

their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National

Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves establishment of a safety zone. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

- 2. Add § 165.T11-0887 to read as follows:

§ 165.T11-0887 Safety Zone; Sea World Fireworks; Mission Bay, San Diego, CA.

(a) *Location.* The safety zone includes the waters of Mission Bay within 600 feet of the fireworks barge, located in approximate position 32°46'03" N, 117°13'11" W.

(b) *Enforcement Period.* This safety zone will be enforced from 8:30 p.m. to 9 p.m. on November 15 and 16, 2013.

(c) *Definitions.* The following definition applies to this section: *designated representative* means any commissioned, warrant, or petty officer of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, local, state, or federal law enforcement vessels who have been authorized to act on the behalf of the Captain of the Port.

(d) *Regulations.* (1) Entry into, transit through or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port of San Diego or his designated representative.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or his designated representative.

(3) Upon being hailed by U.S. Coast Guard patrol personnel by siren, radio,

flashing light, or other means, the operator of the vessel shall proceed as directed.

(4) The Coast Guard may be assisted by other federal, state, or local agencies.

Dated: October 21, 2013.

J.A. Janszen,

Commander, U.S. Coast Guard, Acting Captain of the Port San Diego.

[FR Doc. 2013-26394 Filed 11-4-13; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF EDUCATION

34 CFR Chapter III

[CFDA Number: 84.129B]

Final Priority; Rehabilitation Training: Rehabilitation Long-Term Training Program—Vocational Rehabilitation Counseling

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Final priority.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services announces a priority under the Rehabilitation Training: Rehabilitation Long-Term Training program. The Assistant Secretary may use this priority for competitions in fiscal year (FY) 2014 and later years. We take this action to focus on training in an area of national need. This priority is designed to ensure that consumers of State Vocational Rehabilitation (VR) services have access to qualified rehabilitation counselors who are prepared to adequately address their employment needs and goals. Therefore, the Department intends to fund comprehensive VR counseling programs that meet rigorous standards and provide scholars with a breadth of knowledge and training to meet the current challenges facing consumers and State VR agencies and related agencies.

DATES: *Effective Date:* This priority is effective December 5, 2013.

FOR FURTHER INFORMATION CONTACT: RoseAnn Ashby, U.S. Department of Education, 400 Maryland Avenue SW., Room 5055, Potomac Center Plaza (PCP), Washington, DC 20202-2800. Telephone: (202) 245-7258 or by email: roseann.ashby@ed.gov.

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

SUPPLEMENTARY INFORMATION:

Purpose of Program: The Rehabilitation Long-Term Training

program provides financial assistance for—

(1) Projects that provide basic or advanced training leading to an academic degree in areas of personnel shortages in rehabilitation as identified by the Secretary;

(2) Projects that provide a specified series of courses or program of study leading to the award of a certificate in areas of personnel shortages in rehabilitation as identified by the Secretary; and

(3) Projects that provide support for medical residents enrolled in residency training programs in the specialty of physical medicine and rehabilitation.

Program Authority: 29 U.S.C. 772(b).

Applicable Program Regulations: 34 CFR parts 385 and 386.

We published a notice of proposed priority for this competition in the **Federal Register** on June 14, 2013 (78 FR 35808). That notice contained background information and our reasons for proposing this particular priority. There are significant differences between the proposed priority and the final priority, and we fully explain these differences in the *Analysis of Comments and Changes* section of this notice.

Public Comment: In response to our invitation in the notice of proposed priority, 31 parties submitted comments on the proposed priority.

Generally, we do not address technical and other minor changes. In addition, we do not address comments that raised concerns not directly related to the proposed priority.

Analysis of Comments and Changes: An analysis of the comments and of any changes in the priority since publication of the notice of proposed priority follows.

Comment: A number of commenters proposed that, rather than funding solely master's degree programs in VR counseling, the Department instead fund programs in specialty areas.

For example, almost half of the commenters requested that the Department develop a priority to fund programs leading to a master's degree or a certificate in vocational evaluation. They explained that an individual able to conduct a thorough vocational assessment that truly captures the strengths, abilities, and capabilities of an individual with a disability is critical to the rehabilitation process. They also stated that a competent vocational evaluator is familiar with what is required to obtain employment in today's economy and that such information is invaluable in assisting individuals with disabilities to achieve quality employment outcomes. The commenters also noted that relying on

the knowledge and expertise of rehabilitation personnel, such as vocational evaluators, rehabilitation technologists, and customized employment specialists, helps to ease growing workloads and large caseload burdens for VR counselors. Similarly, one commenter expressed concern that the proposed priority focused only on a master's degree in VR counseling and failed to acknowledge the specialty of job placement and job development. This commenter asserted that individuals skilled in this specialty area would gain knowledge critical in assisting individuals to achieve employment in today's economy.

In addition, one commenter expressed concern about the priority's focus on programs that lead to a master's degree in VR counseling because there are few programs that focus on the deaf and hard-of-hearing population. This commenter discussed the value that a certificate program has for rehabilitation professionals focusing on this population.

Discussion: The Department decided to focus this priority solely on master's degree programs in VR counseling, because individuals with this background will gain a breadth of knowledge and experience that will adequately prepare them to meet the employment needs and goals of VR consumers. This focus will also allow scholars to compete for jobs in a variety of employment settings that fulfill the payback obligation and will help to address personnel shortages in the field of vocational rehabilitation. The curriculum leading to this degree covers counseling skills, the medical and psychological aspects of disabilities, and the rehabilitation process from assessment through job placement. These programs also have practicum and internship components. The master's degree in VR counseling is the degree that many State VR agencies require for "qualified rehabilitation counselors." We recognize that VR professionals with degrees and certificates in other specialty areas (e.g., vocational evaluation, job placement and job development, rehabilitation of the deaf) are an important component in strengthening State VR agencies and the quality of services they provide to their clients. However, we also recognize that grants in one or more of these fields may attract fewer program participants, and the employment opportunities of program graduates in these fields would be more limited than those completing a broader VR counseling program. For these reasons and because there is a significant shortage in qualified VR counselors, for purposes of this grant

priority, we believe it is justifiable to maintain a strong focus on programs that lead to a master's degree in VR counseling.

Changes: None.

Comment: Several commenters suggested that the final priority be expanded to include doctoral programs. One of these commenters indicated that, in order to address the personnel shortage of VR counselors, professors and instructional staff will need the knowledge and skills to train students seeking master's degrees in accordance with the specifications listed in the proposed priority. The commenter asserted that, if one master's degree student receives training grant support, one VR counselor will be produced, whereas if one doctoral student is supported who goes on to a university training program position, he or she will contribute substantially to training many VR counselors, thus making a significant contribution to addressing the shortage of qualified VR counselors.

Discussion: The Department agrees that a key element in addressing the shortage of VR counselors is ensuring that professors and instructional staff have the necessary knowledge and skills to effectively train counselors. However, the increased costs associated with supporting students in doctoral training programs, as opposed to their counterparts in master's programs, would severely limit the Department's ability to address shortages of qualified State VR personnel in the short term. Given that many State VR agencies are currently unable to comply with their Comprehensive System of Personnel Development (CSPD) requirements, it would not now be appropriate to further restrict the numbers of newly qualified VR counselors entering the field. Some State VR agencies are forced to hire individuals with bachelor's degrees to fill vacant positions and ultimately incur greater costs as these individuals require additional training to meet the CSPD requirements. Therefore, the Department believes that, at this time, supporting doctoral candidates under this priority would only further limit the numbers of newly qualified VR counselors entering the field and increase costs for State VR agencies.

Changes: None.

Comment: A number of commenters suggested that paragraph (b)(1) of the final priority should include an emphasis on essential competencies for today's rehabilitation counselors. Specifically, some of these commenters indicated the importance of competencies such as advanced counseling skills and skills in critical thinking and collaborative relationships.

Discussion: The Department believes that the curriculum should be aligned with competency-based skills in order to prepare counselors to meet the employment needs and goals of VR consumers. The Department agrees that the skills listed by the commenters are important skills for a VR counselor and that the curriculum should help scholars develop those skills. However, advanced counseling skills and skills in critical thinking and collaborative relationships are simply examples of competency-based skills. Applicants are free to propose these and other competency-based skills in the curriculum in order to advance the skill set of prospective counselors.

Changes: We have revised paragraph (b)(1) of the priority to include the skills the commenters suggested as examples of competency-based skills that may be developed through the curriculum.

Comment: A few commenters asked that the Department expand paragraph (b)(2) of the proposed priority to include preparing scholars for the Commission on Rehabilitation Counselor Certification (CRCC) exam.

Discussion: The Department understands that scholars completing a master's degree in VR counseling may wish to sit for the CRCC exam, as this is a requirement for employment in some State VR agencies and elsewhere. Paragraph (b)(2) of the priority simply reinforces the responsibility of the VR counseling programs to meet all applicable certification standards. Nothing in this priority precludes applicants from adding or enhancing their curriculum to incorporate preparation for the CRCC exam.

Changes: None.

Comment: Nearly one-third of the commenters focused on paragraph (b)(4) of the proposed priority and teaching scholars to address the needs of individuals with a range of disabilities and individuals with disabilities who are from diverse cultural backgrounds. These commenters suggested encouraging a greater emphasis on preparing scholars to manage the unique challenges and aspects of working with specific populations, such as individuals with severe and persistent psychiatric disabilities, individuals with autism spectrum disorders, individuals who are deaf, individuals who are deaf-blind, veterans with disabilities, transition-aged youth, and individuals who have been involved in the criminal justice system.

Discussion: The Department believes that it is important for the curriculum of a VR counseling program to address the unique challenges of working with individuals with a range of disabilities

and individuals from diverse cultural backgrounds. Nothing in this priority precludes applicants from providing training on addressing the needs of the specific populations listed above. However, we are concerned that, by listing certain populations, the priority might give the impression that the applicant should focus only on these populations and not address the needs of others. Therefore, we believe the applicant should develop a curriculum that helps scholars understand the unique needs of individuals representing a wide range of disabilities and cultural backgrounds.

Changes: None.

Comment: Several commenters focused on paragraph (b)(5) of the proposed priority regarding assistive technology. A few of these commenters suggested that the curriculum must train scholars to assess the need for assistive technology throughout the VR process and in order to obtain and maintain competitive employment. One commenter indicated that the priority should recognize that assistive technology is a specialized, ever-changing field, and, as technology continues to expand, scholars will need training by assistive technology specialists.

Discussion: The Department agrees that it is important for the curriculum to teach scholars to assess the needs of individuals with disabilities for assistive technology throughout the VR process, with particular emphasis on assessing their needs for assistive technology in helping them obtain and maintain competitive employment. The Department also acknowledges that assistive technology is ever-changing and consequently that ongoing training will be needed.

Changes: We have revised paragraph (b)(5) of the priority to clarify that applicants must demonstrate how the proposed curriculum will expose scholars to the field of assistive technology and include training so that scholars can recognize the needs of individuals with disabilities for assistive technology throughout the rehabilitation process.

Comment: One commenter proposed specific curriculum requirements for paragraph (b) of the priority. This commenter recommended adding requirements relating to: (1) The Commission on Rehabilitation Counselor Certification Code of Professional Ethics; (2) VR services to transition-age youth; (3) development of an individualized plan for employment, especially identification of a vocational goal and specific measurable objectives; (4) legislative provisions of the

Workforce Investment Act, the Rehabilitation Act, as amended, and the Social Security Act and their accompanying regulations; (5) basic financial planning, including managing a budget; (6) consumer choice; (7) negotiation skills; (8) use of social and electronic media, especially as it relates to confidentiality and appropriateness of the use of the media; (9) exposure to the business perspective; (10) critical thinking and decision-making skills; and (11) data analysis.

Discussion: The Department agrees that the curriculum requirements suggested by the commenter would support paragraph (b) of the priority. However, this is not an exhaustive list of elements that could be included in the curriculum. We want to be clear that they are simply examples of elements of the curriculum that applicants must describe in their applications. The applicants are free to propose additional curriculum requirements to ensure that scholars are prepared to effectively meet the needs and demands of consumers with disabilities and employers.

Changes: None.

Comment: Almost half of the commenters expressed concern about the requirement in paragraph (c)(5) of the proposed priority that applicants must ensure that scholars complete an internship in a State VR agency as a requirement for program completion. A number of these commenters were concerned that State VR agencies would not be able to make a sufficient number of internships available for scholars funded through this program. Several of the commenters stated that restricting internships to State VR agencies, as opposed to related, community-based agencies, unnecessarily limits the experiences scholars can gain. A few of these commenters were also concerned that individuals in the program who are employed full-time would find it difficult to fulfill the requirement to participate in an internship.

Discussion: The Department believes that a required internship at a State VR agency or a related agency serves as a valuable learning experience for scholars so that they can apply classroom knowledge in a work-related setting, identify their strengths and weaknesses as prospective rehabilitation counselors, and learn skills that cannot be taught in the classroom, such as interpersonal or communication skills. Further, as the need for qualified VR counselors in the State-Federal VR program is critical, we encourage internships in such settings, to the extent practicable; we recognize that in some circumstances such internships may be unavailable. With regard to the

concern that individuals who are employed full-time while they are scholars in a Rehabilitation Long-Term Training program may have difficulty completing a full-time internship, our intention is that applicants for funding will work creatively to make such internships available to scholars, perhaps on a part-time basis. Such scholars may require more time to complete the program or may need other accommodations to complete their internship requirement.

Changes: We have maintained the requirement that all scholars must complete an internship in a State VR agency but revised paragraph (c)(5) to permit an applicant to provide written justification that it is not feasible for all scholars to complete an internship in a State VR agency. If the justification is sufficient, a project funded under this priority may require all scholars to complete an internship in either a State VR agency or in a related agency, as defined in 34 CFR 386.4. Sufficient justification for proposing that scholars complete internships in settings other than a State VR agency could include concerns about the capacity at the State VR agency to provide adequate supervision of scholars or the physical distance between scholars and the nearest office of the State VR agency (e.g., for scholars enrolled in distance-learning programs or at rural institutions).

Comment: One commenter suggested that in paragraph (d)(1) of the priority we require a course or curriculum segment on how to develop and maintain relationships with potential employers, make initial contacts, assess the needs of employers, and present job-ready clients to employers.

Discussion: The Department agrees with this comment, although the additional suggestions do not comprise an exhaustive list of the employer-related course content that could be offered. This comment is more applicable to paragraph (b)(6) of the priority, which focuses on the course curriculum.

Changes: We have revised paragraph (b)(6) of the priority to provide as examples the specific employer-related curriculum content the commenter suggested.

Comment: One commenter proposed that paragraph (d)(3) of the priority be expanded to require the grantee to provide the worksite supervisor with an assessment tool and offer technical assistance to the supervisor in order to complete the assessment.

Discussion: The Department agrees that an assessment tool is necessary to evaluate the value of a worksite

experience at building the knowledge and skills necessary to becoming an effective vocational rehabilitation counselor. We also recognize the value of an assessment tool that both reduces burden on the worksite supervisors and grantees and allows a consistent approach to the evaluation of scholars in a particular program. We strongly encourage grantees and worksite supervisors to work together to ensure the assessment tool accurately reflects the work duties of the scholar during their internship. This may involve the joint development of an assessment tool, or a portion thereof as they see fit. In addition, we agree that it would be appropriate for grantees to offer technical assistance to supervisors as they complete the assessments.

Changes: We have revised paragraph (d)(3) of the priority to require that an assessment tool accurately reflects the specific job duties of a scholar in their internship experience, potentially involving the joint development of that tool between the grantee and the worksite supervisor. In addition, paragraph (d)(3) of the priority will require that the results of the assessment be provided to the grantee and to the scholar.

Comment: One commenter suggested including a plan to routinely gather feedback from consumers and employers to be used to improve VR counseling programs. This commenter also suggested incorporating existing data that the Department, the Social Security Administration, the Veterans Administration, and other agencies and organizations collect from the State VR agencies and using it to improve the curriculum and training programs that support the development of VR professionals.

Discussion: The Department agrees that data from these sources could be beneficial in evaluating the relative success of a training program. We believe that VR counseling programs should consult with as many sources of information as possible when evaluating the impact that they are having on the supply of qualified VR personnel. However, we are also mindful of the potential burden a requirement to collect these data on a regular basis may place on grantees with limited funding.

Changes: We have redrafted the requirement to allow for a broader array of data sources to be included in the evaluation of the program in paragraph (f).

Final Priority:

Vocational Rehabilitation Counseling. The Assistant Secretary for Special Education and Rehabilitative Services announces a priority to fund programs

leading to a master's degree in vocational rehabilitation (VR) counseling. The goal of this priority is to increase the skills of VR counseling scholars so that upon successful completion they are prepared to effectively meet the needs and demands of consumers with disabilities and employers.

Under this priority, applicants must:

(a) Provide data on the current and projected employment needs and personnel shortages in State VR agencies and other related agencies as defined in 34 CFR 386.4 in their local area, region, and State, and describe how the proposed program will address those employment needs and personnel shortages.

(b) Describe how the VR counseling program will provide rehabilitation counselors the skills and knowledge that will help ensure that the individuals with disabilities that they serve can meet current demands and emerging trends in the labor market, including how:

(1) The curriculum provides a breadth of knowledge, experience, and rigor that will adequately prepare scholars to meet the employment needs and goals of VR consumers and aligns with evidence-based practices and with competency-based skills (e.g., advanced counseling skills, critical thinking skills, and skills in building collaborative relationships) in the field of VR counseling;

(2) The curriculum prepares scholars to meet all applicable certification standards;

(3) The curriculum addresses new or emerging consumer employment needs or trends at the national, State, and regional levels;

(4) The curriculum teaches scholars to address the needs of individuals with a range of disabilities and individuals with disabilities who are from diverse cultural backgrounds;

(5) The curriculum will train scholars to recognize the assistive technology needs of consumers throughout the rehabilitation process so that they will be better able to coordinate the provision of appropriate assistive technology services and devices in order to assist the consumer to obtain and retain employment;

(6) The curriculum will teach scholars to work effectively with employers in today's economy, including by teaching strategies for developing relationships with employers in their State and local areas, identifying employer needs and skill demands, making initial employer contacts, presenting job-ready clients to potential employers, and conducting follow-up with employers; and

(7) The latest technology is incorporated into the methods of instruction (e.g., the use of distance education to reach scholars who live far from the university and the use of technology to acquire labor market information).

(c) Describe their methods to:

(1) Recruit highly capable prospective scholars who have the potential to successfully complete the academic program, all required practicum and internship experiences, and the required service obligation;

(2) Educate potential scholars about the terms and conditions of the service obligation under 34 CFR 386.4, 386.34, and 386.40 through 386.43 so that they will be fully informed before accepting a scholarship;

(3) Maintain a system that ensures that scholars sign a payback agreement and an exit form when they exit the program, regardless of whether they drop out, are removed, or successfully complete the program;

(4) Provide academic support and counseling to scholars throughout the course of the academic program to ensure successful completion;

(5) Ensure that all scholars complete an internship in a State VR agency as a requirement for program completion. In such cases where an applicant can provide sufficient justification that it is not feasible for all students receiving scholarships to meet this requirement, the applicant may require scholars to complete an internship in a State VR agency or a related agency, as defined in 34 CFR 386.4. Circumstances that would constitute sufficient justification may include, but are not limited to, a lack of capacity at the State VR agency to provide adequate supervision of scholars during their internship experience or the physical distance between scholars and the nearest office of the State VR agency (e.g., for scholars enrolled in distance-learning programs or at rural institutions). Applicants should include written justification in the application or provide it to Rehabilitation Services Administration (RSA) for review and approval by the appropriate RSA Project Officer no later than 30 days prior to a scholar beginning an internship in a related agency;

(6) Provide career counseling, including informing scholars of professional contacts and networks, job leads, and other necessary resources and information to support scholars in successfully obtaining and retaining qualifying employment;

(7) Maintain regular contact with scholars upon successful program completion (e.g., matching scholars with

mentors in the field), to ensure that they have support during their search for qualifying employment as well as support during the initial months of their employment;

(8) Maintain regular communication with scholars after program exit to ensure that scholar contact information is up-to-date and that documentation of employment is accurate and meets the regulatory requirements for qualifying employment; and

(9) Maintain accurate information on, while safeguarding the privacy of, current and former scholars from the time they are enrolled in the program until they successfully meet their service obligation.

(d) Describe a plan for developing and maintaining partnerships with State VR Agencies and community-based rehabilitation service providers that includes:

(1) Coordination between the grantee and the State VR agencies and community-based rehabilitation service providers that will promote qualifying employment opportunities for scholars and formalized on-boarding and induction experiences for new hires;

(2) Formal opportunities for scholars to obtain work experiences through internships, practicum agreements, job shadowing, and mentoring opportunities; and

(3) A scholar internship assessment tool that is developed to ensure a consistent approach to the evaluation of scholars in a particular program. The tool should reflect the specific responsibilities of the scholar during the internship. The grantee and worksite supervisor are encouraged to work together as they see fit to develop the assessment tool. Supervisors at the internship site will complete the assessment detailing the scholar's strengths and areas for improvement that must be addressed and provide the results of the assessment to the grantee. The grantee should ensure that (A) scholars are provided with a copy of the assessment and all relevant rubrics prior to beginning their internship, (B) supervisors have sufficient technical support to accurately complete the assessment, and (C) scholars receive a copy of the results of the assessment within 90 days of the end of their internship.

(e) Describe how scholars will be evaluated throughout the entire program to ensure that they are proficient in meeting the needs and demands of today's consumers and employers, including the steps that will be taken to provide assistance to a scholar who is not meeting academic standards or who

is performing poorly in a practicum or internship setting.

(f) Describe how the program will be evaluated. Such a description must include:

(1) How the program will determine its effect over a period of time on filling vacancies in the State VR agency with qualified counselors capable of providing quality services to consumers;

(2) How input from State VR agencies and community-based rehabilitation service providers will be included in the evaluation;

(3) How feedback from consumers of VR services and employers (including the assessments described in paragraph (d)(3)) will be included in the evaluation;

(4) How data from other sources, such as those from the Department, on the State VR program will be included in the evaluation; and

(5) How the data and results from the evaluation will be used to make necessary adjustments and improvements to the program.

Types of Priorities:

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

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

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

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

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

Note: This notice does not solicit applications. In any year in which we choose to use this priority, we invite applications through a notice in the **Federal Register**.

Executive Orders 12866 and 13563*Regulatory Impact Analysis*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department’s programs and activities. The benefits of the Rehabilitation Long-Term Training program have been well established over the years through the successful completion of similar projects. Grants to provide funding for scholars to acquire master’s degrees in VR counseling are needed to ensure that State VR agencies and related agencies have a supply of qualified VR counselors with the skills to assist individuals with disabilities to achieve employment in today’s economy.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue SW., Room 5075, PCP, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: www.gpo.gov/fdsys. At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: October 30, 2013.

Michael K. Yudin,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

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LIBRARY OF CONGRESS**Copyright Royalty Board****37 CFR Part 384**

[Docket No. 2012–1 CRB Business Establishments II]

Determination of Rates and Terms for Business Establishment Services

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Final rule.

SUMMARY: The Copyright Royalty Judges are publishing final regulations setting the rates and terms for the making of an ephemeral recording of a sound recording by a business establishment service for the period January 1, 2014, through December 31, 2018.

DATES: *Effective date:* January 1, 2014.