

**SUPPLEMENTARY INFORMATION:** Section 212 of the Consumer Product Safety Improvement Act of 2008 (Pub. L. 110–314) (“CPSIA”) requires the Commission to establish and maintain a product safety information database that is available to the public. Specifically, section 212 of the CPSIA amended the Consumer Product Safety Act (“CPSA”) to create a new section 6A of the CPSA, titled “Publicly Available Consumer Product Safety Information Database” (“Database”). Section 6A(a)(1) of the CPSA requires the Commission to establish and maintain a database on the safety of consumer products, and other products or substances regulated by the Commission. The Database must be publicly available, searchable, and accessible through the Commission’s Web site.

In the **Federal Register** of December 9, 2010 (75 FR 76832), we published a final rule to establish the Database. The final rule will become effective on January 10, 2011.

Through this notice, we are announcing that we will conduct two Web conferences to demonstrate certain aspects of the Database. The first Web conference, which will be held on January 11, 2011, will focus on the incident form that the public will use to file a report of harm and the search function of the Database. The Web conference is intended to inform all interested stakeholders of the information required on the form to be used to report an incident, in addition to an explanation of the public search function of the Database.

The second Web conference, which will be held on January 20, 2011, will focus on the industry registration and comment features, the process for reporting incidents, and the public search component of the Database.

Persons interested in viewing either Web conference or attending a webcast in person should register in advance as explained in the **ADDRESSES** section of this notice. The CPSC Web link at <http://www.cpsc.gov/meetingsignup.html> has more information about the demonstrations.

Dated: January 3, 2011.

**Todd A. Stevenson,**

Secretary, Consumer Product Safety Commission.

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## DEPARTMENT OF EDUCATION

[Docket ID ED–2010–OESE–0018]

### Enhanced Assessment Instruments

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

**ACTION:** Notice of proposed priorities, requirements, definitions, and selection criteria.

**SUMMARY:** The Secretary of Education proposes priorities, requirements, definitions, and selection criteria under the Enhanced Assessment Instruments Grant (EAG) competition. The Secretary may use one or more of these priorities, requirements, definitions, and selection criteria for competitions using funds from fiscal year (FY) 2010 and later years. We take these actions in order to establish selection criteria that are likely to recognize high-quality proposals and to help focus Federal financial assistance on applications that address pressing needs and promising developments related to developing and implementing assessments under the Elementary and Secondary Education Act of 1965, as amended (ESEA).

**DATES:** We must receive your comments on or before February 7, 2011. We encourage you to submit comments well in advance of this date.

**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. Please submit your comments only one time in order to ensure that we do not receive duplicate copies. In addition, please include the Docket ID and the term “Enhanced Assessment Grants—Comments” at the top of your comments.

*Federal eRulemaking Portal:* Go to <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.” A direct link to the docket page is also available at <http://www.ed.gov/programs/eag>.

*Postal Mail, Commercial Delivery, or Hand Delivery.* If you mail or deliver your comments about these proposed priorities, requirements, definitions, and selection criteria, address them to the Office of Elementary and Secondary Education (Attention: Enhanced Assessment Grants Comments), U.S. Department of Education, 400 Maryland Avenue, SW., room 3W210, Washington, DC 20202.

**Privacy Note:** The Department’s policy for comments received from members of the public (including those 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:

Collette Roney. Telephone: (202) 401–5245 or by e-mail: [collette.roney@ed.gov](mailto:collette.roney@ed.gov).

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

### SUPPLEMENTARY INFORMATION: Invitation to Comment:

We invite you to submit comments regarding this notice. To ensure that your comments have maximum effect in developing the notice of final priorities, requirements, definitions, and selection criteria, we urge you to identify clearly the specific proposed priority, requirement, definition, or selection criterion that each comment addresses.

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

During and after the comment period, you may inspect all public comments about this notice by accessing Regulations.gov. You may also inspect the comments in person, in room 3W210, 400 Maryland Avenue, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

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

*Purpose of Program:* The purpose of the Enhanced Assessment Instruments Grant (EAG) program is to enhance the

quality of assessment instruments and systems used by States for measuring the academic achievement and growth of elementary and secondary students.

*Program Authority:* 20 U.S.C. 7301a.

*Proposed Priorities:*

*Background:*

Proficiency on the State assessments required under Title I, Part A of the ESEA is the primary indicator of student academic achievement and, hence, a crucial measure of State success in meeting the goals of the ESEA. In view of the critical importance of these State assessments, section 6112 of the ESEA authorizes the Department, through the EAG program, to make competitive grant awards to State educational agencies (SEAs) to help them enhance the quality of their assessment instruments and assessment systems. The EAG program includes four statutory priorities:

(a) Collaborating with institutions of higher education, other research institutions, or other organizations to improve the quality, validity, and reliability of State academic assessments beyond the requirements for these assessments described in section 1111(b)(3) of the ESEA;

(b) Measuring student academic achievement using multiple measures of student academic achievement from multiple sources;

(c) Charting student progress over time; and

(d) Evaluating student academic achievement through the development of comprehensive academic assessment instruments, such as performance- and technology-based academic assessments.

EAG grantees must address one or more of these statutory priorities. Through this notice, the Department proposes two additional priorities as well as requirements, definitions, and selection criteria that are designed to support States' assessment work and to build upon the assessments that the Department is funding through the Race to the Top Assessment (RTTA) program.

Under the RTTA program, the Department awarded grants to two consortia, which collectively include 44 States and the District of Columbia, to support the development of new assessment systems that will be used by multiple States; are valid, reliable, and fair for their intended purposes and for all student subgroups; and measure student knowledge and skills against a common set of college- and career-ready standards in English language arts and mathematics.

The Department is also funding work on assessment development through the General Supervision Enhancement

Grants (GSEG) program, which is authorized by the Individuals with Disabilities Education Act. The Department recently awarded funds under the GSEG program to support two consortia of States in developing alternate assessments based on alternate academic achievement standards for students with the most significant cognitive disabilities that fit coherently with assessments being developed under the RTTA program.

Section 1111(b)(7) of the ESEA requires States receiving ESEA Title I, Part A allocations to administer, on a yearly basis, valid and reliable assessments of the English language proficiency of all English learners and, under section 3122 of the ESEA, States receiving funds under Title III, Part A, Subpart 1 of the ESEA must use the results of these English language proficiency assessments for accountability purposes. The English language proficiency assessments developed to date have been designed to align with English language proficiency standards that correspond with State-specific standards in reading/language arts and mathematics. States need English language proficiency assessments, however, that align with English language proficiency standards that correspond to standards that prepare students for college and the workplace. The Department did not include English language proficiency assessments among the priorities established in the notice inviting applications for the RTTA program. Accordingly, we propose here a priority for the EAG program for projects that propose to develop a system of English language proficiency assessments aligned with English language proficiency standards that correspond to a common set of college- and career-ready standards (as defined in the definitions section in this notice) in English language arts and mathematics that will be operational by the end of the project period (i.e., ready for large-scale administration). These assessments would complement the assessments that are being developed under the RTTA program.

This priority would support the development of an English language proficiency assessment system for English learners, as specified in the priority. This priority would not support the development of English language proficiency assessments for English learners with the most significant cognitive disabilities who are eligible to participate in alternate assessments based on alternate academic achievement standards in accordance with 34 CFR 200.6(a)(2). The

Department previously awarded a grant to support the development of alternate assessments of English language proficiency for such English learners through a prior EAG competition. In addition, through the GSEG program, the Department is currently funding the development of alternate assessments based on alternate academic achievement standards that measure student knowledge and skills against a set of college- and career-ready standards in English language arts and mathematics held in common by multiple States. We believe that these investments in alternate assessments will help prepare the field for developing the next generation of English language proficiency assessments for English learners with the most significant cognitive disabilities.

The Department notes that, while this priority would not support the development of English language proficiency assessments for English learners with the most significant cognitive disabilities, all States remain responsible, in accordance with section 1111(b)(7) of the ESEA, for assessing the English language proficiency of all English learners, including English learners with the most significant cognitive disabilities. We are therefore including in the priority a requirement that an applicant describe the strategies it and, if it applies as part of a consortium, all States in the consortium would use to assess the English language proficiency of English learners with the most significant cognitive disabilities in lieu of including them in the operational administration of the assessments developed for other English learners under a grant from this competition.

The Department plans to fund grant awards for at least a three-year project period to develop operational assessments for an English language proficiency assessment system.

During public meetings the Department held to gain input on the design of the RTTA program's fiscal year (FY) 2010 competition, and in other arenas, States indicated to the Department their interest in continuing to work together in consortia to develop assessments aligned with common State-developed standards. Therefore, we propose a priority for the EAG program that would support projects that propose collaborative efforts among States.

The Secretary may apply one or more of these priorities in any year in which the program is in effect.

*Proposed Priority 1—English Language Proficiency Assessment System.*

*Background:*

English learners (as defined in this notice) must acquire both English language proficiency and content area knowledge in order to succeed in school and graduate from high school college- and career-ready. In order to inform teaching, learning, and program improvement, educators need data from assessments about the English language proficiency level of each English learner and his or her progress toward attainment of proficiency in English. Assessments that provide that information would also assist in building the knowledge base about promising practices to improve English proficiency and thus support efforts to improve instruction for English learners.

Proposed Priority 1 would support the development of high-quality English language proficiency assessments that are aligned with English language proficiency standards that in turn correspond to a common set of college- and career-ready standards in English language arts and mathematics. States in a consortium developing these English language proficiency assessments would use a common definition of “English learner” and common criteria for exiting a student from English learner status in order to ensure consistent identification of students as English learners across member States. These assessments also would be used to help determine the effectiveness of English language instruction educational programs.

*Proposed Priority 1:*

To meet this priority, an applicant must propose a comprehensive plan to develop an English language proficiency assessment system that is valid, reliable, and fair for its intended purpose. Such a plan must include the following features:

(a) *Design.* The assessment system must—

(1) Be designed for implementation in multiple States;

(2) Be based on a common definition of “English learner” adopted by the applicant State and, if the applicant applies as part of a consortium, adopted and held in common by all States in the consortium;

(2) At a minimum, include diagnostic (placement) and summative assessments;

(3) Measure students’ English language proficiency against a set of English language proficiency standards held by the applicant State and, if the applicant applies as part of a consortium, held in common by all States in the consortium, that

correspond to a common set of college- and career-ready standards (as defined in this notice) in English language arts and mathematics;

(4) Cover the full range of the English language proficiency standards across the four language domains of reading, writing, speaking, and listening, as required by section 3113(b)(2) of the ESEA;

(5) Measure the linguistic components of language (e.g., phonology, morphology, syntax, vocabulary);

(6) Produce results that indicate whether individual students have attained the English language proficiency necessary to participate fully in academic instruction in English and meet or exceed college- and career-ready standards;

(7) Provide at least an annual measure of English language proficiency and student progress in learning English for English learners in grades kindergarten through 12 in each of the four language domains;

(8) Assess all English learners, including English learners who are also students with disabilities and students with limited or no formal education, except for English learners with the most significant cognitive disabilities who are eligible to participate in alternate assessments based on alternate academic achievement standards; and

(9) Be accessible to all English learners, including by providing appropriate accommodations for English learners with disabilities, except for English learners with the most significant cognitive disabilities who are eligible to participate in alternate assessments based on alternate academic achievement standards.

(b) *Technical Quality.* The assessment system must measure students’ English language proficiency in ways that—

(1) Are consistent with nationally recognized professional and technical standards; and

(2) As appropriate, elicit complex student demonstrations of comprehension and production of academic English (e.g., performance tasks, selected responses, brief or extended constructed responses).

(c) *Data.* The assessment system must produce data, that—

(1) Include student attainment of English language proficiency and student progress in learning English,

(2) Indicate students’ abilities in each of the four language domains and provide a comprehensive English language proficiency score based on all four domains, for students at each proficiency level; and

(3) Can be used to inform—

(i) Identification of students as English learners;

(ii) Decisions about whether a student should exit from English language instruction educational programs;

(iii) Determinations of school, local educational agency (LEA), and State effectiveness for the purposes of accountability under Title I and Title III of the ESEA;

(iv) Determinations of individual principal and teacher effectiveness for purposes of evaluation;

(v) Determinations of principal and teacher professional development and support needs; and

(vi) Improvement in teaching, learning, and language instruction education programs.

(d) *Compatibility.* The assessment system must use compatible approaches to technology, assessment administration, scoring, reporting, and other factors that facilitate the coherent inclusion of the assessments within States’ student assessment systems.

(e) *Students with the most significant cognitive disabilities.* The comprehensive plan to develop an English language proficiency assessment system must include the strategies the applicant State and, if the applicant is part of a consortium, all States in the consortium plan to use to assess the English language proficiency of English learners with the most significant cognitive disabilities who are eligible to participate in alternate assessments based on alternate academic achievement standards in accordance with 34 CFR 200.6(a)(2) in lieu of including those students in the operational administration of the assessments developed for other English learners under a grant from this competition.

*Proposed Priority 2—Collaborative Efforts Among States.*

*Background:*

Two consortia of States are collaborating under the RTTA program to develop new assessment systems that measure student knowledge and skills against a common set of college- and career-ready standards in English language arts and mathematics. States also have indicated to the Department their interest in continuing to work together in consortia to develop assessments aligned to common standards. Because of the complexity of developing and implementing assessments and other assessment-related instruments, collaborative efforts between and among States can yield approaches that build on each State’s expertise and experience as well as approaches that generate efficiencies in development, administration, costs, and

uses of results. In previous competitions for EAG funds, which also included a priority for collaboration among States, States often responded by proposing consortia to complete a range of projects. In light of the interest among States, the benefits of collaboration, and the prior practice within the EAG program, the Department also proposes a priority for projects that involve collaborative efforts among States.

*Proposed Priority:*

To meet this priority, an applicant must—

(a) Include a minimum of 15 States in the consortium;

(b) Identify in its application a proposed project management partner and provide an assurance that the proposed project management partner is not partnered with any other eligible applicant applying for an award under this competition;

(c) Provide a description of the consortium's structure and operation. The description must include—

(1) The organizational structure of the consortium (e.g., differentiated roles that a member State may hold);

(2) The consortium's method and process (e.g., consensus, majority) for making different types of decisions (e.g., policy, operational);

(3) The protocols by which the consortium will operate, including the protocols for member States to change roles in the consortium;

(4) The consortium's plan, including the process and timeline, for setting key policies and definitions for implementing the proposed project, including, for any assessments developed through a project funded by this grant, the common set of standards upon which to base the assessments, a common set of performance-level descriptors, a common set of achievement standards, common assessment administration procedures, common item-release and test-security policies, and a common set of policies and procedures for accommodations and student participation; and

(5) The consortium's plan for managing grant funds received under this competition; and

(d) Provide a memorandum of understanding or other binding agreement executed by each State in the consortium that includes an assurance that the State will adopt or utilize any instrument, including to the extent applicable, any standards or assessments, developed under the proposed project no later than the end of the project period.

*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)).

**PROPOSED REQUIREMENTS:**

*Background:*

Like the priorities and selection criteria that we are proposing in this notice for the EAG program, the proposed program requirements for this program are closely aligned with those that we established for the RTTA program. These proposed requirements have been designed to ensure that any assessments or other assessment-related instruments developed under a grant for this program are operational by the end of the grant period, meet high standards of technical quality, and use the benefits of technology as well as enable widespread availability and usability of the assessments or other assessment-related instruments developed.

*Proposed Requirements:*

The Secretary proposes the following requirements for this program. We may apply one or more of these requirements in any year in which this program is in effect. An eligible applicant awarded a grant under this program must—

(a) Evaluate the validity, reliability, and fairness of any assessments or other assessment-related instruments developed under a grant from this competition, and make available documentation of evaluations of technical quality through formal mechanisms (e.g., peer-reviewed journals) and informal mechanisms (e.g., newsletters), both in print and electronically;

(b) Actively participate in any applicable technical assistance activities conducted or facilitated by the Department or its designees (e.g., the RTTA program), and participate in other

activities as determined by the Department;

(c) Develop a strategy to make student-level data that result from any assessments or other assessment-related instruments developed under a grant from this competition available on an ongoing basis for research, including for prospective linking, validity, and program improvement studies;

(d) Ensure that any assessments or other assessment-related instruments developed under a grant from this competition will be operational at the end of the project period (e.g., ready for large-scale administration);

(e) Maximize the interoperability of any assessments and other assessment-related instruments developed with funds from this competition across technology platforms and the ability for States to move their assessments from one technology platform to another by doing the following, as applicable, for any assessments developed with funds from this competition—

(1) Developing all assessment items in accordance with an industry-recognized open-licensed interoperability standard that is approved by the Department during the grant period, without non-standard extensions or additions; and

(2) Producing all student-level data in a manner consistent with an industry-recognized open-licensed interoperability standard that is approved by the Department during the grant period;

(f) Unless otherwise protected by law or agreement as proprietary information, making any assessment content (i.e., assessments and assessment items) and other assessment-related instruments developed with funds from this competition freely available to States, technology platform providers, and others that request it for purposes of administering assessments, provided that those requesting assessment content comply with consortium or State requirements for test or item security; and

(g) For any assessments and other assessment-related instruments developed with funds from this competition, using technology to the maximum extent appropriate to develop, administer, and score the assessments and report results.

*Proposed Definitions:*

*Background:*

Several important terms associated with the EAG program's proposed priorities and selection criteria are not defined in the EAG statute.

*Proposed Definitions*

The Secretary proposes the following definitions for the EAG program. We may apply one or more of these

definitions in any year in which this program is in effect.

*Common set of college- and career-ready standards* means a set of academic content standards for grades K–12 held in common by a significant number of States, that (a) define what a student must know and be able to do at each grade level; (b) if mastered, would ensure that the student is college- and career-ready by the time of high school graduation; and (c) for any consortium of States applying under the EAG program, are substantially identical across all States in the consortium.

A State in the consortium may supplement the common set of college- and career-ready standards with additional content standards, provided that the additional standards do not comprise more than 15 percent of the State's total standards for that content area.

*English learner* means a student who is an English learner as defined by the applicant consistent with the definition of a student who is "limited English proficient" as that term is defined in section 9101(25) of the ESEA. If the applicant submits an application on behalf of a consortium, member States must develop and adopt a uniform definition of the term during the period of the grant.

*Student with a disability* means a student who has been identified as a child with a disability under the Individuals with Disabilities Education Act, as amended.

#### *Proposed Selection Criteria:*

##### *Background:*

We expect that any assessments funded under this competition will be of similar technical quality to those funded under the RTTA program. Therefore, the proposed selection criteria are adapted from the selection criteria that the Department used to review applications under that program.

##### *Proposed Selection Criteria:*

The Secretary proposes the following selection criteria for evaluating an application under this program. We may apply one or more of these criteria in any year in which this program is in effect. In the notice inviting applications or the application package or both we will announce the selection criteria to be applied and the maximum possible points assigned to each criterion.

(a) *Theory of action.* The Secretary reviews each application to determine the extent to which the eligible applicant's theory of action is logical, coherent, and credible, and will result in improved student outcomes. In determining the extent to which the theory of action has these attributes, we

will consider the description of, and rationale for—

(1) How the assessment results will be used (e.g., at the State, LEA, school, classroom, and student levels);

(2) How the assessments and assessment results will be incorporated into coherent educational systems of the State(s) participating in the grant (i.e., systems that include standards, assessments, curriculum, instruction, and professional development); and

(3) How those educational systems as a whole will improve student achievement.

(b) *Assessment design.* The Secretary reviews each application to determine the extent to which the design of the eligible applicant's proposed assessments is innovative, feasible, and consistent with the theory of action. In determining the extent to which the design has these attributes, we will consider—

(1) The number and types of assessments, as appropriate (e.g., diagnostic assessments, summative assessments);

(2) How the assessments will measure student knowledge and skills against the full range of the relevant standards, including the standards against which student achievement has traditionally been difficult to measure, provide an accurate measure of student proficiency on those standards, including for students who are high- and low-performing in academic areas, and provide an accurate measure of student progress in the relevant area over a full academic year;

(3) How the assessments will produce the required student performance data, as described in the priority;

(4) How and when during the academic year different types of student data will be available to inform and guide instruction, interventions, and professional development;

(5) The types of data that will be produced by the assessments, which must include student achievement data and other data specified in the relevant priority;

(6) The uses of the data that will be produced by the assessments, including (but not limited to)—

(i) Determining individual student achievement and student progress; determining individual principal and teacher effectiveness, if applicable, and professional development and support needs;

(ii) Informing teaching, learning, and program improvement; and

(7) The frequency and timing of administration of the assessments, and the rationale for these;

(8) The number and types of items (e.g., performance tasks, selected responses, observational rating, brief or extended constructed responses) and the distribution of item types within the assessments, including the extent to which the items will be varied and elicit complex student demonstrations or applications of knowledge, skills, and approaches to learning, as appropriate (descriptions should include a concrete example of each item type proposed); and the rationale for using these item types and their distributions;

(9) The assessments' administration mode (e.g., paper-and-pencil, teacher rating, computer-based, or other electronic device), and the rationale for the mode;

(10) The methods for scoring student performance on the assessments, the estimated turnaround times for scoring, and the rationale for these; and

(11) The reports that will be produced based on the assessments, and for each report, its intended use, target audience (e.g., students, parents, teachers, administrators, policymakers), and the key data it will present.

(c) *Assessment development plan.* The Secretary reviews each application to determine the extent to which the eligible applicant's plan for developing the proposed assessments will ensure that the assessments are ready by the end of the grant period for wide-scale administration in a manner that is timely, cost-effective, and consistent with the proposed design and incorporates a process for ongoing feedback and improvement. In determining the extent to which the assessment development plan has these attributes, we will consider—

(1)(i) The approaches for developing assessment items (e.g., evidence-centered design, universal design) and the rationale for using those approaches; and the development phases and processes to be implemented consistent with the approaches; and

(ii) The types of personnel involved in each development phase and process (e.g., practitioners, content experts, assessment experts, experts in assessing English learners, linguists, experts in second language acquisition, experts in assessing students with disabilities, psychometricians, cognitive scientists, institution of higher education representatives, experts on career readiness standards);

(2) The approach and strategy for designing and developing accommodations, accommodation policies, and methods for standardizing the use of those accommodations for students with disabilities;

(3) The approach and strategy for ensuring scalable, accurate, and consistent scoring of items, including the approach and moderation system for any human-scored items and the extent to which teachers are trained and involved in the administration and scoring of assessments;

(4) The approach and strategy for developing the reporting system; and

(5) The overall approach to quality control and the strategy for field-testing assessment items, accommodations, scoring systems, and reporting systems, including, with respect to assessment items and accommodations, the use of representative sampling of all types of student populations, taking into particular account high- and low-performing students and different types of English learners and students with disabilities.

(d) *Research and evaluation.* The Secretary reviews each application to determine the extent to which the eligible applicant's research and evaluation plan will ensure that the assessments developed are valid, reliable, and fair for their intended purposes. In determining the extent to which the research and evaluation plan has these attributes, we will consider—

(1) The plan for identifying and employing psychometric techniques suitable for verifying, as appropriate to each assessment, its construct, consequential, and predictive validity; external validity; reliability; fairness; precision across the full performance continuum; and comparability within and across grade levels; and

(2) The plan for determining whether the assessments are being implemented as designed and the theory of action is being realized, including whether the intended effects on individuals and institutions are being achieved.

(e) *Professional capacity and outreach.* The Secretary reviews each application to determine the extent to which the eligible applicant's plan for implementing the proposed assessments is feasible, cost-effective, and consistent with the theory of action. In determining the extent to which the implementation plan has these attributes, we will consider—

(1) The plan for supporting teachers and administrators in implementing the assessments and for developing, in an ongoing manner, their professional capacity to use the assessments and results to inform and improve instructional practice; and

(2) The strategy and plan for informing the public and key stakeholders (including teachers, administrators, families, legislators, and policymakers) in each State or in each

member State within a consortium about the assessments and for building support from the public and those stakeholders.

(f) *Technology approach.* The Secretary reviews each application to determine the extent to which the eligible applicant would use technology effectively to improve the quality, accessibility, cost-effectiveness, and efficiency of the proposed assessments. In determining the extent to which the eligible applicant is using technology effectively, we will consider—

(1) The description of, and rationale for, the ways in which technology will be used in assessment design, development, administration, scoring, and reporting; the types of technology to be used (including whether the technology is existing and commercially available or is being newly developed); and how other States or organizations can re-use in a cost-effective manner any technology platforms and technology components developed under this grant; and

(2) How technology-related implementation or deployment barriers will be addressed (e.g., issues relating to local access to internet-based assessments).

(g) *Project management.* The Secretary reviews each application to determine the extent to which the eligible applicant's project management plan will result in implementation of the proposed assessments on time, within budget, and in a manner that is financially sustainable over time. In determining the extent to which the project management plan has these attributes, we will consider—

(1) The project workplan and timeline, including, for each key deliverable (e.g., necessary procurements and any needed approvals for human subjects research, assessment, scoring and moderation system, professional development activities), the major milestones, deadlines, and entities responsible for execution;

(2) The approach to identifying, managing, and mitigating risks associated with the project;

(3) The extent to which the eligible applicant's budget is adequate to support the development of assessments that meet the requirements of the priority and includes costs that are reasonable in relation to the objectives, design, and significance of the proposed project and the number of students to be served;

(4) For each applicant State or for each member State within a consortium, the estimated costs for the ongoing administration, maintenance, and

enhancement of the operational assessments after the end of the project period for the grant and a plan for how the State will fund the assessments over time (including by allocating to the assessments funds for existing State or local assessments that will be replaced by the new assessments); and

(5) The quality and commitment of the personnel who will carry out the proposed project, including the qualifications, relevant training and experience of the project director and other key project personnel, and the extent to which the time commitments of the project director and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

*Final Priorities, Requirements, Definitions, and Selection Criteria:*

We will announce the final priorities, requirements, definitions, and selection criteria in a notice in the **Federal Register**. We will determine the final priorities, requirements, definitions, and selection criteria after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

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

*Executive Order 12866:* Under Executive Order 12866, the Secretary must determine whether this regulatory action is "significant" and therefore subject to the requirements of the Executive Order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities in a material way (also referred to as an "economically significant" rule); (2) create serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or

the principles set forth in the Executive Order. The Secretary has determined that this regulatory action is not significant under section 3(f) of the Executive Order.

This notice has been reviewed in accordance with Executive Order 12866. Under the terms of the order, we have assessed the potential costs and benefits of this proposed regulatory action.

The potential costs associated with this proposed regulatory action are those resulting from statutory requirements and those we have determined as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this proposed regulatory action, we have determined that the benefits of the proposed priorities, requirements, definitions, and selection criteria justify the costs.

More specifically, Title I, Part A of the ESEA requires States to annually assess the English language proficiency of English learners. The English language proficiency assessment systems to be developed under the proposed priority would be available for use by multiple States and could be used by States to meet their obligations under Title I, Part A. In addition, the requirements that the assessments be based on a set of English language proficiency standards held by the applicant State and, if the applicant applies as part of a consortium, held in common by all States in the consortium, that correspond to a common set of college- and career-ready standards in English language arts and mathematics would result in States that adopt the assessments being able to collect comparable data regarding the English language proficiency of their English learners. The proposed selection criteria would help ensure that the assessments developed by grantees are of high quality, meet relevant technical standards, and align with other assessment work funded by the Department. The proposed priority for consortia would encourage States to work together on developing assessments and other assessment-related instruments rather than developing or using separate assessments, thus creating cost efficiencies.

We have determined, also, that this proposed regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

*Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the

Executive Order is to foster an intergovernmental partnership and a strengthened federalism. The Executive Order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance. This document provides notification of our specific plans regarding this program.

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

*Electronic Access to This Document:* 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) on the Internet at the following site: <http://www.ed.gov/news/fedregister>.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1-888-293-6498; or in the Washington, DC, area at (202) 512-1530.

**Note:** The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition and the Code of Federal Regulations is available on GPO Access at: <http://www.gpoaccess.gov/nara/index.html>.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.368A.

Dated: January 4, 2011.

**Thelma Meléndez de Santa Ana,**  
*Assistant Secretary for Elementary and Secondary Education.*

[FR Doc. 2011-130 Filed 1-6-11; 8:45 am]

**BILLING CODE 4000-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. CP11-51-000]

#### CenterPoint Energy-Mississippi River Transmission Corporation; Notice of Application

December 29, 2010.

Take notice that on December 15, 2010, CenterPoint Energy-Mississippi River Transmission Corporation (MRT), 1111 Louisiana Street, Houston, Texas 77002-5231, filed in Docket No. CP11-51-000, an application pursuant to section 7(c) of the Natural Gas Act requesting authorization to reclassify approximately 1.2 billion cubic feet (Bcf) of cushion gas to working gas in

the East and West Unionville Storage Fields located in Lincoln Parish, Louisiana. MRT states that the Inventory Verification Study disclosed a difference of approximately 1.2 Bcf less cushion gas than the accounting records. MRT avers that the differences were due to surface measurement and valve leakage. MRT affirms that no customer service will be impacted as a result of the reclassification, all as more fully set forth in the application, which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll-free, (866) 208-3676 or TTY, (202) 502-8659.

Any questions regarding this application should be directed to Lawrence O. Thomas, Sr. Director-Rate & Regulatory, CenterPoint Energy Mississippi River Transmission Corporation, P.O. Box 21734, Shreveport, Louisiana 71151, telephone No. (318) 429-2804, facsimile No. (318) 429-3133, and e-mail: [larry.thomas@centerpointenergy.com](mailto:larry.thomas@centerpointenergy.com).

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the