

unless authorized by the Captain of the Port or his Designated Representative, or is otherwise provided by exemption or waiver provisions in these security zone regulations.

**DATES:** The regulations in 33 CFR 165.1321 will be enforced from 6 a.m. on September 15, 2016, through 11:59 p.m. on September 20, 2016, for the security zone identified in paragraph (c)(2) of that section, unless cancelled sooner by the Captain of the Port.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this notice of enforcement, call or email Chief Warrant Officer Jeffrey Zappen, Sector Puget Sound Waterways Management Division, Coast Guard; telephone 206-217-6076, email [SectorPugetSoundWWM@uscg.mil](mailto:SectorPugetSoundWWM@uscg.mil).

**SUPPLEMENTARY INFORMATION:** The Coast Guard will enforce regulations in 33 CFR 165.1321 for the Sitcum Waterway Security Zone identified in paragraph (c)(2) of that section, from September 15, 2016, at 6 a.m. through 11:59 p.m. on September 20, 2016, unless cancelled sooner by the Captain of the Port or Designated Representative. Under the provisions of 33 CFR 165.1321, the security zone will provide for the regulation of vessel traffic in the vicinity of military cargo loading facilities in the navigable waters of the United States. The security zones also exclude persons and vessels from the immediate vicinity of these facilities during military cargo loading and unloading operations. In addition, the regulation establishes requirements for all vessels to obtain permission of the COTP or Designated Representative, including the Vessel Traffic Service (VTS), to enter, move within, or exit these security zones when they are enforced. Entry into this zone is prohibited unless authorized by the Captain of the Port or a Designated Representative, or is otherwise allowed under exemption or waiver provisions in 33 CFR 165.1321(h) or (i).

This notice of enforcement is issued under authority of 33 CFR 165.1321 and 5 U.S.C. 552 (a). In addition to this notice of enforcement in the **Federal Register**, the Coast Guard will provide the maritime community with notification of this enforcement period via marine information broadcasts and on-scene assets. If the COTP determines that the regulated area need not be enforced for the full duration stated in this notice of enforcement, a Broadcast Notice to Mariners may be used to grant general permission to enter the regulated area.

Dated: September 8, 2016.

**M.W. Raymond,**

*Captain, U.S. Coast Guard, Captain of the Port, Puget Sound.*

[FR Doc. 2016-22098 Filed 9-13-16; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF EDUCATION

### 34 CFR Chapter I

**RIN 1875-AA11**

**[Docket ID ED-2016-OS-0002]**

#### Secretary's Final Supplemental Priority for Discretionary Grant Programs

**AGENCY:** Department of Education.

**ACTION:** Final priority.

**SUMMARY:** To further support a comprehensive education agenda and to address concentrated poverty and related segregation in our Nation's schools, the Secretary of Education establishes an additional priority primarily for use in any discretionary grant program focused on elementary and secondary education, as appropriate, for fiscal year (FY) 2016 and future years. The Secretary adds this priority to the existing supplemental priorities and definitions for discretionary grant programs that were published in the **Federal Register** on December 10, 2014 (2014 Supplemental Priorities). This priority reflects our efforts to address emerging needs in education.

**DATES:** This supplemental priority is effective October 14, 2016.

**FOR FURTHER INFORMATION CONTACT:** Ramin Taheri, U.S. Department of Education, 400 Maryland Avenue SW., Room 5E343, Washington, DC 20202-5930. Telephone: (202) 453-5961 or by email: [ramin.taheri@ed.gov](mailto:ramin.taheri@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:

**Program Authority:** 20 U.S.C. 1221e-3, 3474.

We published a notice of proposed priority (NPP) in the **Federal Register** on June 8, 2016 (81 FR 36833). That document contained background information and our reasons for proposing the additional priority.

**Public Comment:** In response to our invitation in the NPP, 13 parties submitted comments on the proposed priority.

**Analysis of Comments and Changes:** An analysis of the comments follows.

We group our discussion according to the general issues raised. We do not address technical and other minor changes.

**Comment:** Several commenters expressed concern that the proposed priority would adversely affect rural communities and students who reside within them, where the geographic isolation of students from one particular racial, ethnic, or socioeconomic group would render efforts to diversify schools difficult or impossible. Many of these commenters expressed support for the priority and the importance of addressing the growing segregation and inequality in our Nation's schools, but suggested that the Department use the priority as an invitational priority, as opposed to a competitive preference or absolute priority, to ensure that rural applicants are not unfairly disadvantaged in grant competitions.

**Discussion:** We appreciate the commenters' concern that the priority may not be appropriate or beneficial for rural communities whose geographical constraints make increasing socioeconomic diversity infeasible. First, we note that increasing educational equity for rural students and communities is a focus area for the Department of Education (the Department); for example, *Priority 4—Supporting High-Need Students* from the 2014 Supplemental Priorities includes language that allows the Department to prioritize projects designed to improve outcomes for students served by rural local educational agencies (LEAs).

Second, we acknowledge that solutions to educational challenges are often different in rural, urban, and suburban communities. We note, however, that the Department has discretion in how and when it will use this priority (including whether to use it as an invitational or other type of priority), and does not intend to use this priority in a way that would disadvantage rural applicants. Rather, it is our intention to use this priority strategically to encourage diversity only in those situations where we believe such efforts are most appropriate and best support the possibility of increasing socioeconomic diversity in schools.

**Changes:** None.

**Comment:** In addition to concerns related to geographically isolated, rural communities, many commenters raised questions regarding the utility of the priority in Indian country. Specifically, these commenters expressed concerns about how the priority would affect American Indian or Alaska Native students who attend schools in rural areas, on tribal lands that are

geographically isolated, or in villages or communities that are not accessible, legally or physically, to students who are not members of a particular American Indian or Alaska Native tribe. One commenter suggested the Department can protect against unintended negative impacts on Native students by including a race-based preference whenever using the priority for socioeconomic diversity.

*Discussion:* We understand and appreciate the concerns raised with respect to Native students and their communities. As with rural LEAs, however, the Department believes that the 2014 Supplemental Priorities include a priority to help address these concerns; specifically, *Priority 4—Serving High-Need Students*, which allows the Department to prioritize projects designed to serve students who are members of federally recognized Indian tribes, provides a sufficient basis for the Department to channel Federal resources toward improved outcomes for Native students. With respect to the comment suggesting that the Department include a race-based preference in tandem with the priority, we note that *Priority 12—Promoting Diversity* from the 2014 Supplemental Priorities includes language that allows the Department to focus on projects designed to increase racial and ethnic diversity. Finally, as mentioned in the discussion of the comments regarding rural communities, while the Department declines to make any changes to the priority based on these comments, we reiterate our intention to use this priority strategically to encourage diversity only in those situations where we believe such efforts are most appropriate and we do not intend to use it in a way that would adversely affect Native students.

*Changes:* None.

*Comment:* Several commenters expressed support for increasing diversity in our Nation's public schools. One commenter suggested that a focus on diversity must be accompanied by concerted efforts to foster and maintain positive and supportive school climates. The commenter further urged the Department to issue guidance or other technical assistance documents related to school diversity. Finally, the commenter suggested that the Department ensure that potential grant applicants wishing to focus on diversity initiate and maintain communications with their local communities.

*Discussion:* We appreciate the comments in support of the priority and the Department's focus on increasing diversity. The Department agrees that a focus on positive school climate is an

important part of improving outcomes for all students. Moreover, a positive, supportive school climate may be essential to ensuring that a diverse student body achieves true cohesiveness. While we decline to make any changes to the priority based on this comment, the Department remains committed to exploring avenues to encourage safe, supportive, and positive school climates. For example, *Priority 13—Improving School Climate, Behavioral Supports, and Correctional Education* from the 2014 Supplemental Priorities offers opportunities to direct Federal resources toward projects designed to improve school climate.

We appreciate the comment suggesting that the Department issue guidance or technical assistance documents about school diversity. We agree that additional resources may be helpful in assisting LEAs and communities in undertaking efforts to diversify their schools. We note that there are existing resources, such as the Department's Equity Assistance Centers, that stand ready to offer technical assistance related to school climate issues based on race, national origin, sex, and religion. Moreover, the Department continues to explore all opportunities to develop and issue guidance materials in this and other important policy areas.

Finally, the Department agrees with the recommendation that grant applicants collaborate and communicate with their local communities. Public engagement is an integral part of any comprehensive, successful school diversity strategy. In that regard, the priority includes language that contemplates community input, robust family and community involvement, and other forms of public engagement.

*Changes:* None.

*Comment:* None.

*Discussion:* We are revising paragraph (d) to allow the Department more flexibility to tailor the priority for each competition in which the priority is used in order to narrow the focus on the strategies proving most effective in a specific context or on where the greatest needs are from year to year. We note that revisions to paragraph (d) would still allow the Department to use the paragraph in its entirety, as appropriate.

*Changes:* In the introductory language, subparagraph (ii), and subparagraph (vi) of paragraph (d), we have revised the priority to provide the Department the flexibility described above. In addition, we have revised the wording in subparagraphs (ii), (v), and (vi) so that each will stand better on its own should it be used in isolation in a grant competition.

*Final Priority:* The Secretary establishes the following priority for use primarily in any discretionary grant competition focused on elementary and secondary education, as appropriate, in FY 2016 and future years. This priority is in addition to the 2014 Supplemental Priorities.

#### **Priority—Increasing Socioeconomic Diversity in Schools**

Projects that are designed to increase socioeconomic diversity in educational settings by addressing one or more of the following:

(a) Using established survey or data-collection methods to identify socioeconomic stratification and related barriers to socioeconomic diversity at the classroom, school, district, community, or regional level.

(b) Developing, evaluating, or providing technical assistance on evidence-based policies or strategies designed to increase socioeconomic diversity in schools.

(c) Designing or implementing, with community input, education funding strategies, such as the use of weighted per-pupil allocations of local, State, and eligible Federal funds, to provide incentives for schools and districts to increase socioeconomic diversity.

(d) Developing or implementing policies or strategies to increase socioeconomic diversity in schools that are evidence-based; demonstrate ongoing, robust family and community involvement, including a process for intensive public engagement and consultation; and meet one or more of the following factors—

(i) Are carried out on one or more of an intra-district, inter-district, community, or regional basis;

(ii) Reflect coordination with other relevant government entities, including housing or transportation authorities, to the extent practicable;

(iii) Are based on an existing, public diversity plan or diversity needs assessment; and

(iv) Include one or both of the following strategies—

(A) Establishing school assignment or admissions policies that are designed to give preference to low-income students, students from low-performing schools, or students residing in neighborhoods experiencing concentrated poverty to attend higher-performing schools; or

(B) Establishing or expanding schools that are designed to attract substantial numbers of students from different socioeconomic backgrounds, such as magnet or theme schools, charter schools, or other schools of choice.

*Types of Priorities:* When inviting applications for a competition using one

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

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

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

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

This 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 and definitions, 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 this final priority only on a reasoned determination that its benefits justify its costs. In choosing among alternative regulatory approaches, we selected the approach 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 associated with this regulatory action are those resulting from regulatory requirements and those we have determined as necessary for administering the Department’s programs and activities.

**Discussion of Costs and Benefits:** The final priority will not impose significant costs on entities that would receive assistance through the Department’s discretionary grant programs. Additionally, the benefits of implementing the final priority outweigh any associated costs because it will allow the Department to focus discretionary grant competitions on this important area.

Application submission and participation in a discretionary grant program are voluntary. The Secretary believes that the costs imposed on applicants by the final priority will be limited to paperwork burden related to preparing an application for a discretionary grant program that is using the priority in its competition. Because the costs of carrying out activities would be paid for with program funds, the costs of implementation would not be a burden for any eligible applicants, including small entities.

**Regulatory Flexibility Act Certification:** For these reasons as well, the Secretary certifies that these final regulations will not have a significant economic impact on a substantial number of small entities.

**Intergovernmental Review:** Some of the programs affected by this final priority are 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 these programs.

**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: September 9, 2016.

**John B. King, Jr.,**

*Secretary of Education.*

[FR Doc. 2016-22104 Filed 9-13-16; 8:45 am]

BILLING CODE 4000-01-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R01-OAR-2016-0441; A-1-FRL-9952-11-Region I]

### Air Plan Approval; VT; Prevention of Significant Deterioration, PM<sub>2.5</sub>

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

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Vermont. The revision sets the amount of PM<sub>2.5</sub> increment sources are permitted to consume when obtaining a prevention of significant deterioration (PSD) preconstruction permit and requires PM<sub>2.5</sub> emission offsets under certain circumstances. This action is being taken in accordance with the Clean Air Act.

**DATES:** This direct final rule will be effective November 14, 2016, unless EPA receives adverse comments by October 14, 2016. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R01-OAR-2016-0441 at <http://www.regulations.gov>, or via email to [McDonnell.Ida@epa.gov](mailto:McDonnell.Ida@epa.gov). For comments submitted at *Regulations.gov*, follow the

online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, the 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. The 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, please contact the person identified in the "For Further Information Contact" section. For 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>.

**FOR FURTHER INFORMATION CONTACT:** Ida E. McDonnell, Manager, Air Permits, Toxics, and Indoor Programs Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100, (OEP05-2), Boston, MA 02109-3912, phone number (617) 918-1653, fax number (617) 918-0653, email [McDonnell.Ida@epa.gov](mailto:McDonnell.Ida@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

Organization of this document. The following outline is provided to aid in locating information in this preamble.

- I. Background and Purpose
- II. Summary of State Submittal
- III. Final Action
- IV. Incorporation by Reference
- V. Statutory and Executive Order Reviews

#### I. Background and Purpose

On October 20, 2010, EPA issued the final rule on the "Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers (PM<sub>2.5</sub>)—Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC)" (2010 PSD Rule). See 75 FR 64864. This rule established several components for making PSD permitting determinations for PM<sub>2.5</sub>, including a system of "increments," which is the mechanism used to estimate significant deterioration of ambient air quality for

a pollutant. These increments are codified in 40 CFR 51.166(c) and 40 CFR 52.21(c).

#### II. Summary of State Submittal

On July 25, 2014, the VT DEC submitted a revision to its state implementation plan (SIP) primarily addressing permitting requirements for PM<sub>2.5</sub> emissions. In a letter dated July 13, 2016, VT DEC withdrew some, but not all, of the revisions the State requested in its 2014 SIP submittal. The State withdrew these provisions for various reasons; either because more information would be needed before certain provisions could be approved by EPA into the SIP, one provision was erroneously submitted, or Vermont intends in the near future to revise certain provisions and resubmit them to EPA. On July 20, 2016, EPA's Region I Administrator signed a direct final notice approving the remaining revisions except for revisions Vermont made to its Air Pollution Control Regulations (APCR), Table 2 (Prevention of Significant Deterioration (PSD) Increments) and Table 3 (Levels of Significant Impact).

Vermont revised Table 2 by adding increments for PM<sub>2.5</sub> as well as some minor grammatical changes. Vermont revised Table 3 by changing the table's title, removing the level of significant impact for Total Suspended Particles, and adding levels for PM<sub>2.5</sub>. Tables 2 and 3 address different aspects of permitting. Table 2 addresses the amount of a pollutant (increment consumption) a major new or modified source may contribute to the ambient air consistent with the CAA's requirements. Table 3 addresses situations in which Vermont's regulations would require emissions offsets, even for major new or modified sources that are subject to PSD preconstruction permitting requirements.

#### III. Final Action

EPA has found the PSD increment values added to Table 2 to be consistent with 40 CFR 51.166(c) and has also found that the increment values meet the anti-back sliding requirements of Section 110(l) of the Clean Air Act. Therefore, EPA is approving revised Table 2 into the Vermont SIP.

Vermont revised Table 3 by adding thresholds for PM<sub>2.5</sub> for Class I, II, and III areas. Major new or modified sources subject to PSD permitting requirements must obtain emissions offsets if the listed thresholds would be exceeded in an area found not to be attaining the national ambient air quality standard. The thresholds in Table 3 for PM<sub>2.5</sub> for Class II and Class III areas are consistent