

(h) That the request cannot be satisfied to the same extent through requests for access to reasonably described records under the Freedom of Information Act or the mandatory declassification review provisions of Executive Order 13526.

§ 1909.15 [Removed]

- 9. Remove § 1909.15.

§ 1909.16 [Amended]

- 10. Revise § 1909.16 to read as follows:

§ 1909.16 Action by Agency Release Panel (ARP).

The ARP shall meet on a regular schedule and may take action when a simple majority of the total membership is present. Issues shall be decided by a majority of the members present. In all cases of a divided vote, before the decision of the ARP becomes final, any member of the ARP may by written memorandum to the Executive Secretary of the ARP, refer such matters to the Director, Information Management Services (D/IMS) for decision. In the event of a disagreement with any decision by D/IMS, Directorate heads may appeal to the Associate Deputy Director, CIA (ADD) for resolution. The final Agency decision shall reflect the vote of the ARP, unless changed by the D/IMS or the ADD.

- 11. Revise § 1909.17 as follows:

§ 1909.17 Notification of decision.

The Executive Secretary shall inform the requester of the final Agency decision and, if favorable, shall manage the access for such period as deemed required but in no event for more than two years unless renewed by the Panel or Board in accordance with the requirements of this Part.

- 12. Revise § 1909.18 to read as follows:

§ 1909.18 Termination of access.

The Coordinator shall cancel any authorization and deny any further access whenever the Director of Security cancels the security clearance of a requester (or research associate, if any); or whenever the Agency Release Panel determines that continued access would no longer be consistent with the requirements of this Part; or at the conclusion of the authorized period of up to two years.

Dated: August 10, 2011.

Joseph W. Lambert,
Director, Information Management Services.

[FR Doc. 2011-21576 Filed 9-22-11; 8:45 am]

BILLING CODE 6310-02-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2011-0788]

Drawbridge Operation Regulations; Hutchinson River, Bronx, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Amtrak Pelham Bay Railroad Bridge at mile 0.5, across the Hutchinson River at the Bronx, New York. The deviation is necessary to facilitate scheduled maintenance at the bridge. This deviation allows the bridge to remain in the closed position for two days followed by a two hour advance notice requirement for 20 days.

DATES: This deviation is effective from September 6, 2011 through September 29, 2011.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG-2011-0788 and are available online at <http://www.regulations.gov>, inserting USCG-2011-0788 in the "Keyword" and then clicking "Search". They are also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Ms. Judy Leung-Yee, Project Officer, First Coast Guard District, judy.k.leung-yee@uscg.mil, or telephone (212) 668-7165. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION: The Amtrak Pelham Bay Railroad Bridge, across the Hutchinson River at mile 0.5, at the Bronx, New York, has a vertical clearance in the closed position of 8 feet at mean high water and 15 feet at mean low water. The drawbridge operation regulations are listed at 33 CFR 117.793.

The waterway users are mostly commercial operators.

The owner of the bridge, National Railroad Passenger Company (Amtrak), requested a temporary deviation from the regulations to facilitate scheduled

maintenance, replace track ties, at bridge.

Under this temporary deviation the Amtrak Pelham Bay Railroad Bridge may remain in the closed position between September 6, 2011 and September 8, 2011, and from September 9, 2011 through September 29, 2011, a two hour advance notice shall be required for bridge openings. Vessels that can pass under the bridge in the closed position may do so at any time.

The commercial users were notified. No objections were received.

In accordance with 33 CFR 117.35(e), the bridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: September 6, 2011.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. 2011-24417 Filed 9-22-11; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF EDUCATION

34 CFR Subtitle B, Chapter II

[Docket ID ED-2011-OS-0010]

RIN 1894-AA03

State Fiscal Stabilization Fund Program

AGENCY: Department of Education.

ACTION: Interim final requirement; request for comments.

SUMMARY: On November 12, 2009, the Secretary of Education (Secretary) published in the **Federal Register** a notice of final requirements, definitions, and approval criteria for the State Fiscal Stabilization Fund (SFSF) program (November 2009 Notice). In that notice, the Secretary established September 30, 2011 as the deadline by which States had to collect and publicly report data and other information on various SFSF indicators and descriptors. Since publication of the November 2009 notice, States have faced many challenges and competing priorities in trying to meet the requirements of some of the SFSF indicators by the September 30, 2011 deadline. As a result, a number of States will be unable to comply fully with the SFSF requirements by the September 30, 2011 deadline. Accordingly, in this interim final requirement, the Secretary extends that deadline to January 31, 2012.

DATES: This interim final requirement is effective September 23, 2011. We must

receive your comments on or before October 24, 2011.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments by fax or by e-mail. To ensure that we do not receive duplicate copies, please submit your comments only one time. In addition, please include the Docket ID and the term “State Fiscal Stabilization Fund—Interim Final Requirement” at the top of your comments.

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> to submit your comments electronically. Information on using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under “How To Use This Site.”

- *Postal Mail, Commercial Delivery, or Hand Delivery.* If you mail or deliver your comments about the interim final requirement, address them to Office of the Deputy Secretary (Attention: State Fiscal Stabilization Fund Interim Final Requirement), U.S. Department of Education, 400 Maryland Avenue, SW., room 7E214, Washington, DC 20202–6200.

- *Privacy Note:* The Department’s policy for comments received from members of the public (including comments submitted by mail, commercial delivery, or hand delivery) is to make these submissions available for public viewing in their entirety on the Federal eRulemaking Portal at <http://www.regulations.gov>. Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available on the Internet.

FOR FURTHER INFORMATION CONTACT: James Butler, State Fiscal Stabilization Fund Program, U.S. Department of Education, 400 Maryland Ave., SW., room 7E214, Washington, DC 20202–0008. Telephone: (202) 260–9737 or by e-mail: SFSFcomments@ed.gov.

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

SUPPLEMENTARY INFORMATION:

Invitation to Comment: We invite you to submit comments regarding this interim final requirement to assist us in complying with the specific requirements of Executive Order 12866 and Executive Order 13563 and their overall requirement of reducing regulatory burden that might result from this interim final requirement.

During and after the comment period, you may inspect all public comments about this regulatory action by accessing Regulations.gov. You may also inspect the public comments in person in room 7E214, 400 Maryland Avenue, SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request, we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

Background

Section 14005(d) of Division A of the American Recovery and Reinvestment Act of 2009 (ARRA) requires a State receiving funds under the SFSF program to provide assurances in four key areas of education reform:

(1) Achieving equity in teacher distribution, (2) improving collection and use of data, (3) standards and assessments, and (4) supporting struggling schools. In the November 2009 Notice (74 FR 58436), we established specific data and information requirements (assurance indicators and descriptors) that a State must meet with respect to the statutory assurances. We also established specific requirements for the plans that a State had to submit as part of its application for the second phase of funding under the SFSF program, describing the steps it would take to collect and report the required data and other information. In addition, we established September 30, 2011 as the deadline by which States must meet the requirements of these indicators and descriptors.

States are facing many challenges and competing priorities in trying to meet the requirements of some of the SFSF indicators by the September 30, 2011 deadline. For example, during the Department’s ongoing program monitoring, States are expressing concerns about their ability to fully develop and implement a statewide longitudinal data system (SLDS) under Indicator (b)(1) by this deadline. Specifically, during its spring 2011 review of each State’s Amended Application for Funding Under the State Fiscal Stabilization Fund Program, the Department found that many States still have not fully incorporated the

following elements into their SLDS: (1) Student-level transcript information, including data on courses completed and grades earned (Element 9); (2) information regarding the extent to which students transition successfully from secondary school to postsecondary education, including whether students enroll in remedial coursework (Element 11); and (3) other information determined necessary to address alignment and adequate preparation for success in postsecondary education (Element 12). A number of States also are raising concerns about the challenges in collecting and publicly reporting student enrollment data for Indicator (c)(11). In its recent review of the SFSF amended applications, the Department found that 43 States indicated that they did not have the capacity to collect and publicly report those data. Further, most States reported in their amended SFSF application that they do not yet have the capacity to collect and publicly report the course completion data required under Indicator (c)(12). Therefore, the Department is extending to January 31, 2012 the deadline by which a State must comply with the requirements under any of the SFSF indicators and descriptors. The extension of the deadline to January 31, 2012 is automatic, and a State does not have to submit a request to receive this extension.

In a notice of proposed revisions to certain data collection and reporting requirements, and proposed priority published elsewhere in this issue of the **Federal Register**, the Department is proposing to further extend, to December 31, 2012, the deadline by which a State must comply with the requirements of Indicators (b)(1), (c)(11), and (c)(12) because the requirements under these indicators are particularly challenging. To receive an extension to December 31, 2012 for these specific indicators, the Department is proposing that the State submit a request that includes the information proposed in notice of proposed revisions to certain data collection and reporting requirements, and proposed priority.

Waiver of Rulemaking and Delayed Effective Date

Under the Administrative Procedure Act (APA) (5 U.S.C. 553), the Department is generally required to publish a notice of proposed rulemaking and provide the public with an opportunity to comment on proposed regulations prior to establishing a final rule. However, we are waiving the notice-and-comment rulemaking requirements under the APA. Section

553(b) of the APA provides that an agency is not required to conduct notice-and-comment rulemaking when the agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest. Although these requirements are subject to the APA's notice-and-comment requirements, the Secretary has determined that it would be impracticable and contrary to the public interest to conduct notice-and-comment rulemaking.

As discussed under the heading "Background," States are facing many challenges and competing priorities in trying to meet some of the SFSF collection and public reporting requirements by the September 30, 2011 deadline. As a result, the Department has concluded that it is appropriate to extend the deadline for the SFSF indicators and descriptors to January 31, 2012. It is impracticable and contrary to the public interest to extend the September 30, 2011 deadline through notice-and-comment rulemaking given the limited amount of time remaining before this deadline. This interim final requirement will provide those States desiring additional time to meet the requirements with an extension of the deadline. Absent the interim final requirement, a number of States will be unable to comply fully with the SFSF requirements. The Department believes that giving the States additional time to meet these requirements will not compromise their purpose, which is to provide transparency on the extent to which a State is implementing reform actions for which it has provided assurances.

Although the Department is adopting this extension on an interim final basis, the Department requests public comments on the extension. After consideration of public comments, the Secretary will publish a notice of final requirement concerning the deadline for compliance with the SFSF indicators and descriptors.

The APA also requires that a substantive rule be published at least 30 days before its effective date, unless the rule grants or recognizes an exemption or relieves a restriction. (5 U.S.C. 553(d)(1)). Because we are granting States an extension of the September 30, 2011 deadline, the 30-day delayed effective date is not required. Accordingly, this interim final requirement is effective on the day it is published.

Interim Final Requirement

For the reasons discussed previously, the Secretary amends the requirements established in the November 2009

Notice by extending the deadline by which a State must collect and publicly report data and other information on the SFSF indicators and descriptors from September 30, 2011 to January 31, 2012.

Executive Order 12866

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 review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines "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.

It has been determined that this regulatory action is significant under section 3(f)(4) of the Executive order.

Summary of Costs and Benefits

Under Executive Order 12866, we have assessed the potential costs and benefits of the regulatory action to extend the current deadline by which a State must meet the requirements of the SFSF indicators and descriptors and have determined that the interim final requirement will not impose additional costs to grantees or the Federal government. Additionally, the Department has determined that this requirement does not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions.

The Department is reinstating to December 15, 2011, the information collection under OMB Control Number 1810-0695 requiring States to collect and publicly report data and other information annually. The Department has analyzed the costs of complying with these requirements. Some of the costs will be minimal and others more significant. As an example of a requirement that results in minimal

burden and cost, States are currently required to report annually, through *EDFacts* (the Department's centralized data collection and warehousing system), for the State as a whole and for each LEA, the number and percentage of core academic courses taught, in the highest-poverty and lowest-poverty schools, by teachers who are highly qualified. Indicator (a)(1) requires that they confirm the data they have reported, which should not be a time-consuming responsibility. As a second example, the requirement to confirm the approval status of the State's assessment system under section 1111(b)(3) of the ESEA, as determined by the Department, should also require minimal effort.

Other requirements impose significant new costs. We strongly believe that the benefits to the public of these requirements outweigh the State and local implementation costs. Specifically, the major benefit of these requirements, taken in their totality, is better and more publicly available information on the status of activities related to the reform areas identified in the authorizing statute for the SFSF program. As described in detail later in this section, research indicates or suggests that progress on each of the reforms will contribute to improved student outcomes. The provision of better information (on teacher qualifications, teacher and principal evaluation systems, State student longitudinal data systems, State standards and assessment systems, student success in high-school and postsecondary education, efforts to turn around persistently lowest-achieving schools, and charter school reforms) to policymakers, educators, parents, and other stakeholders will assist in their efforts to further the reforms. In addition, State reporting of these data will help the Department determine the impact of the unprecedented level of funding made available by the ARRA. Further, the data and plans that States submit will inform Federal education policy, including the upcoming reauthorization of the ESEA.

The following is a detailed analysis of the estimated costs of implementing the specific final requirements, followed by a discussion of the anticipated benefits. The costs of implementing specific paperwork-related requirements are also shown in the tables in the *Paperwork Reduction Act of 1995* section of this notice.

Distribution of Highly Qualified Teachers

Section 14005(d)(2) of the ARRA requires a State receiving funds under the SFSF program to assure, in the SFSF

program application, that it will address inequities in the distribution of highly qualified teachers. In response to this requirement, the Department is requiring States to confirm, for the State and for each LEA in the State, the number and percentage of core academic courses taught, in the highest-poverty and lowest-poverty schools, by teachers who are highly qualified. Because States will have previously submitted this information to the Department through the *EDFacts* system, we anticipate that the costs of complying with this requirement would be minimal. A State likely would need only to ensure that it had correctly aggregated and reported data received from its LEAs. The Department expects that each State would require one hour of staff time to complete this effort, at a cost of \$30 per hour. For the 50 States, the District of Columbia, and Puerto Rico, the total estimated level of effort would be 52 hours at a cost of \$1,560. In addition, the final requirements provide for States to indicate whether the State's Teacher Equity Plan (a part of the State's Highly Qualified Teacher Plan) has been updated to fully reflect the steps the State is currently taking to ensure that students from low-income families and minority students are not taught at higher rates than other students by inexperienced, unqualified, or out-of-field teachers. The Department expects that this will require an hour of effort, for a total estimated burden of 52 hours at a cost of \$1,560.

Teacher and Principal Evaluation Systems

Section 14005(d)(2) also requires States to take actions to improve teacher effectiveness. To accomplish that goal, States must first have a means of assessing teacher success. A limited number of States have implemented statewide teacher and principal evaluation systems, while in the other States the responsibility for evaluating teachers and principals rests with the LEAs or schools. Little is known about the design of these systems across the Nation, but the collection and reporting of additional information would create a resource that additional States and LEAs can draw on in building their own systems. The Department, therefore, is requiring States to collect and publicly report information about these evaluation systems.

Specifically, the Department is requiring that States describe, for each LEA in the State, the systems used to evaluate the performance of teachers and principals. Further, the Department requires States to indicate, for each LEA in the State, whether the systems used

to evaluate the performance of teachers and principals include student achievement outcomes or student growth data as an evaluation criterion.

The level of effort required to respond to these requirements would likely vary depending on the types of teacher and principal evaluation systems in place in a given State or LEA. The Department believes that, if a system is in place at the State level, the response burden would be low, because the State will have the required information readily available. According to the National Council on Teacher Quality, 12 States require LEAs to use a State-developed instrument to evaluate teachers or to develop an equivalent instrument that must be approved by the State.¹ For these 12 States, the Department estimates that a total of 72 hours (6 hours per State) would be required to respond to these requirements, for a total cost, at \$30 per hour, of \$2,160. The 2,487 LEAs located in these States would not be involved in the response to these requirements.

In the 40 States that do not have statewide teacher and principal evaluation systems in place, the level of effort required would likely be significantly higher. Approximately half of these States have either already reported this information once or have completed more than half of the effort involved with reporting. The Department believes that these States would require significantly less effort than States that have completed less than half of the work involved with meeting these requirements. The Department estimates that each State that has completed more than half of the work associated with these requirements would need 120 hours to meet the requirements, and each State that has completed less than half of the work would require 360 hours to meet the requirements. Thus, the Department estimates that, on average, 240 hours would be required at the State level to develop and administer a survey of LEAs (including designing the survey instrument, disseminating it, providing training or other technical assistance to LEAs on completing the survey, collecting the data and other information, checking accuracy, and public reporting), which would amount to a total of 9,600 hours and a total estimated State cost of \$288,000 (assuming, again, a cost per hour of \$30). The 12,737 LEAs located in these States would bear the cost of collecting and reporting the data to their States.

¹ *State Teacher Policy Yearbook: 2009*, page 170. http://www.nctq.org/stpy09/reports/stpy_national.pdf.

For the purpose of the burden estimates in this section, the Department estimates that 75 percent of these LEAs (9,553) have centralized teacher and principal evaluation systems in place. For those LEAs, we estimate that 3 hours would be required to respond to these requirements. For the estimated 3,184 LEAs that do not have a centralized evaluation system in place, we estimate that 2 hours would be required because we expect that these systems are less complex than centralized systems. The Department, thus, estimates that LEAs would need to spend a total of 35,027 hours to respond to these proposed requirements at a total cost of \$875,675, assuming a cost per hour of \$25.

The Department is also requiring States to provide, for each LEA in the State whose teachers and principals receive performance ratings or levels through an evaluation system, the number and percentage of teachers and principals rated at each performance rating or level, as well as a description of how each LEA uses results from those systems in decisions regarding teacher and principal development, compensation, promotion, retention, and removal. Finally, the Department is requiring States to indicate, for each LEA in the State whose teachers receive performance ratings or levels through an evaluation system, whether the number and percentage of teachers rated at each performance rating or level are publicly reported for each school in the LEA. The Department expects that many LEAs that make this information publicly available will choose to do so on their pre-existing Web site; if any LEAs currently do not have Web sites, they may create a Web site or may publicly report this information in another easily accessible format.

We were unable to find nationally representative information on whether LEAs will have information on their teacher and principal evaluation systems readily available in a centralized database. The New Teacher Project (NTP),² which analyzed the teacher evaluation systems of a sample of 12 LEAs, found that of those 12 LEAs, only 4 tracked teacher evaluation results electronically. Although the NTP report examined only a small number of LEAs, which were not nationally representative, and the report was published in 2009, we base our cost estimates on this finding, as it is the only source of information available. Thus, we assume that 33 percent of LEAs will have information on the

² See <http://widgeteffect.org/downloads/TheWidgetEffect.pdf>.

teacher and principal evaluation results in a central database.³ Applying this percentage to the estimated 12,040 LEAs that have in place a centralized system to evaluate teacher and principal performance (which includes the 2,487 LEAs in States with statewide systems, as well as the estimated 9,553 LEAs in other States that have their own local systems), the Department estimates that 3,973 LEAs would need to spend 3 hours each to respond to these requirements for a total burden of 11,919 hours and \$297,975.

We estimate that each of the other 8,067 LEAs will require significantly more time to respond. According to the Digest of Education Statistics, there are approximately 3.2 million teachers and 90,470 principals in public elementary and secondary schools.^{4,5} Based on this figure, we estimate that an average LEA employs 210 teachers and 6 principals. Applying this number of teachers and principals to the estimated 8,067 LEAs nationwide that do not have this information electronically in a central system, we estimate that these LEAs will need to enter data for 1,694,070 teachers and 48,402 principals into their existing personnel systems. We estimate that LEAs could enter information for 6 individuals per hour, thus we estimate that these LEAs would have a combined burden of 290,412 hours at a cost of \$7,260,300.

We further estimate that all 15,224 LEAs would each require 1 hour to describe how they use results from teacher and principal evaluation systems in decisions regarding teacher and principal development, compensation, promotion, retention, and removal.

The Department, therefore, estimates the total LEA burden for these requirements to be 317,555 hours across the Nation at an estimated total cost of \$7,938,875 (assuming a cost per hour of \$25).

States would then need to collect these data, most likely by including these items in the survey instrument that they will develop to respond to the other requirements in this section, and

³ It is important to note that this study includes in its sample only medium-size and large LEAs and, therefore, that the actual percentage of LEAs with teacher and principal evaluation results in a central database may be lower than 33 percent. We also believe, however, that small LEAs with fewer teachers and principals would require less effort than a medium-size or large LEA to comply with these requirements.

⁴ See http://nces.ed.gov/programs/digest/d10/tables/dt10_004.asp?referrer=list. The most recent data available is from 2008.

⁵ See http://nces.ed.gov/programs/digest/d10/tables/dt10_089.asp?referrer=list. The most recent data available is for the 2007–08 school year.

will then need to aggregate and publicly report the data on their Web site. Considering progress that States have made to date, we estimate that these activities will require 4 hours of effort per State, for a total burden of 208 hours at a cost of \$6,240.

For more detailed estimates of costs for these requirements, please see the tables in the *Paperwork Reduction Act of 1995* section of this notice.

State Data Systems

Section 14005(d)(3) requires States to assure that they will establish a longitudinal data system that includes the elements described in section 6401(e)(2)(D) of the America COMPETES Act. To track State progress in this reform area, the Department requires each State to indicate which of the 12 elements are included in the State's statewide longitudinal data system. The costs of reporting this information should be minimal. Moreover, most States are already reporting information on ten of the 12 elements to the Data Quality Campaign, a national effort to encourage State policymakers to use high-quality education data to improve student achievement, and to the Department as part of reporting for this program to date. The Department expects that States will be able to readily provide information on whether the two remaining elements are included in their data systems and that it should take little time for the States that have not been reporting to the Data Quality Campaign to provide information on their data systems. We, therefore, estimate that States would need only 2 hours to respond to this requirement, for a total level of effort of 104 hours at an estimated cost of \$3,120.

The Department is also requiring that States report whether the State provides student growth data on their current students and the students they taught in the previous year to, at a minimum, teachers of reading/language arts and mathematics in grades in which the State administers assessments in those subjects in a manner that is timely and informs instructional programs. The Department believes that making such information available would help improve the quality of instruction and the quality of teacher evaluation and compensation systems. Under the State Plan section, we discuss the costs of developing systems for the provision of student growth data in all States. We are also requiring States to indicate whether the State provides teachers of reading/language arts and mathematics in grades in which the State administers assessments in those subjects with

reports of individual teacher impact on student achievement on those assessments. The costs of merely publicly reporting on whether a State currently provides this information to teachers should be minimal. We estimate that each State would spend one hour to publicly report this information, for a total level of effort of 52 hours at a cost of \$1,560.

State Assessments

In response to the requirement in section 14005(d)(4)(A) of the ARRA that States enhance the quality of their student assessments, the Department requires that the States confirm certain existing data and other information and submit some new information about their assessment systems. Specifically, the Department requires each State to confirm the approval status, as determined by the Department, of the State's assessment system (with respect to reading/language arts, mathematics, and science assessments). In addition, States will confirm that their annual State Report Card (issued pursuant to the requirements of section 1111(h) of the ESEA) contains the most recent available State reading and mathematics NAEP results. The Department estimates that each State would require two hours to respond to these requirements, for a total cost of \$3,120.

Section 14005(d)(4)(B) requires States to assure that they will administer valid and reliable assessments for children with disabilities and limited English proficient students. To measure State progress on this assurance, the Department requires States to: confirm whether the State has developed and implemented valid and reliable alternate assessments for students with disabilities that have been approved by the Department; confirm whether the State's alternative assessments for students with disabilities, if approved by the Department, are based on grade-level, modified, or alternate academic achievement standards; indicate whether the State has completed, within the last two years, an analysis of the appropriateness and effectiveness of the accommodations it provides students with disabilities to ensure their meaningful participation in State assessments; indicate whether the State has completed, within the last two years, an analysis of the appropriateness and effectiveness of the accommodations it provides limited English proficient students to ensure their meaningful participation in State assessments; and confirm whether the State provides native language versions of State assessments for limited English proficient students. To respond to these

five indicators, the Department estimates that the 50 States, the District of Columbia, and Puerto Rico would each require five hours, for a total cost of \$7,800.

In addition, the Department requires that States confirm the number and percentage of students with disabilities and limited English proficient students who are included in State reading/ language arts and mathematics assessments. The Department expects that each State would, on average, require one hour of staff time to complete this effort, at a cost of \$30 per hour. The burden estimated for this requirement is minimal because the States will have already submitted this information to the Department through the ED*Facts* system. For the 50 States, the District of Columbia, and Puerto Rico, the total estimated level of effort would be 52 hours at a cost of \$1,560.

High School and Postsecondary Success

Section 14005(d)(4)(C) of the ARRA requires States to assure that they take steps to improve their State academic content standards and student academic achievement standards consistent with section 6401(e)(1)(A)(ii) of the COMPETES Act, which calls for States to identify and make any necessary changes to their secondary school graduation requirements, academic content standards, academic achievement standards, and the assessments students take preceding graduation from secondary school in order to align those requirements, standards, and assessments with the knowledge and skills necessary for success in academic credit-bearing coursework in postsecondary education, in the 21st century workforce, and in the Armed Forces without the need for remediation. Several of the indicators and descriptors with which a State must comply are aligned with this provision of the America COMPETES Act.

First, the Department requires each State to publicly report, for the State and each LEA and high school in the State and, at each of these levels, by student subgroup,⁶ the number and percentage of students who graduate from high school as determined using the four-year adjusted cohort graduation rate. State efforts to comply with the Department's October 29, 2008 regulation requiring the use of a four-year adjusted cohort graduation rate in the determination of adequate yearly progress under Title I of the ESEA are

⁶ The student subgroups include: economically disadvantaged students, students from major racial and ethnic groups, students with limited English proficiency, and students with disabilities.

now underway (see 34 CFR 200.19(b)(1)(i)). Some additional effort would be required to collect and report these data for all schools as the current regulations apply only to Title I schools.

Based on the Data Quality Campaign's 2010 survey of the 50 States and the District of Columbia, which found that all States have the capacity to calculate the National Governors Association longitudinal graduation rate,⁷ the Department believes that most States are well-situated to collect and publicly report these data. In fulfillment of the requirement, the Department estimates that States would need to distribute to non-Title I LEAs the survey instrument they are using to collect this information from Title I LEAs and to input the data from these surveys. The Department believes the 25 States that have already met this requirement once and the 20 more that have reported completing more than half of the effort involved would require less effort than States that have completed less than half of the work involved with meeting this requirement. The Department estimates that each State that has completed more than half of the work associated with these requirements would need 2 hours to meet the requirements, and each State that has completed less than half of the work would require 8 hours to meet the requirements. Thus, the Department estimates that this would require an estimated average of approximately 3 hours per State. The new LEA burden to respond to this indicator would be limited to the approximately 1,053 LEAs that do not receive Title I funds.⁸ The Department estimates that these LEAs would spend an average of 40 hours to respond to this indicator for a total LEA effort of 42,120 hours. The total estimated cost for LEAs is, therefore, \$1,053,000.

In addition, the Department is requiring States to publicly report, for the State, for each LEA in the State, for each high school in the State and, at each of these levels, by student subgroup, the number and percentage of students who graduate from high school consistent with 34 CFR 200.19(b)(1)(i) who enroll in an IHE within 16 months of receiving a regular high school diploma and, of those students who enroll in a public IHE within the State, the number and percentage who complete at least one year's worth of college credit (applicable to a degree) within two years of enrollment in the

⁷ http://www.dataqualitycampaign.org/stateanalysis/executive_summary/.

⁸ According to data States submitted to the Department, there are a total of 15,224 LEAs across the Nation, 14,171 of which receive Title I, Part A funds.

IHE. The requirements would entail considerable coordination among high schools, LEAs, SEAs, and IHEs. The Department expects that SEAs would have to develop a system to make this data collection and sharing possible, which they could at least partially achieve by establishing a longitudinal data system that includes the elements described in section 6401(e)(2)(D) of the COMPETES Act. As discussed earlier, section 14005(d)(3) of the ARRA requires States to assure, in their SFSF application, that they will establish such a data system.

With respect to the requirement on publicly reporting postsecondary enrollment, the Department expects that LEAs will need to enter, into their State's statewide longitudinal data system, data on each high school graduate's plans after high school, including the IHE where the student intends to enroll, if applicable. Based on data from the *Digest of Education Statistics*, the Department estimates that approximately 2,820,000 students who graduated from public high schools enrolled in IHEs as first-time freshmen in fall 2007.⁹ Holding that number constant, the Department estimates that LEAs will be able to enter data for these students at a pace of 20 students per hour which will result in a total level of LEA effort of 141,000 hours at a cost of \$3,525,000.

The State will then likely need to request that each IHE in the State confirm a student's enrollment, using the statewide longitudinal data system to obtain data on students who intended to enroll within the State. Based on data from the 2008 Integrated Postsecondary Education Data System (IPEDS), Spring 2009,¹⁰ the Department estimates that 2,284,200 first-time freshmen (81 percent of the estimated number of all first-time freshmen who graduate from public high schools) enroll in degree-granting IHEs in their home State. The Department estimates that IHEs will be able to confirm enrollment for 20 students per hour, for a total of 114,210 hours of IHE effort at a total cost of

⁹ According to the *Digest of Education Statistics*, 2008, approximately 3 million first-time freshmen enrolled in IHEs in fall 2007. See http://nces.ed.gov/programs/digest/d09/tables/dt09_199.asp. Also according to the *Digest*, in fall 2005, 859,800 students were enrolled in private secondary schools. At that time, enrollment in public secondary schools was 14,908,126. Extrapolating from those data, the Department estimates that 94 percent of all first-time postsecondary students graduated from public schools. See http://nces.ed.gov/programs/digest/d08/tables/dt08_058.asp.

¹⁰ http://nces.ed.gov/programs/digest/d09/tables/dt09_223.asp.

\$2,855,250 (assuming a cost of \$25 per hour).¹¹

States will also likely need to request that IHEs outside the State confirm the enrollment of students who indicated that they would enroll in those institutions. Again, based on data from the 2008 IPEDS, Spring 2009, the Department estimates that 535,800 students who graduate from public high schools each year enroll in IHEs in States outside their home State. The Department estimates that it will take States 30 minutes per student to complete this process, including contacting out-of-State IHEs, obtaining the necessary information from them, and including data on those students in their public reports. This element of the requirement, therefore, will result in a national total of 267,900 hours of State effort at a total cost of \$8,037,000. As with students who enroll in IHEs in their home State, the Department estimates that IHEs will be able to confirm enrollment for 20 students per hour, for a total of 26,790 hours of IHE effort at a total cost of \$669,750.

Finally, to meet the requirement that they publicly report the number of students who enroll in IHEs, States will need to aggregate the data received from all IHEs and will then need to run analyses and publicly report the data for the State, for each LEA, for each high school and, at each of these levels, by student subgroup. The Department estimates that each State will need 40 hours to conduct these analyses and publicly report these data, for a total State burden of 2,080 hours at a cost of \$62,400.

The requirement that States publicly report the number of students enrolling in a public, in-State IHE who complete at least one year's worth of college credit applicable toward a degree within two years of enrollment at the IHE will also entail a collaborative process between SEAs and IHEs. Again, based on data from the *Digest of Education Statistics*, the Department estimates that 1,691,678 first-time freshmen enroll in public, degree-granting IHEs in their home State.¹² Further, the Department

estimates that, once a State has established a system for the collection and reporting of these data, IHEs will be able to enter data for 20 students an hour; thus, the total estimated level of effort to respond to this requirement will be approximately 84,584 hours of IHE effort at an estimated cost of \$2,114,600, assuming a cost of \$25 per hour.

Finally, as with the previous indicator, States will need to aggregate the data received from all IHEs and will then need to run analyses and publicly report the data for the State, LEA, and school levels and at each of these levels, by student subgroup. The Department estimates that each State will need 40 hours to conduct these analyses and publicly report these data, for a total State burden of 2,080 hours at a cost of \$62,400.

Supporting Struggling Schools

A key goal of the ARRA is to ensure that States and LEAs provide targeted, intensive support and effective interventions to turn around the persistently lowest-achieving schools in the State. Section 14005(d)(5) requires States to ensure compliance with the Title I requirements in this area. To track State progress, the Department is requiring States to provide, for each LEA in the State and aggregated at the State level, the number and percentage of schools in improvement, corrective action, or restructuring that have made progress on State assessments in reading/language arts and mathematics in the last year, and, for the State, in the "all students" category and for each student subgroup (as under section 1111(b)(2)(C)(v) of the ESEA), and, of the Title I schools in improvement, corrective action, or restructuring, the number and identity of the persistently lowest-achieving schools as defined by the State. The State is also required to provide the definition that it uses to identify its "persistently lowest-achieving schools." States are also

required to publicly report the number and identity of their Title I schools in improvement, corrective action, or restructuring that are identified as persistently lowest-achieving and, of those schools, the number and identity of schools that have been turned around, restarted, closed, or transformed in the last year.

The Department believes that States will already have available the data needed to report on the indicators related to the total number and percentage of schools in improvement, corrective action, or restructuring that have made progress on State assessments, although they might need to run new analyses of the data. However, the Department expects that States will have to collect new data on the schools in improvement, corrective action, or restructuring (in general and in the persistently lowest-achieving schools) that have been turned around, restarted, closed, or transformed. (In addition, the State will need to define the term "persistently lowest-achieving schools.") We estimate that this data collection will entail two hours of effort in each of the 4,729 LEAs (the number of LEAs that, according to data reported to ED*Facts*, had at least one school in improvement, corrective action, or restructuring in the 2010–11 school year). As a result, the Department estimates that the total LEA burden for this requirement will be 9,458 hours at a cost of \$236,450. States will then need to aggregate these data, in addition to the effort they will spend responding to the other indicators that relate to struggling schools. Approximately 40 States have either already submitted this information once or have completed more than 50 percent of the effort to meet the requirement. As a result, the Department estimates that these States will require less effort than the other 12 to meet this reporting requirement. The Department estimates that, on average, each State will require 14 hours of effort to respond to these requirements, for a total cost of \$21,840.

In addition, the Department is requiring States to provide, for the State, the number and identity of the secondary schools that are eligible for, but do not receive, Title I funds, that are identified as persistently lowest-achieving schools, and, of these schools, the number and identity of schools that have been turned around, restarted, closed, or transformed in the last year. The Department expects that some, but not all, States have the data required to determine the identity of secondary schools that are eligible for, but do not receive, Title I funds, but that they may have to run new analyses of the data to

¹¹ Note that a table in the Paperwork Reduction Act of 1995 section of this notice provides the burden estimates by IHE, but that this narrative provides national estimates using the total number of students included in the data requirement.

¹² According to the *Digest of Education Statistics*, 2009, 2,240,414 first-time freshmen enrolled in public, degree-granting IHEs in fall 2008, which represented 74 percent of all first-time freshmen. See http://nces.ed.gov/programs/digest/d09/tables/dt09_199.asp. Also in fall 2008, 2,109,931 freshmen who graduated from high school within the last 12 months attended degree-granting IHEs in their home State, which represented 81 percent of all freshmen. See <http://nces.ed.gov/programs/digest/>

d09/tables/dt09_223.asp. 1. An estimate of the number of first-time freshmen enrolled in public, degree-granting IHEs in their home State can be derived two ways. Applying the percentage of first-time freshmen attending public degree-granting IHEs to the number of first-time freshmen attending an IHE in their home State yields an estimate of 1,508,484, and applying the percentage of first-time freshmen attending an IHE in their home State to the number of first-time freshmen attending public degree-granting IHEs yields an estimate of 2,169,077. For the purposes of this estimate, the Department chooses the midpoint of these figures, which is 1,838,780. Applying the estimate (described earlier) that 94 percent of all first-time postsecondary students graduated from public schools, the Department estimates that 1,691,678 public high school graduates enroll in public degree-granting IHEs in their home State.

determine which of these schools have been turned around, restarted, closed, or transformed in the last year. Other States may have to include an item in the LEA survey that they will be distributing to respond to several of these requirements. Based on State efforts to report on these two indicators to date, the Department estimates that each State will require an average of 8 hours of effort to respond to these two requirements, for a total cost of \$12,480. We further estimate that the 4,729 affected LEAs will need a total of 4 hours to respond to these two survey items.

Charter Schools

The Department believes that the creation and maintenance of high-quality charter schools is a key strategy for promoting successful models of school reform. To determine the level of State effort in this area, the Department is requiring States to provide, at the State level and, if applicable, for each LEA in the State, the number of charter schools that are currently permitted to operate under State law and the number that are currently operating. We expect that this information will be readily available and that States will need only a total of one hour to respond to these two requirements.

In addition, the Department will require States to provide, for the State and for each LEA in the State that operates charter schools, the number and percentage (including numerator and denominator) of charter schools that have made progress on State assessments in reading/language arts and mathematics in the last year. Finally, the Department is requiring States to provide, for the State and for each LEA in the State that operates charter schools, the number and identity of charter schools that have closed (including schools that were not reauthorized to operate) within each of the last five years and to indicate, for each such school, whether the closure was for financial, enrollment, academic, or other reasons. The Department believes that SEAs will likely also have this information readily available (although some may need to obtain additional information from their LEAs) and will need eight hours to publicly report it. The Department assumes that the effort to respond to these requirements will be limited to the 42 States (including the District of Columbia and Puerto Rico) that allow charter schools. The Department thus estimates that the State effort required to respond to these indicators will total 336 hours at a cost of \$10,080.

Total Estimated Costs

The Department estimates that the total burden of responding to these requirements will be 287,424 hours and \$8,622,720 for SEAs, 564,076 hours and \$14,101,900 for LEAs, and 225,584 hours and \$5,639,600 for IHEs, for a total burden of 1,077,084 hours at a cost of \$28,364,220.

Benefits

The principal benefits of the requirements are those resulting from the reporting and public availability of information on each State's progress in the four reform areas described in the ARRA. The Department believes that the information gathered and reported as a result of these requirements will improve public accountability for performance, help States, LEAs, and schools learn from one another and make improvements in what they are doing, and inform the ESEA reauthorization process.

A second major benefit is that better public information on State and local progress in the four reform areas will likely spur more rapid progress on those reforms, because States and LEAs that appear to be lagging in one or more areas may see a need to redouble their efforts. The Department believes that more rapid progress on the essential educational reforms will have major benefits nationally, and that these reforms have the potential to drive dramatic improvements in student outcomes.

For example, statewide longitudinal data systems are essential tools in advancing education reform. With these systems in place, States can use this data to evaluate the effectiveness of specific interventions, schools, principals, and teachers by tracking individual student achievement, high school graduation, and postsecondary enrollment and credit. They can, for example, track the academic achievement of individual students over time, even if those students change schools within the State during the course of their education. By analyzing this information, decision-makers can determine if a student's "achievement trajectory" will result in his or her being college- or career-ready and can better target services based on the student's academic needs.¹³

The Department also believes that States' implementation of these requirements will lead to more

widespread development and implementation of better teacher and principal evaluation systems. In particular, the availability of accurate, complete, and valid achievement data is essential to implementing better systems of teacher and principal evaluation. Value-added models, for example, can provide an objective estimate of the impact of teachers on student learning and achievement.¹⁴ Further, they can be used by schools, LEAs, or States to reward excellence in teaching or school leadership, as a component of performance-based compensation systems, or to identify schools in need of improvement or teachers who may require additional training or professional development.¹⁵

The Department believes that the requirements will have additional benefits to the extent that they provide States with incentives to address inequities in the distribution of effective teachers, improve the quality of State assessments, and undergo intensive efforts to improve struggling schools. Numerous studies document the substantial impact of improved teaching on educational outcomes and the need to take action to turn around the lowest-performing schools, including high schools (and their feeder middle schools) that enroll a disproportionate number of the students who fail to complete a high school education and receive a regular high school diploma. The Department believes that more widespread adoption of these reforms would have a significant, positive impact on student achievement.

Although these benefits are not easily quantified, the Department believes they will exceed the projected costs.

Paperwork Reduction Act of 1995

As part of its continuing effort to reduce paperwork and respondent burden, the Department conducts a preclearance consultation program to provide 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)).

¹⁴ See: Braun, Henry I. *Using Student Progress To Evaluate Teachers: A Primer on Value-Added Models*. Educational Testing Service, Policy Information Center, 2005; Marsh, Julie A.; Pane, John F.; Hamilton, Laura S. *Making Sense of Data-Driven Decision Making in Education: Evidence from Recent RAND Research*. Santa Monica, CA: RAND Corporation, 2006; and Sanders, William L. "Value-Added Assessment from Student Achievement Data: Opportunities and Hurdles." *Journal of Personnel Evaluation in Education*, Vol. 14, No. 4, p. 329-339, 2000.

¹⁵ Center for Educator Compensation Reform: <http://cecr.ed.gov/>.

¹³ For example, see http://dataqualitycampaign.org/files/publications-dqc_academic_growth-100908.pdf and http://www.dataqualitycampaign.org/files/Meetings-DQC_Quarterly_Issue_Brief_092506.pdf.

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.

This Interim Final Requirement contains an information collection requirement previously approved under OMB control number 1810–0695. Under the PRA the Department has submitted a copy of this section to OMB for its review.

A Federal agency cannot conduct or sponsor a collection of information unless OMB approves the collection under the PRA and the corresponding information collection instrument

displays a currently valid OMB control number. Notwithstanding any other provision of law, no person is required to comply with, or is subject to penalty for failure to comply with, a collection of information if the collection instrument does not display a currently valid OMB control number.

In the final requirement we will display the control number assigned by OMB to any information collection requirement in this IFR and adopted in the final requirement.

In the SFSF Phase 2 application, the Department established indicators and descriptors that required States to collect and publicly report data and other information annually. The Office of Management and Budget approved that information collection under an emergency review (OMB Control Number 1810–0695). The Department’s

authority under that information collection has expired. Therefore, the Department is reinstating to December 15, 2011 the information collection under OMB Control Number 1810–0695.

A description of the specific information collection requirements is provided in the following tables along with estimates of the annual recordkeeping burden for these requirements. Included in an estimate is the time for collecting and tracking data, maintaining records, calculations, and reporting. The first table presents the estimated indicators burden for SEAs, the second table presents the estimated indicators burden for LEAs, and the third table presents the estimated indicators burden for IHEs.

State Fiscal Stabilization Fund Indicators and Descriptors

I. ASSURANCE INDICATORS AND DESCRIPTORS BURDEN HOURS/COST FOR SEAS

Citation	Description	Number of respondents	Average hours per response*	Total hours	Total cost (total hours × \$30.00)
Indicator (a)(1)	Confirm, for the State, the number and percentage (including numerator and denominator) of core academic courses taught, in the highest-poverty and lowest-poverty schools, by teachers who are highly qualified consistent with section 9101(23) of the Elementary and Secondary Education Act of 1965, as amended (ESEA).	52	1	52	\$1,560
Indicator (a)(2)	Confirm whether the State’s Teacher Equity Plan (as part of the State’s Highly Qualified Teacher Plan) fully reflects the steps the State is currently taking to ensure that students from low-income families and minority students are not taught at higher rates than other students by inexperienced, unqualified, or out-of-field teachers (as required in section 1111(b)(8)(C) of the ESEA).	52	1	52	1,560
Descriptor (a)(1) ...	Describe, for each local educational agency (LEA) in the State, the systems used to evaluate the performance of teachers and the use of results from those systems in decisions regarding teacher development, compensation, promotion, retention, and removal.	52	118	6,158	184,740
Indicator (a)(3)	Indicate, for each LEA in the State, whether the systems used to evaluate the performance of teachers include student achievement outcomes or student growth data as an evaluation criterion.	52	4	208	6,240
Indicator (a)(4)	Provide, for each LEA in the State whose teachers receive performance ratings or levels through an evaluation system, the number and percentage (including numerator and denominator) of teachers rated at each performance rating or level.	52	2	104	3,120
Indicator (a)(5)	Indicate, for each LEA in the State whose teachers receive performance ratings or levels through an evaluation system, whether the number and percentage (including numerator and denominator) of teachers rated at each performance rating or level are publicly reported for each school in the LEA.	52	1	52	1,560
Descriptor (a)(2) ...	Describe, for each LEA in the State, the systems used to evaluate the performance of principals and the use of results from those systems in decisions regarding principal development, compensation, promotion, retention, and removal.	52	118	6,158	184,740

I. ASSURANCE INDICATORS AND DESCRIPTORS BURDEN HOURS/COST FOR SEAS—Continued

Citation	Description	Number of respondents	Average hours per response*	Total hours	Total cost (total hours × \$30.00)
Indicator (a)(6)	Indicate, for each LEA in the State, whether the systems used to evaluate the performance of principals include student achievement outcomes or student growth data as an evaluation criterion.	52	4	208	6,240
Indicator (a)(7)	Provide, for each LEA in the State whose principals receive performance ratings or levels through an evaluation system, the number and percentage (including numerator and denominator) of principals rated at each performance rating or level.	52	1	52	1,560
Indicator (b)(1)	Indicate which of the 12 elements described in section 6401(e)(2)(D) of the America COMPETES Act are included in the State's statewide longitudinal data system.	52	2	104	3,120
Indicator (b)(2)	Indicate whether the State provides student growth data on their current students and the students they taught in the previous year to, at a minimum, teachers of reading/language arts and mathematics in grades in which the State administers assessments in those subjects, in a manner that is timely and informs instructional programs.	52	.5	26	780
Indicator (b)(3)	Indicate whether the State provides teachers of reading/language arts and mathematics in grades in which the State administers assessments in those subjects with reports of individual teacher impact on student achievement on those assessments.	52	.5	26	780
Indicator (c)(1)	Confirm the approval status, as determined by the Department, of the State's assessment system under section 1111(b)(3) of the ESEA with respect to reading/language arts, mathematics, and science assessments.	52	1	52	1,560
Indicator (c)(2)	Confirm whether the State has developed and implemented valid and reliable alternate assessments for students with disabilities that are approved by the Department.	52	1	52	1,560
Indicator (c)(3)	Confirm whether the State's alternate assessments for students with disabilities, if approved by the Department, are based on grade-level, modified, or alternate academic achievement standards.	52	1	52	1,560
Indicator (c)(4)	Indicate whether the State has completed, within the last two years, an analysis of the appropriateness and effectiveness of the accommodations it provides students with disabilities to ensure their meaningful participation in State assessments.	52	1	52	1,560
Indicator (c)(5)	Confirm the number and percentage (including numerator and denominator) of students with disabilities who are included in State reading/language arts and mathematics assessments.	52	.5	26	780
Indicator (c)(6)	Indicate whether the State has completed, within the last two years, an analysis of the appropriateness and effectiveness of the accommodations it provides limited English proficient students to ensure their meaningful participation in State assessments.	52	1	52	1,560
Indicator (c)(7)	Confirm whether the State provides native language versions of State assessments for limited English proficient students that are approved by the Department.	52	1	52	1,560
Indicator (c)(8)	Confirm the number and percentage (including numerator and denominator) of limited English proficient students who are included in State reading/language arts and mathematics assessments.	52	.5	26	780
Indicator (c)(9)	Confirm that the State's annual State Report Card (under section 1111(h)(1) of the ESEA) contains the most recent available State reading and mathematics National Assessment of Educational Progress (NAEP) results as required by 34 CFR 200.11(c).	52	1	52	1,560

I. ASSURANCE INDICATORS AND DESCRIPTORS BURDEN HOURS/COST FOR SEAS—Continued

Citation	Description	Number of respondents	Average hours per response*	Total hours	Total cost (total hours × \$30.00)
Indicator (c)(10)	Provide, for the State, for each LEA in the State, for each high school in the State and, at each of these levels, by student subgroup (consistent with section 1111(b)(2)(C)(v)(II) of the ESEA), the number and percentage (including numerator and denominator) of students who graduate from high school using a four-year adjusted cohort graduation rate as required by 34 CFR 200.19(b)(1)(i).	52	3	156	4,680
Indicator (c)(11)	Provide, for the State, for each LEA in the State, for each high school in the State and, at each of these levels, by student subgroup (consistent with section 1111(b)(2)(C)(v)(II) of the ESEA), of the students who graduate from high school consistent with 34 CFR 200.19(b)(1)(i), the number and percentage (including numerator and denominator) who enroll in an institution of Higher education (IHE) (as defined in section 101(a) of the Higher Education Act of 1965, as amended (HEA)) within 16 months of receiving a regular high school diploma.	52	5,192	269,980	8,099,400
Indicator (c)(12)	Provide, for the State, for each LEA in the State, for each high school in the State and, at each of these levels, by student subgroup (consistent with section 1111(b)(2)(C)(v)(II) of the ESEA), of the students who graduate from high school consistent with 34 CFR 200.19(b)(1)(i) who enroll in a public IHE (as defined in section 101(a) of the HEA) in the State within 16 months of receiving a regular high school diploma, the number and percentage (including numerator and denominator) who complete at least one year's worth of college credit (applicable to a degree) within two years of enrollment in the IHE.	52	40	2,080	62,400
Indicator (d)(1)	Provide, for the State, the average statewide school gain in the "all students" category and the average statewide school gain for each student subgroup (as under section 1111(b)(2)(C)(v) of the ESEA) on the State assessments in reading/language arts and for the State and for each LEA in the State, the number and percentage (including numerator and denominator) of Title I schools in improvement, corrective action, or restructuring that have made progress (as defined in this notice) on State assessments in reading/language arts in the last year.	52	5	260	7,800
Indicator (d)(2)	Provide, for the State, the average statewide school gain in the "all students" category and the average statewide school gain for each student subgroup (as under section 1111(b)(2)(C)(v) of the ESEA) on State assessments in mathematics and for the State and for each LEA in the State, the number and percentage (including numerator and denominator) of Title I schools in improvement, corrective action, or restructuring that have made progress on State assessments in mathematics in the last year.	52	5	260	7,800
Descriptor (d)(1) ...	Provide the definition of "persistently lowest-achieving schools" (consistent with the requirements for defining this term set forth in this notice) that the State uses to identify such schools.	52	1	52	1,560
Indicator (d)(3)	Provide, for the State, the number and identity of the schools that are Title I schools in improvement, corrective action, or restructuring, that are identified as persistently lowest-achieving schools.	52	2	104	3,120
Indicator (d)(4)	Provide, for the State, of the persistently lowest-achieving schools that are Title I schools in improvement, corrective action, or restructuring, the number and identity of those schools that have been turned around, restarted, closed, or transformed (as defined in this notice) in the last year.	52	1	52	1,560

I. ASSURANCE INDICATORS AND DESCRIPTORS BURDEN HOURS/COST FOR SEAS—Continued

Citation	Description	Number of respondents	Average hours per response*	Total hours	Total cost (total hours × \$30.00)
Indicator (d)(5)	Provide, for the State, the number and identity of the schools that are secondary schools that are eligible for, but do not receive, Title I funds, that are identified as persistently lowest-achieving schools.	52	4	208	6,240
Indicator (d)(6)	Provide, for the State, of the persistently lowest-achieving schools that are secondary schools that are eligible for, but do not receive, Title I funds, the number and identity of those schools that have been turned around, restarted, closed, or transformed in the last year.	52	4	208	6,240
Indicator (d)(7)	Provide, for the State and, if applicable, for each LEA in the State, the number of charter schools that are currently permitted to operate under State law.	52	.5	26	780
Indicator (d)(8)	Confirm, for the State and for each LEA in the State that operates charter schools, the number of charter schools currently operating.	52	.5	26	780
Indicator (d)(9)	Provide, for the State and for each LEA in the State that operates charter schools, the number and percentage of charter schools that have made progress on State assessments in reading/language arts in the last year.	42	2	84	2,520
Indicator (d)(10)	Provide, for the State and for each LEA in the State that operates charter schools, the number and percentage of charter schools that have made progress on State assessments in mathematics in the last year.	42	2	84	2,520
Indicator (d)(11)	Provide, for the State and for each LEA in the State that operates charter schools, the number and identity of charter schools that have closed (including schools that were not reauthorized to operate) within each of the last five years.	42	2	84	2,520
Indicator (d)(12)	Indicate, for each charter school that has closed (including a school that was not reauthorized to operate) within each of the last five years, whether the closure of the school was for financial, enrollment, academic, or other reasons.	42	2	84	2,520

* Figures in this column may reflect rounding.

II. ASSURANCE INDICATORS AND DESCRIPTORS BURDEN HOURS/COST FOR LEAS

Citation	Description	Number of respondents	Average hours per response*	Total hours	Total cost (total hours × \$30.00)
Descriptor (a)(1) ..	Describe, for each LEA in the State, the systems used to evaluate the performance of teachers and the use of results from those systems in decisions regarding teacher development, compensation, promotion, retention, and removal.	15,224	1.78	27,114	677,850
Indicator (a)(3)	Indicate, for each LEA in the State, whether the systems used to evaluate the performance of teachers include student achievement outcomes or student growth data as an evaluation criterion.	12,737	.1	850	21,250
Indicator (a)(4)	Provide, for each LEA in the State whose teachers receive performance ratings or levels through an evaluation system, the number and percentage (including numerator and denominator) of teachers rated at each performance rating or level.	12,040	23.7	285,000	7,125,000
Indicator (a)(5)	Indicate, for each LEA in the State whose teachers receive performance ratings or levels through an evaluation system, whether the number and percentage (including numerator and denominator) of teachers rated at each performance rating or level are publicly reported for each school in the LEA.	12,040	.5	5,955	148,875
Descriptor (a)(2) ..	Describe, for each LEA in the State, the systems used to evaluate the performance of principals and the use of results from those systems in decisions regarding principal development, compensation, promotion, retention, and removal.	15,224	1.78	27,113	677,825

II. ASSURANCE INDICATORS AND DESCRIPTORS BURDEN HOURS/COST FOR LEAs—Continued

Citation	Description	Number of respondents	Average hours per response*	Total hours	Total cost (total hours × \$30.00)
Indicator (a)(6)	Indicate, for each LEA in the State, whether the systems used to evaluate the performance of principals include student achievement outcomes or student growth data as an evaluation criterion.	12,737	.1	850	21,250
Indicator (a)(7)	Provide, for each LEA in the State whose principals receive performance ratings or levels through an evaluation system, the number and percentage (including numerator and denominator) of principals rated at each performance rating or level.	12,040	.47	5,700	142,500
Indicator (c)(10) ...	Provide, for the State, for each LEA in the State, for each high school in the State and, at each of these levels, by student subgroup (consistent with section 1111(b)(2)(C)(v)(II) of the ESEA), the number and percentage (including numerator and denominator) of students who graduate from high school using a four-year adjusted cohort graduation rate as required by 34 CFR 200.19(b)(1)(i).	1,053	40	42,120	1,053,000
Indicator (c)(11) ...	Provide, for the State, for each LEA in the State, for each high school in the State and, at each of these levels, by student subgroup (consistent with section 1111(b)(2)(C)(v)(II) of the ESEA), of the students who graduate from high school consistent with 34 CFR 200.19(b)(1)(i), the number and percentage (including numerator and denominator) who enroll in an IHE (as defined in section 101(a) of the HEA) within 16 months of receiving a regular high school diploma.	15,224	9.26	141,000	3,525,000
Indicator (d)(4)	Provide, for the State, of the persistently lowest-achieving Title I schools in improvement, corrective action, or restructuring, the number and identity of schools that have been turned around, restarted, closed, or transformed in the last year.	4,729	2	9,458	236,450
Indicator (d)(5)	Provide, for the State, the number and identity of the secondary schools that are eligible for, but do not receive, Title I funds, that are identified as persistently lowest-achieving schools.	4,729	2	9,458	236,450
Indicator (d)(6)	Provide, for the State, of the persistently lowest-achieving secondary schools that are eligible for, but do not receive, Title I funds, the number and identity of schools that have been turned around, restarted, closed, or transformed in the last year.	4,729	2	9,458	236,450

*Figures in this column may reflect rounding.

III. ASSURANCE INDICATORS AND DESCRIPTORS BURDEN HOURS/COST FOR IHES

Citation	Description	Number of respondents	Average hours per response*	Total hours	Total cost (total hours × \$25.00)
Indicator (c)(11)	Provide, for the State, for each LEA in the State, for each high school in the State and, at each of these levels, by student subgroup (consistent with section 1111(b)(2)(C)(v)(II) of the ESEA), of the students who graduate from high school consistent with 34 CFR 200.19(b)(1)(i), the number and percentage (including numerator and denominator) who enroll in an IHE (as defined in section 101(a) of the HEA) within 16 months of receiving a regular high school diploma.	4,409	31.98	141,000	\$3,525,000

III. ASSURANCE INDICATORS AND DESCRIPTORS BURDEN HOURS/COST FOR IHEs—Continued

Citation	Description	Number of respondents	Average hours per response*	Total hours	Total cost (total hours × \$25.00)
Indicator (c)(12)	Provide, for the State, for each LEA in the State, for each high school in the State and, at each of these levels, by student subgroup (consistent with section 1111(b)(2)(C)(v)(II) of the ESEA), of the students who graduate from high school consistent with 34 CFR 200.19(b)(1)(i) who enroll in a public IHE (as defined in section 101(a) of the HEA) in the State within 16 months of receiving a regular high school diploma, the number and percentage (including numerator and denominator) who complete at least one year's worth of college credit (applicable to a degree) within two years of enrollment in the IHE.	1,676	50.47	84,584	2,114,600

* Figures in this column may reflect rounding.

If you want to comment on the information collection requirements, please send your comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for U.S. Department of Education. Send these comments by e-mail to OIRA_DOCKET@omb.eop.gov or by fax to (202) 395-6974. You may also send a copy of these comments to the Department contact named in the **ADDRESSES** section of this preamble.

We have prepared an Information Collection Request (ICR) for this collection. In preparing your comments you may want to review the ICR, which we maintain in the Education Department Information Collection System (EDICS) at <http://edicsweb.ed.gov>. Click on Browse Pending Collections. This proposed collection is identified as proposed collection 1810-0695.

We consider your comments on this collection of information in—

- Deciding whether the collection is necessary for the proper performance of our functions, including whether the information will have practical use;
- Evaluating the accuracy of our estimate of the burden of the collection, including the validity of our methodology and assumptions;
- Enhancing the quality, usefulness, and clarity of the information we collect; and
- Minimizing the burden on those who must respond. This includes exploring the use of appropriate automated, electronic, mechanical, or other technological collection techniques.

OMB is required to make a decision concerning the collection of information contained in this interim final requirement between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, to ensure that OMB gives your comments full

consideration, it is important that OMB receives your comments on the proposed collection within 30 days after publication. This does not affect the deadline for your comments to us on the interim final requirement.

Regulatory Flexibility Act Certification

The Secretary certifies that this regulatory action will not have a significant economic impact on a substantial number of small entities. The small entities that this regulatory action will affect are small LEAs receiving funds under this program and small IHEs.

This regulatory action will not have a significant economic impact on small LEAs because they will be able to meet the costs of compliance with this regulatory action using the funds provided under this program.

With respect to small IHEs, the U.S. Small Business Administration Size Standards define these institutions as “small entities” if they are for-profit or nonprofit institutions with total annual revenue below \$5,000,000 or if they are institutions controlled by small governmental jurisdictions, which are comprised of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000. Based on data from the Department’s Integrated Postsecondary Education Data System (IPEDS), up to 427 small IHEs with revenues of less than \$5 million may be affected by these requirements; only 33 of these IHEs are public. These small IHEs represent only 13 percent of degree-granting IHEs. In addition, only 98,032 students (0.5 percent) enrolled in degree-granting IHEs in fall 2007 attended these small institutions; just 11,830 of these students are enrolled in small, degree-granting public IHEs. As the burden for indicators (c)(11) and (c)(12) is driven by the number of students for whom

IHEs would be required to submit data, small IHEs will require significantly less effort to adhere to these requirements than will be the case for larger IHEs. Based on IPEDS data, the Department estimates that 1,873 of these students are first-time freshmen. As stated earlier in the *Summary of Costs and Benefits* section of this notice, the Department estimates that, as required by indicator (c)(11), IHEs will be able to confirm the enrollment of 20 first-time freshmen per hour. Applying this estimate to the estimated number of first-time freshmen at small IHEs, the Department estimates that these IHEs will need to spend 94 hours to respond to this requirement at a total cost of \$2,350 (assuming a cost of \$25 per hour).

The effort involved in reporting the number of students enrolling in a public IHE in their home State who complete at least one year’s worth of college credit applicable toward a degree within two years as required by indicator (c)(12) will also apply to small IHEs, but will be limited to students who enroll in public IHEs in their home State. As discussed earlier in the *Summary of Costs and Benefits* section of this notice, the Department estimates that 81 percent of first-time freshmen who graduate from public high schools enroll in degree-granting IHEs in their home State. Applying this percentage to the estimated number of first-time freshmen enrolled in small public IHEs (1,873), the Department estimates that small IHEs will be required to report credit completion data for a total of 1,517 students. For this requirement, the Department also estimates that IHEs will be able to report the credit completion status of 20 first-time freshmen per hour. Again, applying this data entry rate to the estimated number of first-time freshmen at small public IHEs in their home State, the Department estimates that these IHEs will need to

spend 76 hours to respond to this requirement at a total cost of \$1,900. The total cost of these requirements for small IHEs is, therefore, \$4,250; \$2,068 of this cost will be borne by small private IHEs, and \$2,182 of the cost will be borne by small public IHEs. Based on the total number of small IHEs across the Nation, the estimated cost per small private IHE is approximately \$10, and the estimated cost per small public IHE is \$66. The Department has, therefore, determined that the requirements will not represent a significant burden on small not-for-profit IHEs. It is also important to note that States may use their Government Services Fund allocations to help small IHEs meet the costs of complying with the requirements that affect them, and public IHEs may use Education Stabilization Fund dollars they receive for that purpose.

In addition, the Department believes the benefits provided under this regulatory action will outweigh the burdens on these institutions of complying with the requirements. One of these benefits will be the provision of better information on student success in postsecondary education to policymakers, educators, parents, and other stakeholders. The Department believes that the information gathered and reported as a result of these requirements will improve public accountability for performance; help States, LEAs, and schools learn from one another and improve their decision-making; and inform Federal policymaking.

A second major benefit is that better public information on State and local progress in the four reform areas will likely spur more rapid progress on those reforms, because States and LEAs that appear to be lagging in one area or another may see a need to redouble their efforts. The Department believes that more rapid progress on the essential educational reforms will have major benefits nationally, and that these reforms have the potential to drive dramatic improvements in student outcomes. The requirements that apply to IHEs should, in particular, spur more rapid implementation of pre-K–16 State longitudinal data systems.

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

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the

official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: <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: <http://www.federalregister.gov>. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Program Authority: American Recovery and Reinvestment Act of 2009, Division A, Title XIV—State Fiscal Stabilization Fund, Pub. L. 111–5; 20 U.S.C. 1221e-3 and 3474.

Catalog of Federal Domestic Assistance (CFDA) Numbers: 84.394 (Education Stabilization Fund) and 84.397 (Government Services Fund).

Dated: September 19, 2011.

Arne Duncan,
Secretary of Education.

[FR Doc. 2011–24407 Filed 9–22–11; 8:45 am]

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DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

37 CFR Part 1

[Docket No.: PTO–P–2011–0039]

RIN 0651–AC62

Changes To Implement the Prioritized Examination Track (Track I) of the Enhanced Examination Timing Control Procedures Under the Leahy-Smith America Invents Act

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: On April 4, 2011, the United States Patent and Trademark Office (Office) published a final rule that revised the rules of practice in patent cases to implement a procedure under which applicants may request prioritized examination at the time of filing of an application upon payment of appropriate fees and compliance with certain requirements (Track I final rule). The prioritized examination procedure is the first track (Track I) of a 3-Track examination process designed to

provide applicants with greater control over when their utility and plant applications are examined and to promote greater efficiency in the patent examination process. The Office subsequently published a final rule on April 29, 2011, indicating that the effective date of the Track I final rule was delayed until further notice due to funding limitations. The Leahy-Smith America Invents Act includes provisions for prioritized examination that emulate the requirements of the Office's Track I final rule, with revised fee amounts for prioritized examination (including a small entity discount) and a provision that addresses the funding limitations that required a delay in the implementation of the Track I final rule. This final rule implements the prioritized examination provisions of section 11(h) of the Leahy-Smith America Invents Act.

DATES: Effective Date: The changes in this final rule are effective on September 26, 2011. The final rule published at 76 FR 18399–18407 on April 4, 2011, is withdrawn effective September 23, 2011.

Applicability Date: A request for prioritized examination may be submitted with any original utility or plant application filed on or after September 26, 2011.

FOR FURTHER INFORMATION CONTACT: By telephone to Eugenia A. Jones, at (571) 272–7727, Kathleen Kahler Fonda, at (571) 272–7754, or Michael T. Cygan, at (571) 272–7700; or by mail addressed to: United States Patent and Trademark Office, Mail Stop Comments—Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313–1450, marked to the attention of Eugenia A. Jones or Kathleen Kahler Fonda or Michael T. Cygan.

SUPPLEMENTARY INFORMATION: In June 2010, the Office requested comments from the public on a proposal to provide applicants with greater control over when their original utility or plant applications are examined and promote work sharing between intellectual property offices (3-Track). See *Enhanced Examination Timing Control Initiative; Notice of Public Meeting*, 75 FR 31763 (June 4, 2010). Specifically, the Office proposed to implement procedures under which an applicant would be able to: (1) Request prioritized examination of an original utility or plant nonprovisional application (Track I); (2) request a delay in docketing the application for examination, for an original utility or plant application filed under 35 U.S.C. 111(a), by filing a request for delay in payment of the search fee, the examination fee, the