

we do discuss the effects of this rule elsewhere in this preamble.

#### F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone to protect waterway users that would prohibit entry within 250 yards of object removal, dredging and diving operations within and around the main navigational channel. Vessels may request permission to enter or transit through the safety zone. It is categorically excluded from further review under paragraph L[60a] of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

#### G. Protest Activities

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

#### VI. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help us amend this regulation so that it provides a better solution to the problem we seek to address. We may issue a temporary final rule or other appropriate document in response to your comments. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <https://www.regulations.gov>. If your material cannot be submitted using <https://>

[www.regulations.gov](https://www.regulations.gov), call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <https://www.regulations.gov> and will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

Documents mentioned in this temporary interim rule as being available in the docket, and all public comments, will be in our online docket at <https://www.regulations.gov> and can be viewed by following that website's instructions.

#### List of Subjects in 33 CFR Part 165

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

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

#### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

- 2. Add § 165.T05–0344, to read as follows:

#### § 165.T05–0344 Safety Zone, Object Removal; Delaware River and Bay, Philadelphia, PA.

(a) *Location.* The following area is a safety zone: All navigable waters within 250 yards of the dredge KOKO VI, the towing vessel GEORGETOWN, the deck barge BC 45, and all associated equipment while conducting object removal, dredging and dive operations within the Delaware Bay and River.

(b) *Definitions.* As used in this section, *designated representative* means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port to assist with enforcement of the safety zone described in paragraph (a) of this section.

(c) *Regulations.* (1) Entry into or transiting within the safety zone identified in paragraph (a) of this section is prohibited unless vessels obtain permission from the Captain of the Port or his designated representatives via VHF–FM channel 16

or 215–271–4807, or make satisfactory passing arrangements via VHF–FM channel 13 or 8 with the operating dredge per this section and the rules of the Road (33 CFR subchapter E). To avoid transit delays, vessels requesting to transit should contact the operating dredge via VHF–FM channel 13 or 8 at least 1 hour prior to arrival.

(2) This section applies to all vessels except those engaged in the following operations: Enforcement of laws, service of aids to navigation, and emergency response.

(d) *Enforcement agencies.* The U.S. Coast Guard may be assisted by federal, state and local agencies in the patrol and enforcement of the zone.

(e) *Enforcement period.* This section will be enforced from June 18, 2020, through October 15, 2020, unless cancelled earlier by the Captain of the Port.

Dated: June 18, 2020.

**Scott E. Anderson,**

*Captain, U.S. Coast Guard, Captain of the Port, Delaware Bay.*

[FR Doc. 2020–13507 Filed 7–13–20; 8:45 am]

**BILLING CODE 9110–04–P**

#### DEPARTMENT OF EDUCATION

#### 34 CFR Chapter II

[Docket ID ED–2019–OESE–0142]

#### Final Priorities, Requirements, Definitions, and Selection Criteria—Indian Education Discretionary Grants Programs—Native American Language (NAL@ED) Program

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

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

**SUMMARY:** The Assistant Secretary for Elementary and Secondary Education announces priorities, requirements, definitions, and selection criteria under the NAL@ED program, CFDA number 84.415B. The Assistant Secretary may use one or more of these priorities, requirements, definitions, and selection criteria for competitions in fiscal year (FY) 2020 and later years. We take this action to support Native language revitalization and instruction through the development and expansion of high-quality Native language programs.

**DATES:** These priorities, requirements, definitions, and selection criteria are effective August 13, 2020.

**FOR FURTHER INFORMATION CONTACT:** Tanya Tullos, U.S. Department of Education, 400 Maryland Avenue SW,

Room 3W234, Washington, DC 20202. Telephone: (202) 453-6037. Email: tanya.tullos@ed.gov.

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

#### SUPPLEMENTARY INFORMATION:

*Purpose of Program:* The purposes of this program are to (1) support schools that use Native American and Alaska Native languages as the primary language of instruction; (2) maintain, protect, and promote the rights and freedom of Native Americans and Alaska Natives to use, practice, maintain, and revitalize their languages, as envisioned in the Native American Languages Act of 1990 (25 U.S.C. 2901, *et seq.*); and (3) support the Nation's First Peoples' efforts to maintain and revitalize their languages and cultures, and to improve educational opportunities and student outcomes within Native American and Alaska Native communities.

*Program Authority:* Section 6133 of the Elementary and Secondary Education Act of 1965, as amended (ESEA) (20 U.S.C. 7453).

*Applicable Program Regulations:* We published a notice of proposed priorities, requirements, definitions, and selection criteria (NPP) for this program in the **Federal Register** on February 27, 2020, (85 FR 11323). That notice contained background information and our reasons for proposing the particular priorities, requirements, definitions, and selection criteria.

There are four substantive differences and three technical changes between the NPP and this notice of final priorities, requirements, definitions, and selection criteria. Two substantive differences are specific to an application requirement relating to Tribal consultation; one relates to the application requirement to use ESEA title VI formula grant funds to support the project after the grant period has ended, and the related priority; and the final difference relates to the application requirement concerning pre- and post-assessments. We fully explain these changes in the *Analysis of Comments and Changes* section elsewhere in this notice.

In the NPP we solicited the public's feedback on how to interpret the statutory requirement to ensure that a diversity of languages is supported by this program and the congressional emphasis in the Explanatory Statement accompanying the Department of Education Appropriations Act, 2020, regarding the importance of geographical diversity in grantees under

this program. The Department received no public comment on these topics; therefore, the Department finalizes the proposed program requirements that, in any competition year, it will fund not more than one project that uses the same Native American language and will not exclusively fund applicants from a single State, assuming there are enough high-quality applications. In addition to the final program requirement regarding diversity of languages, the Department can use two of the final priorities—one to establish and maintain new language programs, and a second to support and expand existing programs—to fund separate slates of applicants; doing so could increase the likelihood of funding applicants that support Native languages not previously funded under the NAL@ED program.

*Public Comment:* In response to our invitation in the NPP, one party submitted substantive comments that addressed multiple proposed application requirements.

We group major issues according to subject. Generally, we do not address technical and other minor changes. In addition, we do not address comments that raised concerns not directly related to the proposed priorities, requirements, definitions, or selection criteria.

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

#### Proposed Application Requirement 2—Memorandum of Agreement

*Comment:* The commenter requested that the Department reduce the amount of time that a signed memorandum of agreement be in place prior to submitting an application, to less than four months.

*Discussion:* The proposed application requirement stated that the memorandum of agreement must be signed no earlier than four months prior to the date of submission of the application. We intended by this to require that the memorandum of agreement not be more than four months old. We believe that the commenter interpreted the proposed application requirement to require that the memorandum of agreement be signed more than four months prior to the application deadline. We agree that the language is not clear, and are revising the requirement to clarify our intent.

*Change:* We have revised the application requirement to provide that the memorandum of agreement must be

signed no more than four months prior to the application deadline.

#### Proposed Application Requirement 3—Local Educational Agency (LEA) Consultation With Indian Tribes and Tribal Organizations

*Comment:* The commenter requested that the Department expand Tribal consultation requirements by requiring that—(1) non-Native applicants engage in Tribal consultation prior to applying; (2) all applicants submit a letter of support from a Tribe to signify Tribal consultation has been conducted; and (3) grantees conduct ongoing Tribal consultation throughout the grant period.

*Discussion:* In the NPP, proposed Application Requirement 3 only applied to LEAs that are subject to the consultation requirements of section 8538 of the ESEA. The Department agrees, however, with the recommendation that non-Tribal eligible entities be required to engage meaningfully with Tribes, both as a way of ensuring involvement of local Tribes, and in recognition of Tribal sovereignty. Therefore, we are expanding the scope of this application requirement to include all non-Tribal entities.

The Department also agrees with the commenter that providing documented evidence of Tribal support is important. To minimize the burden on applicants, in these final requirements we provide non-Tribal applicants with the option of providing evidence of either Tribal engagement or a letter of support from Tribes or Tribal organizations. This change subsequently prompted review of the proposed definition of Indian organizations (Tribal organizations). As the definition states, we would not consider a Tribal organization to be part of an institution of higher education (IHE), and we would not accept a letter from an IHE as evidence of engagement between an applicant and a Tribe or Tribal organization. Similarly, we would not accept a letter from a Tribal college or university (TCU) as evidence of engagement for the purposes of this application requirement.

The Department also agrees that ongoing Tribal engagement throughout the project period is important, given that a purpose of the NAL@ED program is to support Native culture and language revitalization. Tribes should be meaningfully involved in project development as well as in the project's implementation and continuous improvement efforts. The Memorandum of Agreement described in Application Requirement 2 is a sufficient means of ensuring meaningful, ongoing

involvement throughout the project period.

*Changes:* We have revised Application Requirement 3 to require all applicants that are not Tribes to engage with local Tribe(s) or a local Tribal organization prior to submitting an application, and to submit evidence of either Tribal engagement or a letter of support from the Tribe(s) or Tribal organization(s). In addition, we have revised the definition of “Indian organization (or Tribal organization)” to clarify that a TCU is not considered to be an Indian organization.

#### **Proposed Application Requirement 4—Support Project Sustainability With Title VI Indian Education Formula Grant Funds**

*Comment:* The commenter strongly opposed requiring grantees that also receive title VI funds to allocate a portion or all of their title VI funds to support sustaining the Native language program after the NAL@ED grant project period has ended. The commenter argued that this requirement would limit Tribal sovereignty and negatively affect established programs using title VI funds, which are providing crucial services for Native students, such as tutoring or college counseling.

*Discussion:* Our intent in proposing this application requirement was to provide a simple method of sustainability for these language projects following completion of the project period, and to emphasize the title VI formula grant program’s purpose of addressing the unique academic and cultural needs of students. Formula grantees often struggle with addressing these needs, as reflected in a 2019 Department study, *Implementation of the Title VI Indian Education Formula Grants Program*,<sup>1</sup> that surveyed 92 percent of the 1,300 FY 2018 formula grantees. Of those surveyed, about 50 percent of grantees reported challenges with the supply of school staff knowledgeable about American Indian or Alaska Native languages.

However, to address the commenter’s concerns, in keeping with our respect for Tribal sovereignty, and to provide flexibility for grantees, we are removing this application requirement, while retaining it as a priority (see Priority 3). As a priority, it may, for example, be used to award competitive preference

points. In order to encourage the use of such funds for program sustainability, and to provide greater clarity, we are structuring the priority to address different percentages of title VI formula grant funds that an applicant might direct to sustainability efforts, in increments of 10 percent. We will specify in a notice inviting applications the applicable percentages for a particular competition.

*Change:* We have removed this application requirement. In addition, we have revised the language in Priority 3 to specify percentages of ESEA title VI funding that would be dedicated to sustaining the project.

#### **Other Issues**

*Comments:* None.

*Discussion:* After further review of the proposed priorities, we have made a technical change. In Proposed Priority 2—Expand and Improve Existing Native American Language Programs, we state that the program has to be “currently active.” However, this would mean that we would not consider a program that has been dormant for one or two years. Therefore, we are revising the priority to ensure that such programs can be considered under Priority 2.

*Changes:* We are revising this section of Priority 2 to say “within the past three years” so that it allows for consideration of programs not active within the last one to two years.

*Comments:* None.

*Discussion:* After further review of the proposed priorities, we have made a technical change. In Proposed Priority 4—Preference for Indian Applicants, we used the term “Bureau of Indian Education (BIE) school.” We are revising this term to clarify that it includes both BIE schools and Tribally-operated schools that are funded by the BIE.

*Changes:* We have removed references to the term “BIE school” and replaced them with the term “BIE-funded” school in Priority 4.

*Comments:* None.

*Discussion:* After further review of the proposed application requirements, we have made one additional change. In Proposed Application Requirement 1, regarding general requirements, the reference to pre- and post-assessments was meant to elicit from the applicant whether or not an assessment, as required under proposed Program Requirement 1, is already available to use for the Native language proposed, and if not, whether these grant funds will be used to support development of the required assessment. However, the language proposed in the NPP might be misinterpreted to mean that a grantee

has the option to not conduct Native language pre- and post-assessments.

*Changes:* We have revised the language in Application Requirement 1 to require applicants to specify the percentage of grant funds that would be used to develop a Native language assessment.

#### **Final Priorities**

##### *Priority 1—Develop and Maintain New Native American Language Programs*

To meet this priority, an applicant must propose to develop and maintain a Native American language instructional program that—

(a) Will support Native American language education and development for Native American students, as well as provide professional development for teachers and, as appropriate, staff and administrators, to strengthen the overall language and academic goals of the school or schools that will be served by the project;

(b) Will take place in a school; and

(c) Does not augment or replace a program of identical scope that was active within the last three years at the school(s) to be served.

##### *Priority 2—Expand and Improve Existing Native American Language Programs*

To meet this priority, an applicant must propose to improve and expand a Native American language instructional program that—

(a) Will improve and expand Native American language education and development for Native American students, as well as provide professional development for teachers and, as appropriate, staff and administrators, to strengthen the overall language and academic goals of the school or schools that will be served by the project;

(b) Will continue to take place in a school; and

(c) Within the past three years has been offered at the school(s) to be served.

##### *Priority 3—Support Project Sustainability With Title VI Indian Education Formula Grant Funds*

To meet this priority, an applicant or a partner must receive, or be eligible to receive, a formula grant under title VI of the ESEA, and must commit to use all or part of that formula grant to help sustain this project after the conclusion of the grant period. To meet this priority, an applicant must include in its application—

(a) A statement that indicates the school year in which the entity will begin using title VI formula grant funds to help support this project;

<sup>1</sup> U.S. Department of Education, Office of Planning, Evaluation and Policy Development, Policy and Program Studies Service, *Implementation of the Title VI Indian Education Formula Grants Program, Volume I: Final Report*. Washington, DC, 2019. Accessed May 20, 2020 at <https://www2.ed.gov/rschstat/eval/title-vi/title-vi-report.pdf>.

(b) The percentage of the title VI grant that will be used for the project of at least—

- (i) 10 percent of the applicant's title VI formula grant;
  - (ii) 20 percent of the applicant's title VI formula grant;
  - (iii) 30 percent of the applicant's title VI formula grant;
  - (iv) 40 percent of the applicant's title VI formula grant;
  - (v) 50 percent of the applicant's title VI formula grant;
  - (vi) 60 percent of the applicant's title VI formula grant;
  - (vii) 70 percent of the applicant's title VI formula grant;
  - (viii) 80 percent of the applicant's title VI formula grant;
  - (ix) 90 percent of the applicant's title VI formula grant; or
  - (x) 100 percent of the applicant's title VI formula grant; and
- (c) The timeline for obtaining parent committee input and approval of this action, if necessary.

#### *Priority 4—Preference for Indian Applicants*

To meet this priority, an application must be submitted by an Indian Tribe, Indian organization, Bureau of Indian Education (BIE)-funded school, or Tribal College or University (TCU) that is eligible to participate in the NAL@ED program. A consortium of eligible entities that meets the requirements of 34 CFR 75.127 through 75.129 and includes an Indian Tribe, Indian organization, BIE-funded school, or TCU will also be considered eligible to meet this priority. In order to be considered a consortium application, the application must include the consortium agreement, signed by all parties.

#### **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**

##### *Application Requirement 1—General Requirements*

An applicant must include the following information in its application:

(a) Students to be served. The number of students to be served by the project and the grade level(s) of targeted students in the proposed project.

(b) Pre- and post-assessments. Whether a pre- and post-assessment of Native American language proficiency is available and, if not, the percentage of grant funds that will be used for developing such assessment.

(c) Program description. A description of how the eligible entity will support Native American language education and development, and provide professional development for staff, in order to strengthen the overall language and academic goals of the school(s) that will be served by the project; ensure the implementation of rigorous academic content that prepares all students for college and career; and ensure that students' progress toward meeting high-level fluency goals in the Native American language.

##### *Application Requirement 2—Memorandum of Agreement*

Any applicant that proposes to work with a partner to carry out the proposed project must include a signed and dated memorandum of agreement that describes the roles and responsibilities of each partner to participate in the grant, including—

(a) A description of how each partner will implement the project according to the timelines described in the grant application;

(b) The roles and responsibilities of each partner related to ensuring the data necessary to report on the Government Performance and Results Act (GPRA) indicators; and

(c) The roles and responsibilities of each partner related to ensuring that Native American language instructors can be recruited, retained, and trained, as appropriate, in a timely manner.

This memorandum of agreement must be signed no more than four months prior to the application deadline (*i.e.*, the agreement must be signed within the four months prior to the application deadline).

##### *Application Requirement 3—Applicant Engagement With Indian Tribes or Tribal Organizations*

All non-Tribal applicants must engage with appropriate officials from Tribe(s) located in the area served by the project, or with a local Tribal organization prior to submission of an application. The engagement must provide for the opportunity for officials from Tribes or Tribal organizations to meaningfully and substantively contribute to the application. Non-Tribal applicants must submit evidence of either Tribal engagement or a letter of support from one or more Tribes or Tribal organizations. This evidence can be part of the memorandum of agreement required by Application Requirement 2 or can be uploaded as a separate attachment.

**Note:** If an applicant is an affected LEA that is subject to ESEA section 8538, then the LEA is already required to consult with appropriate officials from Tribe(s) or Tribal organizations approved by the Tribes located in the area served by the LEA prior to its submission of an application, on the contents of the application as required under ESEA section 8538. Affected LEAs are those that have 50 percent or more of their student enrollment made up of Native American students; or received an Indian education formula grant under title VI of the ESEA in the previous fiscal year that exceeds \$40,000. (ESEA sec. 8538)

##### *Program Requirement 1—Native American Language Proficiency Assessment*

Grantees must administer pre- and post-assessments of Native American language proficiency to participating students. This Native American language assessment may be any relevant tool that measures student Native American language proficiency, such as oral, written or project-based assessments, and formative or summative assessments.

##### *Program Requirement 2—Diversity of Languages*

To ensure a diversity of languages as required by statute, the Department will not fund more than one project in any competition year that proposes to use the same Native American language, assuming there are enough high-quality applications. In the event of a lack of high-quality applications in one competition year, the Department may choose to fund more than one project with the same Native American language.

**Program Requirement 3—Geographic Distribution**

To ensure geographic diversity, assuming there are enough high-quality applications, the Department will not exclusively fund projects that all propose to serve students in the same State in any competition year. In the event of a lack of high-quality applications in one competition year, the Department may choose to fund only applications that propose to provide services in one State.

**Statutory Program Requirement—ISDEAA Statutory Hiring Preference:<sup>2</sup>**

(a) Awards that are primarily for the benefit of Indians are subject to the provisions of section 7(b) of the Indian Self-Determination and Education Assistance Act (ISDEAA) (Pub. L. 93–638). That section requires that, to the greatest extent feasible, a grantee—

- (1) Give to Indians preferences and opportunities for training and employment in connection with the administration of the grant; and
- (2) Give to Indian organizations and to Indian-owned economic enterprises, as defined in section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1452(e)), preference in the award of contracts in connection with the administration of the grant. (25 U.S.C. 5307(b))

(b) For purposes of the ISDEAA statutory hiring preference only, an Indian is a member of any federally recognized Indian Tribe.

**Final Definitions**

We may apply one or more of these definitions in any year in which this program is in effect.

*Indian organization (or Tribal organization)* means an organization that—

- (1) Is legally established—
  - (i) By Tribal or inter-Tribal charter or in accordance with State or Tribal law; and
  - (ii) With appropriate constitution, bylaws, or articles of incorporation;
- (2) Includes in its purposes the promotion of the education of Indians;
- (3) Is controlled by a governing board, the majority of which is Indian;
- (4) If located on an Indian reservation, operates with the sanction of or by charter from the governing body of that reservation;
- (5) Is neither an organization or subdivision of, nor under the direct control of, any institution of higher education or TCU; and

(6) Is not an agency of State or local government.

*Tribe* means either a federally recognized Tribe or a State-recognized Tribe.

*Statutory Definitions:* The following definitions are from statutes governing the NAL@ED program. We have indicated in parentheses the specific statutory citation for each of these definitions.

*Native American* means:

(1) “Indian” as defined in section 6151(3) of the ESEA (20 U.S.C. 7491(3)), which includes individuals who are Alaska Natives and members of federally recognized or State recognized Tribes;

(2) Native Hawaiian; or

(3) Native American Pacific Islander. (ESEA secs. 6151(3) and 8101(34))

*Native American language* means the historical, traditional languages spoken by Native Americans. (ESEA sec. 8101(34))

*Tribal college or university* means an institution that—

(1) Qualifies for funding under the Tribally Controlled Colleges and Universities Assistance Act of 1978 (25 U.S.C. 1801, *et seq.*) or the Navajo Community College Act (25 U.S.C. 640a note); or

(2) Is cited in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note). (ESEA sec. 6133 and section 316 of the Higher Education Act of 1965, as amended (20 U.S.C. 1059c))

**Final Selection Criteria**

(a) *Quality of the project design.* The Secretary considers the quality of the design of the proposed project.

In determining the quality of the design of the proposed project, the Secretary considers one or more of the following factors:

(1) The extent to which the project design will ensure that students’ progress toward grade-level and developmentally appropriate fluency in the Native American language.

(2) The extent to which the proposed project will incorporate parent engagement and participation in Native American language instruction.

(3) The quality of the approach to developing and administering pre- and post-assessments of student Native American language proficiency, including consultation with individuals with assessment expertise, as needed.

(b) *Quality of project services.* The Secretary considers the quality of the services to be provided by the proposed project. In determining the quality of the services to be provided by the proposed project, the Secretary considers one or more of the following factors:

(1) The quality of the plan for supporting grade-level and developmentally appropriate instruction in a Native American language by providing instruction of or through the Native American language.

(2) The extent to which the project will provide professional development for teachers and, as appropriate, staff and administrators to strengthen the overall language proficiency and academic goals of the school(s) that will be served by the project, including cultural competence training for all staff in the school(s).

(3) The extent to which the percentage of the school day that instruction will be provided in the Native American language is ambitious and is reasonable for the grade level and population served.

(c) *Quality of project personnel.* The Secretary considers the quality of the personnel who will carry out the proposed project. In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

In addition, the Secretary considers the extent to which teachers of the Native American language who are identified as staff for this project have teaching experience and are fluent in the Native American language.

(d) *Adequacy of resources.* The Secretary considers the adequacy of resources for the proposed project. In determining the adequacy of resources for the proposed project, the Secretary considers the extent to which the applicant or a partner has experience in operating a Native American language program.

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

**Executive Orders 12866, 13563, and 13771****Regulatory Impact Analysis**

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

<sup>2</sup> This program requirement is directly from section 7(b) of the Indian Self-Determination and Education Assistance Act (ISDEAA) (Pub. L. 93–638).

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.

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

Under Executive Order 13771, for each new rule that the Department proposes for notice and comment or otherwise promulgates that is a significant regulatory action under Executive Order 12866, and that imposes total costs greater than zero, it must identify two deregulatory actions. For FY 2020, any new incremental costs associated with a new regulation must be fully offset by the elimination of existing costs through deregulatory actions. Because this regulatory action is not significant, the requirements of Executive Order 13771 do not apply.

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

We have determined that these final priorities, requirements, definitions, and selection criteria will impose minimal costs on eligible applicants. Program participation is voluntary, and the costs imposed on applicants by these final priorities, requirements, definitions, and selection criteria are limited to paperwork burden related to preparing an application. The potential benefits of implementing the programs—for example, establishing partnerships among parties with mutual interests in developing Native language programs, and planning concrete strategies for supporting Native language revitalization—will outweigh any costs incurred by applicants, and the costs of carrying out activities associated with the application will be paid for with program funds. For these reasons, we have determined that the costs of implementation will be minimal for eligible applicants, including small entities.

**Paperwork Reduction Act of 1995**

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

The final program priorities, requirements, definitions, and selection criteria contain information collection requirements (ICR) for the program application package. As a result of the revisions to these sections, we are submitting the grant application package with OMB control number 1810–0731 for a reinstatement with change. In Table 1 below, we assume 50 applicants each spend 30 hours preparing their applications.

TABLE 1—NAL@ED GRANTS PROGRAM INFORMATION COLLECTION STATUS

OMB control No. current burden (total hours)	Expiration	Current burden (total hours)	Proposed burden (total hours)	Proposed action under final rules
1810–0731 .....	July 31, 2023 .....	1,500	1,500	Reinstatement with change of 1810–0731.

If your comments relate to the ICR for these final regulations, please specify the Docket ID number and indicate "Information Collection Comments" on the top of your comments.

Written requests for information or comments, submitted by postal mail or delivery, related to the information collection requirements should be addressed to the Director of the Information Collection Clearance Program, U.S. Department of Education, 550 12th Street SW, Room 9086, Washington, DC 20202.

#### Intergovernmental Review

This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. However, under 34 CFR 79.8(a), we waive intergovernmental review in order to make awards by the end of FY 2020.

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

**Electronic Access to This Document:** The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at: [www.govinfo.gov](http://www.govinfo.gov). 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.

#### Frank T. Brogan,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2020-15221 Filed 7-13-20; 8:45 am]

BILLING CODE 4000-01-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 372

[EPA-HQ-TRI-2019-0146; FRL-10007-23]

RIN 2070-AK53

### Community Right-to-Know; Corrections to Toxics Release Inventory (TRI) Reporting Requirements

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

**ACTION:** Final rule.

**SUMMARY:** EPA is correcting existing regulatory language for the Toxics Release Inventory (TRI) Program. EPA is making corrections that update identifiers, formulas, and names for certain TRI-listed chemicals, and updating the text that identifies which chemicals the 0.1 percent *de minimis* concentration applies to in order to remedy a cross-reference to a no-longer-accurate Occupational Safety and Health Administration (OSHA) regulatory citation. These corrections maintain previous regulatory actions and do not alter existing reporting requirements or impact compliance burdens or costs.

**DATES:** This final rule is effective on July 14, 2020.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-HQ-TRI-2019-0146. All documents in the docket are listed on the <http://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through <http://www.regulations.gov>. Additional instructions on visiting the docket, along with more information about dockets generally, is available at <http://www.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** For technical information contact: Daniel Bushman, Toxics Release Inventory Program Division, Mailcode 7410M, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; telephone number: (202) 566-0743; email address: [bushman.daniel@epa.gov](mailto:bushman.daniel@epa.gov).

*For general information contact:* The Emergency Planning and Community Right-to-Know Hotline; telephone numbers: toll free at (800) 424-9346 (select menu option 3) or (703) 348-5070 in the Washington, DC Area and International; or go to <https://www.epa.gov/home/epa-hotlines>.

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

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

You may be potentially affected by this action if you manufacture, process, or otherwise use any TRI listed chemical. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Facilities included in the following NAICS manufacturing codes (corresponding to Standard Industrial Classification (SIC) codes 20 through 39): 311\*, 312\*, 313\*, 314\*, 315\*, 316, 321, 322, 323\*, 324, 325\*, 326\*, 327, 331, 332, 333, 334\*, 335\*, 336, 337\*, 339\*, 111998\*, 211130\*, 212324\*, 212325\*, 212393\*, 212399\*, 488390\*, 511110, 511120, 511130, 511140\*, 511191, 511199, 512230\*, 512250\*, 519130\*, 541713\*, 541715\* or 811490\*.

\* Exceptions and/or limitations exist for these NAICS codes.

- Facilities included in the following NAICS codes (corresponding to SIC codes other than SIC codes 20 through 39): 212111, 212112, 212113 (corresponds to SIC code 12, Coal Mining (except 1241)); or 212221, 212222, 212230, 212299 (corresponds to SIC code 10, Metal Mining (except 1011, 1081, and 1094)); or 221111, 221112, 221113, 221118, 221121, 221122, 221330 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce) (corresponds to SIC codes 4911, 4931, and 4939, Electric Utilities); or 424690, 425110, 425120 (limited to facilities previously classified in SIC code 5169, Chemicals and Allied Products, Not Elsewhere Classified); or 424710 (corresponds to SIC code 5171, Petroleum Bulk Terminals and Plants); or 562112 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis (previously classified under SIC code 7389, Business Services, NEC)); or 562211, 562212, 562213, 562219, 562920 (limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. 6921 *et seq.*)