years of data in measuring student growth as an indicator of teacher effectiveness.

*Discussion:* While we agree that it is important for teachers and principals to understand and use data and assessment

results to improve teaching, we believe this goal is reflected in the priorities and selection criteria. For priorities 1, 2, 3, 4, and 5, applicants are required to describe how they will measure the effect of their proposed project activities on their participants and the students they serve. Further, the selection criteria require applicants to describe how their proposed projects are expected to advance and develop teacher and school leadership theory and practice such that they increase teacher and student success. Applicants must also describe how they propose to evaluate their project outcomes. We believe that assessment literacy is implicit in these priorities and selection criteria. Just as we allow maximum flexibility for applicants to design their projects by not prescribing specific strategies or curricula for the proposed teacher and principal preparation, professional development, and advanced credentialing projects, we do not think it appropriate to add or prescribe assessment literacy as a requirement.

Also, under this program, an eligible applicant is not precluded from using supplemental performance measures such as observations and artifact reviews to distinguish highly effective teachers, provided that teacher effectiveness is evaluated, in significant part, based on student growth (as defined in this notice).

Regarding the recommendation that an applicant use a minimum of three years of data to measure student growth as an indicator of teacher effectiveness, the program does not specify a time period for collecting data on student growth. However, applicants must describe how their proposed objective performance measures are clearly related to the outcomes of the project and will produce quantitative and qualitative data within the grant performance period.

*Change:* None.

*Comment:* Several commenters suggested that we provide applicants flexibility in determining how they track the effect that their participating educators have on student growth. Additionally, they requested that we clarify whether applicants are required to create new teacher evaluation systems to track their participants' effectiveness. One commenter also asked the Department to clarify who would determine whether the evaluation systems are fair.

*Discussion:* While several of the priorities require that applicants track their participants' effectiveness based in part on student growth, none of them requires applicants to create new

evaluation systems. Applicants may choose which evaluation system to use, so long as it meets the requirements discussed in the relevant priority. Additionally, applicants must describe how the system they propose to use meets the requirements of the priority, including how the system is fair.

*Change:* None.

*Comment:* One commenter suggested using indicators other than student growth to determine teacher effectiveness so that student test scores are not the primary determinant of teacher effectiveness. Additionally, the commenter requested that we require that teachers be involved in deciding which indicators are used in the teacher evaluation systems utilized by applicants.

*Discussion:* The Department agrees that the effectiveness of teachers and principals cannot be evaluated by test scores alone. Priorities 2, 3, 4, and 5 specifically state that, while based in significant part on student growth, effectiveness must be determined "through a rigorous, transparent, and fair evaluation in which performance is differentiated using multiple measures of effectiveness." The definition of "student growth" in this notice also states that an applicant may include other measures that are rigorous and comparable across classrooms. Moreover, to meet the requirement that their teacher and principal evaluations are fair and transparent, applicants must demonstrate how key stakeholders such as teachers and principals were included in the evaluation development. Therefore, we decline to make these recommended changes.

*Change:* None.

*Comment:* One commenter recommended that we consider the approaches of other high-performing countries that emphasize teacher recruitment, training, and support.

*Discussion:* The Department believes that the priorities proposed in the NPP align with the best practices in teacher recruitment and development. Additionally, applicants may propose strategies that are used in other countries so long as they demonstrate that those strategies will have a positive effect on their target populations.

*Change:* None.

#### Priority 1

*Comment:* One commenter suggested that we expand priority 1 to include other types of school leaders, such as charter school executives.

*Discussion:* The legislation governing the SEED program allows funding only for projects focused on recruiting,

training, and supporting effective teachers and principals. The Department does not have the authority to expand the priority to include other school leaders. However, participating educators may include public charter school leaders who serve in principal roles.

*Change:* None.

*Comment:* One commenter recommended that we separate priority 1 into two priorities, one that focuses on the needs of teachers and one that focuses on the needs of principals.

*Discussion:* The Department recognizes that the preparation and development needs of principals are distinct from the needs of teachers. However, we believe the priority as written clearly permits applicants to focus their activities on teachers, principals, or both. Also, we believe that separate priorities for teachers and principals may inadvertently discourage prospective applicants from proposing projects that include both teachers and principals. Therefore, we decline to make this change.

*Change:* None.

#### Priority 2

*Comment:* One commenter requested that the Department clarify whether applicants must work exclusively with schools with high concentrations of high-need students or if they may pair master teachers from schools with lower concentrations of high-need students with teachers from schools with high concentrations of such students.

*Discussion:* The intent of the priority is to improve student achievement by increasing the number of highly effective teachers in schools with high concentrations of high-need students. While applicants must demonstrate that the primary focus of their proposed activities is on improving student achievement and teacher effectiveness in schools with high concentrations of high-need students, there is no requirement that all teachers involved in a project be from such schools.

*Change:* None.

*Comment:* One commenter suggested that, to increase student literacy skills, we broaden this priority to allow for professional development efforts to improve the writing instruction skills of all teachers, not just teachers of English language arts.

*Discussion:* The Department agrees that, to improve student literacy and writing skills, it is important for all teachers to know how to teach writing in their subject areas. We are revising the priority to support projects that provide professional development

focused on writing for teachers of all subject areas.

*Change:* We have removed the requirement that the professional development must be targeted only to teachers of English language arts. The revised priority allows applicants to propose projects that provide professional development for all teachers to develop and enhance their teaching of writing to improve student literacy and writing skills.

### Priority 3

*Comment:* One commenter supported the inclusion of a priority focused on advanced credentialing for teachers and principals. The commenter suggested that we clarify that the priority does not require all teachers seeking an advanced certification also to take on a career ladder position.

*Discussion:* The Department agrees that requiring all teachers who receive an advanced credential to take career ladder positions would be too limiting to applicants. We did not intend to limit potential candidates to those who have career ladder positions available to them. Rather, we intended to indicate that those teachers who complete an advanced credential program should be qualified to take on available career ladder positions.

*Change:* We clarified the language of the priority to indicate that completion of an advanced credential program may, but is not required to, lead to a career ladder position.

*Comment:* One commenter recommended that we add to the priority a requirement that applicants submit a rigorous, standards-based framework for identifying teacher leaders and that such a framework be built upon the applicant's record of recognizing and developing accomplished teachers.

*Discussion:* We believe the priority already addresses the concerns raised by the commenter. For example, the priority requires an applicant to propose a rigorous, competitive selection process for determining which teachers or principals participate in the applicant's proposed project. Additionally, the priority requires applicants to focus their proposed projects on encouraging and supporting teachers or principals who seek a standards-based advanced certificate or credential and who would serve as models, mentors, or coaches to other teachers or principals. Further, applicants are not precluded from including in their proposals a history of, and a project framework based on, their previous experience of developing teachers. Thus, we decline to make this change.

*Change:* None.

### Priority 4

*Comment:* One commenter supported the use of a priority focused on the STEM subject areas but suggested that we change the priority to specifically allow applicants to provide professional development to teachers so that they can become content-area coaches.

*Discussion:* We believe that there are a number of professional development approaches that could accomplish the program goal of increasing the number of highly effective teachers or principals and that this goal would not be served by highlighting one particular approach over others. The priority does not prohibit an applicant from proposing activities designed to develop teachers to be content-area coaches, so long as the applicant indicates how the activities would increase the number of highly effective teachers for the targeted schools and districts.

*Change:* None.

*Comment:* One commenter requested that we define STEM subjects under this priority and that the definition specifically include computer science.

*Discussion:* We decline to limit STEM subjects under this priority, in order to give applicants the flexibility to address the subjects of greatest interest and demand in their districts and schools. Applicants are not precluded from targeting or including computer science as a subject on which to focus to meet this priority.

*Change:* None.

### Priority 5

*Comment:* None.

*Discussion:* Because the term "core" has been defined and used in other contexts to describe academic subjects for Department programs, to avoid confusion we decided not to use that term in the priority.

*Change:* We removed all references to "core" when describing academic subjects in the title and content of the priority.

*Comment:* One commenter requested that we add computer science to the list of possible academic subjects covered under this priority.

*Discussion:* As stated previously, computer science could be specifically addressed through priority 4. We decline to add computer science to the list of academic subjects in this priority to avoid duplicating subject areas that are included in other priorities. Moreover, applicants addressing this priority are not precluded from including computer science within the context of their proposed academic subjects.

*Change:* None.

### Priority 6

*Comment:* One commenter recommended that we eliminate this priority because it does not focus on educational outcomes.

*Discussion:* We agree that the main intent of the SEED program is to improve student outcomes. However, another important focus is finding more efficient ways of achieving the same educational outcomes.

*Change:* None.

### Definitions

*Comment:* One commenter suggested that we broaden the definition of "national not-for-profit" to include local and regional entities whose activities align with national education priorities and who will disseminate their projects' findings nationally.

*Discussion:* While we know there are a number of high-performing regional and local not-for-profit entities that align their activities with national education priorities, the intent of this program is to support entities that have demonstrated their capacity to effectively respond to education priorities on a national scale. The commenter's suggested change would include those entities that target their activities to a more limited geographic area and therefore may lack the capacity to scale up a project to a national level. We note that these regionally and locally based entities may serve as partners to, or recipients of services proposed by, national not-for-profit entities that apply for a grant under this program. However, the legislation that governs the SEED program allows for awards only to national not-for-profit organizations.

*Change:* None.

*Comment:* One commenter requested that the Department clarify what an affiliate is for the purpose of the definition of a "national not-for-profit."

*Discussion:* We chose not to define "affiliate" because of the many and varying types of affiliations. Instead we are allowing flexibility for applicants to describe the specific roles of their affiliates in providing the applicants' services in the States in which those affiliates are located.

*Change:* None.

*Comment:* One commenter asked us to clarify whether the mastery of 1.5 grade levels in an academic year is a minimum threshold of student growth that teachers and principals must reach to be considered a highly effective teacher or highly effective principal.

*Discussion:* The reference to 1.5 grade levels in an academic year in the

definition of “highly effective teacher” is an example of student growth; the definition does not specify the measure of student growth that eligible applicants must use. Further, the definition does not require that an applicant use the same measure of growth for all teachers. However, we urge applicants to ensure that any rate used enables the applicant to distinguish teachers who are highly effective from those who are not.

*Change:* None.

*Comment:* One commenter recommended that the Department broaden the definition of “highly effective teacher” because grade levels are not clear in certain subject areas.

*Discussion:* The Department declines to broaden this definition because we believe it is important that all teachers are held to the same high standard. We note, as discussed in the response to the previous comment, that student mastery of 1.5 grade levels in an academic year is an example of, and not a requirement for, meeting the definition of “highly effective teacher” and that the same student growth rates are not required for all teachers. Moreover, the definition of “highly effective teacher” allows for additional measures, including those based on observation-based assessments of teacher performance or evidence of leadership roles resulting in increased effectiveness of other teachers in the school or LEA. Also, the definitions of “student achievement” and “student growth” allow for other measures of achievement, as long as they are rigorous and comparable across schools.

*Change:* None.

*Comment:* One commenter suggested that the Department alter the definition of “moderate evidence of effectiveness” to include interventions that have not been reviewed by the What Works Clearinghouse (WWC), that demonstrate impact on a mediating variable that can be linked to student growth, or that can demonstrate impact through other methodological approaches such as a quasi-experimental design. Another commenter requested that we clarify whether the studies cited by applicants to demonstrate that their projects are supported by moderate evidence of effectiveness need to have been accepted by the WWC.

*Discussion:* Interventions are not required to have been part of a previously published WWC evidence review to meet the definition of “moderate evidence of effectiveness.” Rather, the interventions have to show a positive impact on a relevant outcome. A relevant outcome may be an outcome other than a student outcome, as long as

it is the ultimate outcome of the intervention and is consistent with the goals of the SEED program. The applicant must demonstrate that an outcome other than a student outcome meets the definition of “relevant outcome.” Lastly, quasi-experimental designs are already included in the definition of “moderate evidence of effectiveness” if they meet WWC evidence standards with reservations and meet all other components of the definition of “moderate evidence of effectiveness.”

*Change:* None.

### Selection Criteria

*Comment:* One commenter indicated that it was not clear whether the selection criteria would be applied based on the number of participants served by the project.

*Discussion:* There is no minimum number of teachers or principals who must be served by a project. The intent is for applicants to provide a context and explanation for the number of proposed participants to be served by their projects. Reviewers will evaluate each application based on the explanation and documentation provided by the applicant against the selection criteria.

*Change:* None.

*Comment:* One commenter supported our decision to include sustainability as one of the selection criteria. This commenter also recommended that we add to the sustainability criterion a requirement that the applicant support the project’s participants after the grant period.

*Discussion:* We agree that supporting teachers or principals beyond their initial preparation or professional development is an important aspect of improving the teacher and principal workforce. We believe that the sustainability criterion sufficiently encourages applicants to support their project participants beyond the grant period.

*Change:* None.

### Final Priorities:

#### Priority 1: Teacher or Principal Recruitment, Selection, and Preparation.

The Assistant Deputy Secretary for Innovation and Improvement establishes a priority that funds projects that will create or expand practices and strategies that increase the number of highly effective teachers (as defined in this notice) or highly effective principals (as defined in this notice) by recruiting, selecting, and preparing talented individuals to work in schools

with high concentrations of high-need students (as defined in this notice). Projects must include activities that focus on creating or expanding high-performing teacher preparation programs, principal preparation programs, or both. Activities may include but are not limited to expanding clinical experiences, redesigning and implementing program coursework to align with State standards and district requirements for P–12 teachers, providing induction and other support for program participants in their classrooms and schools, and developing strategies for tracking the effect program graduates have on the achievement of their students or the performance of their schools.

In addition, an applicant must propose a plan demonstrating a rigorous, competitive selection process to determine which aspiring teachers or principals participate in the applicant’s proposed activities.

#### Priority 2: Professional Development for Teachers to Improve their Writing Instruction.

The Assistant Deputy Secretary for Innovation and Improvement establishes a priority that funds projects designed to improve student literacy and writing skills by creating or expanding practices and strategies that increase the number of highly effective teachers (as defined in this notice) by improving their knowledge, understanding, and teaching of writing in the context of their subject areas. Projects will focus on improving writing instruction to increase student achievement (as defined in this notice) by providing high-quality professional development to teachers in schools with high concentrations of high-need students (as defined in this notice).

Applicants are required to (i) describe the need, in the districts proposed to be served, for teacher professional development to improve student literacy and writing skills and (ii) demonstrate alignment of their proposed projects with State standards.

In addition, applicants must describe how they plan to measure the impact the professional development has on the effectiveness of teachers served by their projects. Applicants must determine teacher effectiveness through a rigorous, transparent, and fair evaluation in which performance is differentiated using multiple measures of effectiveness and based in significant part on student growth (as defined in this notice).

*Priority 3: Advanced Certification and Advanced Credentialing.*

The Assistant Deputy Secretary for Innovation and Improvement establishes a priority that funds projects that will create or expand practices and strategies based on advanced certification or advanced credentialing that increase the number of highly effective teachers (as defined in this notice), highly effective principals (as defined in this notice), or both, who work in schools with high concentrations of high-need students (as defined in this notice).

Applicants are required to focus their proposed projects on encouraging and supporting teachers, principals, or both, who seek a nationally recognized, standards-based advanced certificate or advanced credential through high-quality professional enhancement projects designed to improve teaching and learning for teachers who may take on career ladder positions (as defined in this notice), principals, or both who would serve as models, mentors, and coaches for other teachers, principals, or both working in schools with high concentrations of high-need students (as defined in this notice).

In addition, the effectiveness of teachers or principals who receive advanced certification or credentialing must be determined through a rigorous, transparent, and fair evaluation in which performance is differentiated using multiple measures of effectiveness and based in significant part on student growth (as defined in this notice).

Finally, an applicant must propose a plan demonstrating a rigorous, competitive selection process to determine which teachers or principals participate in the applicant's proposed activities.

*Priority 4: Promoting Science, Technology, Engineering, and Mathematics (STEM) Education.*

The Assistant Deputy Secretary for Innovation and Improvement establishes a priority that funds projects that address one or both of the following priority areas:

(a) Increasing the opportunities for high-quality preparation of, or professional development for, teachers of STEM subjects.

(b) Increasing the number of individuals from groups traditionally underrepresented in STEM, including minorities, individuals with disabilities, and women, who are teachers of STEM subjects and have increased opportunities for high-quality preparation or professional development.

In addition, applicants must describe how they plan to measure the impact the proposed project activities have on teacher effectiveness. Applicants must determine teacher effectiveness through a rigorous, transparent, and fair evaluation in which performance is differentiated using multiple measures of effectiveness and based in significant part on student growth (as defined in this notice).

*Priority 5: Professional Development for Teachers of Academic Subjects.*

The Assistant Deputy Secretary for Innovation and Improvement establishes a priority that funds projects that will create or expand practices and strategies that increase the number of highly effective teachers (as defined in this notice) by providing professional development opportunities to teachers, including special education teachers, in schools with high concentrations of high-need students (as defined in this notice). Projects must focus on increasing student achievement (as defined in this notice) in academic subjects by providing high-quality professional development to teachers. The academic subjects that may be addressed through professional development under this priority include foreign languages, civics and government, economics, arts, history, physical education, geography, environmental education, and financial literacy.

Applicants are required to describe the need of the proposed districts to be served for teacher professional development in the selected high-need academic subjects and to demonstrate alignment of the proposed projects with State standards.

In addition, applicants must describe how they plan to measure the impact the professional development has on teacher effectiveness. Applicants must determine teacher effectiveness through a rigorous, transparent, and fair evaluation in which performance is differentiated using multiple measures of effectiveness and based in significant part on student growth (as defined in this notice).

*Priority 6: Improving Efficiency (Cost-Effectiveness).*

The Assistant Deputy Secretary for Innovation and Improvement establishes a priority that funds projects that will identify strategies for providing cost-effective, high-quality services at the State, regional, or local level by making better use of available resources. Such projects may include innovative and sustainable uses of technology, modification of school schedules and

teacher compensation systems, use of open educational resources (as defined in this notice), or other strategies.

*Priority 7: Supporting Practices and Strategies for Which There Is Strong Evidence of Effectiveness.*

The Assistant Deputy Secretary for Innovation and Improvement establishes a priority that funds projects that are supported by strong evidence of effectiveness (as defined in this notice).

## 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)).

## Final Requirements

The Assistant Deputy Secretary for Innovation and Improvement establishes the following requirements for the SEED program. We may apply these requirements in any year in which this program is in effect.

*Eligible applicants:* To be eligible for a SEED program grant, an entity must be a national not-for-profit organization (as defined in this notice). Each applicant must provide in its application documentation that it is a national not-for-profit organization (as defined in this notice).

*Evidence of effectiveness:* To be eligible for funding, an applicant must demonstrate that its proposed project is supported by at least moderate evidence of effectiveness (as defined in this notice).

Each applicant must provide in its application documentation that its proposed project is supported by at least moderate evidence of effectiveness. An

applicant that responds to the Supporting Practices and Strategies for Which There Is Strong Evidence of Effectiveness priority also must provide documentation that its proposed project is supported by strong evidence of effectiveness (as defined in this notice). An applicant must ensure that all evidence is available to the Department from publically available sources and provide links or references to, or copies of, the evidence in the application. If the Department determines that an applicant has provided insufficient evidence that its proposed project meets the definition of “moderate evidence of effectiveness” or “strong evidence of effectiveness,” the applicant will not have an opportunity to provide additional evidence to support its application.

*Evaluations:* An applicant receiving funds under this program must comply with the requirements of any evaluation of the program conducted by the Department. In addition, an applicant receiving funds under this program must make broadly available through formal (e.g., peer-reviewed journals) or informal (e.g., newsletters) mechanisms, in print or electronically, the results of any evaluations it conducts of its funded activities.

#### Final Definitions

The Assistant Deputy Secretary for Innovation and Improvement establishes the following definitions for the SEED program. We may apply one or more of these definitions in any year in which this program is in effect.

*Career ladder positions* means school-based instructional leadership positions designed to improve instructional practice, which teachers may voluntarily accept, such as positions described as master teacher, mentor teacher, demonstration or model teacher, or instructional coach, and for which teachers are selected based on criteria that are predictive of the ability to lead other teachers.

*High-need students* means students at risk of educational failure, such as students who are living in poverty, who are English learners, who are far below grade level or who are not on track to becoming college- or career-ready by graduation, who have left school or college before receiving, respectively, a regular high school diploma or a college degree or certificate, who are at risk of not graduating with a diploma on time, who are homeless, who are in foster care, who are pregnant or parenting teenagers, who have been incarcerated, who are new immigrants, who are migrant, or who have disabilities.

*Highly effective principal* means a principal whose students, overall and for each subgroup as described in section 1111(b)(2)(C)(v)(II) of the Elementary and Secondary Education Act, as amended (ESEA) (i.e., economically disadvantaged students, students from major racial and ethnic groups, students with disabilities, and students with limited English proficiency), achieve high rates (e.g., one and one-half grade levels in an academic year) of student growth. Eligible applicants may include multiple measures, provided that principal effectiveness is evaluated, in significant part, based on student growth. Supplemental measures may include, for example, high school graduation rates; college enrollment rates; evidence of providing supportive teaching and learning conditions, support for ensuring effective instruction across subject areas for a well-rounded education, strong instructional leadership, and positive family and community engagement; or evidence of attracting, developing, and retaining high numbers of effective teachers.

*Highly effective teacher* means a teacher whose students achieve high rates (e.g., one and one-half grade levels in an academic year) of student growth. Eligible applicants may include multiple measures, provided that teacher effectiveness is evaluated, in significant part, based on student growth. Supplemental measures may include, for example, multiple observation-based assessments of teacher performance or evidence of leadership roles (which may include mentoring or leading professional development learning communities) that increase effectiveness of other teachers in the school or local educational agency (LEA).

*Large sample* means a sample of 350 or more students (or other single analysis units) who were randomly assigned to a treatment or control group, or 50 or more groups (such as classrooms or schools) that contain 10 or more students (or other single analysis units) and that were randomly assigned to a treatment or control group.

*Moderate evidence of effectiveness* means one of the following conditions is met:

(a) There is at least one study of the effectiveness of the process, product, strategy, or practice being proposed that: Meets the What Works Clearinghouse (WWC) Evidence Standards without reservations;<sup>1</sup> found a statistically

significant favorable impact on a relevant outcome (as defined in this notice) (with no statistically significant unfavorable impacts on that outcome for relevant populations in the study or in other studies of the intervention reviewed by and reported on by the WWC); and includes a sample that overlaps with the populations or settings proposed to receive the process, product, strategy, or practice.

(b) There is at least one study of the effectiveness of the process, product, strategy, or practice being proposed that: Meets the WWC Evidence Standards with reservations;<sup>2</sup> found a statistically significant favorable impact on a relevant outcome (as defined in this notice) (with no statistically significant unfavorable impacts on that outcome for relevant populations in the study or in other studies of the intervention reviewed by and reported on by the WWC); includes a sample that overlaps with the populations or settings proposed to receive the process, product, strategy, or practice; and includes a large sample (as defined in this notice) and a multi-site sample (as defined in this notice). (Note: Multiple studies can cumulatively meet the large and multi-site sample requirements as long as each study meets the other requirements in this paragraph.)

*Multi-site sample* means more than one site, where site can be defined as an LEA, locality, or State.

*National level* describes the level of scope or effectiveness of a process, product, strategy, or practice that is able to be effective in a wide variety of communities, including rural and urban areas, as well as with different groups (e.g., economically disadvantaged, racial and ethnic groups, migrant populations, individuals with disabilities, English learners, and individuals of each gender).

*National not-for-profit organization* means an entity that meets the definition of “nonprofit” under 34 CFR 77.1(c) and is of national scope, meaning that the entity provides services in multiple States to a significant number or percentage of recipients and is supported by staff or affiliates in multiple States.

*Open educational resources* means teaching, learning, and research resources that reside in the public domain or have been released under an intellectual property license that

be found at the following link: <http://ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19>.

<sup>1</sup> See WWC Procedures and Standards Handbook (Version 2.1, September 2011), which can currently

<sup>2</sup> See WWC Procedures and Standards Handbook (Version 2.1, September 2011), which can currently be found at the following link: <http://ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19>.

permits their free use or repurposing by others.

*Relevant outcome* means the student outcome or outcomes (or the ultimate outcome if not related to students) that the proposed project is designed to improve, consistent with the specific goals of a program.

*Strong evidence of effectiveness* means that one of the following conditions is met:

(a) There is at least one study of the effectiveness of the process, product, strategy, or practice being proposed that: Meets the WWC Evidence Standards without reservations;<sup>3</sup> found a statistically significant favorable impact on a relevant outcome (as defined in this notice) (with no statistically significant unfavorable impacts on that outcome for relevant populations in the study or in other studies of the intervention reviewed by and reported on by the WWC); includes a sample that overlaps with the populations and settings proposed to receive the process, product, strategy, or practice; and includes a large sample (as defined in this notice) and a multi-site sample (as defined in this notice). (**Note:** multiple studies can cumulatively meet the large and multi-site sample requirements as long as each study meets the other requirements in this paragraph.)

(b) There are at least two studies of the effectiveness of the process, product, strategy, or practice being proposed, each of which: Meets the WWC Evidence Standards with reservations;<sup>4</sup> found a statistically significant favorable impact on a relevant outcome (as defined in this notice) (with no statistically significant unfavorable impacts on that outcome for relevant populations in the studies or in other studies of the intervention reviewed by and reported on by the WWC); includes a sample that overlaps with the populations and settings proposed to receive the process, product, strategy, or practice; and includes a large sample (as defined in this notice) and a multi-site sample (as defined in this notice).

*Student achievement* means—

(a) For tested grades and subjects: (1) A student's score on the State's assessments under the ESEA; and, as appropriate, (2) other measures of student learning, such as those described in paragraph (b) of this

definition, provided they are rigorous and comparable across schools.

(b) For non-tested grades and subjects: Alternative measures of student learning and performance, such as student scores on pre-tests and end-of-course tests; student performance on English language proficiency assessments; and other measures of student achievement that are rigorous and comparable across schools.

*Student growth* means the change in student achievement (as defined in this notice) for an individual student between two or more points in time. An applicant may also include other measures that are rigorous and comparable across classrooms.

#### Final Selection Criteria:

The Assistant Deputy Secretary for Innovation and Improvement establishes the following selection criteria for evaluating an application under the SEED program. We may apply one or more of these criteria, as well as other criteria or factors established in 34 CFR 75.210, in any year in which this program is in effect. In the notice inviting applications or the application package, or both, we will announce the maximum possible points assigned to each criterion.

(a) *Significance.* The Secretary considers the significance of the proposed project. In determining the significance of the proposed project, the Secretary considers:

(1) The significance of the proposed project on a national level (as defined in this notice).

(2) The potential contribution of the proposed project to the development and advancement of teacher and school leadership theory, knowledge, and practices.

(3) The importance or magnitude of the results or outcomes likely to be attained by the proposed project, especially improvements in teaching and student achievement.

(b) *Quality of the Project Design and Services.* The Secretary considers the quality of the design and services of the proposed project. In determining the quality of the design and services of the proposed project, the Secretary considers:

(1) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified, aligned, and measurable.

(2) The extent to which the proposed project is part of a comprehensive effort to improve teaching and learning and support rigorous academic standards for students.

(3) The extent to which the training or professional development services to be

provided by the proposed project will be of sufficient quality, intensity, and duration to lead to improvements in practice among the recipients of those services.

(c) *Quality of the Management Plan and Personnel.* The Secretary considers the quality of the management plan for the proposed project and of the personnel who will carry out the proposed project. In determining the quality of the management plan and the project personnel, the Secretary considers:

(1) The qualifications, including relevant training and experience, of the project director, key project personnel, and project consultants or subcontractors.

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

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

(4) The extent to which the proposed management plan includes sufficient and reasonable resources to effectively carry out the proposed project, including the project evaluation.

(d) *Sustainability.* The Secretary considers the adequacy of resources to continue the proposed project after the grant period ends. In determining the adequacy of resources and the potential for utility of the proposed project's activities and products by other organizations, the Secretary considers:

(1) The extent to which the proposed project is designed to build capacity and yield results that will extend beyond the period of Federal financial assistance.

(2) The extent to which the proposed project is likely to yield findings and products (such as information, materials, processes, or techniques) that may be used by other agencies and organizations.

(3) The extent to which the applicant will disseminate information about results and outcomes of the proposed project in ways that will enable others, including the public, to use the information or strategies.

(e) *Quality of the Project Evaluation.* The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers one or more of the following factors:

(1) The extent to which the methods of evaluation are thorough, feasible, and

<sup>3</sup> See WWC Procedures and Standards Handbook (Version 2.1, September 2011), which can currently be found at the following link: <http://ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19>.

<sup>4</sup> See What Works Clearinghouse Procedures and Standards Handbook (Version 2.1, September 2011), which can currently be found at the following link: <http://ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19>.

appropriate to the goals, objectives, and outcomes of the proposed project.

(2) The extent to which the evaluation includes the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data.

(3) The extent to which the evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

(4) The extent to which the proposed project plan includes sufficient resources to carry out the project evaluation effectively.

**Note:** We encourage applicants to review the following technical assistance resources on evaluation: (1) WWC Procedures and Standards Handbook: <http://ies.ed.gov/ncee/wwc/references/iddocviewer/doc.aspx?docid=19&tocid=1>; and (2) IES/NCEE Technical Methods papers: [http://ies.ed.gov/ncee/tech\\_methods/](http://ies.ed.gov/ncee/tech_methods/).

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

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

### Executive Orders 12866 and 13563

#### *Regulatory Impact Analysis*

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

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

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

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

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

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

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

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

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

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

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

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

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

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

We also have determined that this regulatory action does not unduly interfere with 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.

### Summary of Costs and Benefits

The costs of carrying out activities would be paid for with program funds and with matching funds (if any) provided by private-sector partners. Thus, the costs of implementation would not be a burden for any eligible applicants, including small entities.

*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, audiotape, 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: February 7, 2013.

**James H. Shelton, III,**

*Assistant Deputy Secretary for Innovation and Improvement.*

[FR Doc. 2013-03210 Filed 2-11-13; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 51

[EPA-HQ-OAR-2007-0089; FRL-9779-3]

RIN 2060-AO17

### Air Quality: Revision to Definition of Volatile Organic Compounds—Exclusion of a Group of Four Hydrofluoropolyethers (HFPEs)

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

**ACTION:** Final rule.

**SUMMARY:** This action revises the definition of volatile organic compounds (VOCs) under the Clean Air Act (CAA). This revision adds four chemical compounds to the list of compounds excluded from the definition of VOC on the basis that each of these compounds makes a negligible contribution to tropospheric ozone formation. These compounds consist of four hydrofluoropolyethers (HFPEs) which are identified as HCF<sub>2</sub>OCF<sub>2</sub>H (also known as HFE-134), HCF<sub>2</sub>OCF<sub>2</sub>OCF<sub>2</sub>H (also known as HFE-236cal2), HCF<sub>2</sub>OCF<sub>2</sub>CF<sub>2</sub>OCF<sub>2</sub>H (also known as HFE-338pcc13), and HCF<sub>2</sub>OCF<sub>2</sub>OCF<sub>2</sub>CF<sub>2</sub>OCF<sub>2</sub>H (also known as H-Galden 1040X or H-Galden ZT 130 (or 150 or 180)). If an entity uses or produces any of these four HFPE compounds (these being in the family of products known by the trade name H-Galden) and is subject to the EPA regulations limiting the use of VOC in a product, limiting the VOC emissions from a facility, or otherwise controlling the use of VOC for purposes related to attaining the ozone national ambient air quality standards (NAAQS), then the compound will not be counted as a VOC in determining whether these regulatory obligations have been met. This action may also affect whether any of these compounds is considered a VOC for state regulatory purposes, depending on whether the state relies on the EPA's definition of VOC. In addition, the EPA is making certain technical corrections to the current list of exempt compounds.

**DATES:** The final rule is effective on March 14, 2013.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID

No. EPA-HQ-OAR-2007-0089. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the index, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Docket ID No. EPA-HQ-OAR-2007-0089, EPA/DC, EPA West, Room 3334, 1301 Constitution Avenue, Northwest, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air and Radiation Docket is (202) 566-1742.

**FOR FURTHER INFORMATION CONTACT:** David Sanders, Office of Air Quality Planning and Standards, Air Quality Policy Division, State and Local Programs Group, Mail Code (C539-01), Environmental Protection Agency, Research Triangle Park, N.C. 27711; telephone (919) 541-3356 or fax (919) 541-0824; and email address: [sanders.dave@epa.gov](mailto:sanders.dave@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

###### A. Does this action apply to me?

Entities potentially affected by this final rule include, but are not necessarily limited to, states (typically state air pollution control agencies) that control VOCs, and industries listed in the following table involved in the manufacture or use of fire suppressants and specialized refrigerants in secondary loop refrigeration systems for heat transfer. Table 1 is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. This table lists the types of entities that the EPA is now aware of that could potentially be affected by this action. Other types of entities not listed in the table could also be affected. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section. This action has no substantial direct effects on industry because it does not impose any new mandates on these entities, but, to the contrary, removes these four HFPEs from the regulatory definition of VOC.

This final rule is applicable to all manufacturers, distributors and users of these chemical compounds as identified in Table 1.

TABLE 1—POTENTIALLY AFFECTED REGULATED CATEGORIES AND ENTITIES

Industry group	SIC <sup>a</sup>	NAICS <sup>b</sup>
Fire Suppression Refrigerants ..	2899 2869, 3585 238220, 336111	325998, 423990

<sup>a</sup>Standard Industrial Classification.

<sup>b</sup>North American Industry Classification System.

##### B. How is this preamble organized?

The information presented in this preamble is organized as follows:

- I. General Information
  - A. Does this action apply to me?
  - B. How is this preamble organized?
- II. Proposed Action
  - A. The EPA's VOC Exemption Policy
  - B. Petition to List the Following Compounds as Exempt: HCF<sub>2</sub>OCF<sub>2</sub>H (HFE 134), HCF<sub>2</sub>OCF<sub>2</sub>OCF<sub>2</sub>H (HFE-236cal2), HCF<sub>2</sub>OCF<sub>2</sub>CF<sub>2</sub>OCF<sub>2</sub>H (HFE-338pcc13), and HCF<sub>2</sub>OCF<sub>2</sub>OCF<sub>2</sub>CF<sub>2</sub>OCF<sub>2</sub>H (H-Galden 1040X and H-Galden ZT 130 (or 150 or 180))
  - C. Likelihood of Risk to Human Health or the Environment
  - D. Conclusion
- III. Public Comments
- IV. Final Action
- V. Statutory and Executive Orders Reviews
  - A. Executive Order 12866: Regulatory Planning 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
  - F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
  - G. Executive Order 13045: Protection of Children from Environmental Health and Safety Risks
  - H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
  - I. National Technology Transfer and Advancement Act
  - J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
  - K. Congressional Review Act
  - L. Judicial Review