

COMMENTS OF:

**ACTION, INC. (Mass.)
CITIZENS FOR CITIZENS (Mass.)
THE ENERGY PROJECT (Wash.)
COMMUNITY ACTION OF THE FRANKLIN, HAMPSHIRE,
AND NORTH QUABBIN REGIONS (Mass.)
LOW INCOME UTILITY ADVOCACY PROJECT (Ill.)
MASSACHUSETTS ENERGY DIRECTORS ASSOCIATION
NATIONAL CONSUMER LAW CENTER
PENNSYLVANIA UTILITY LAW PROJECT
TEXAS LEGAL SERVICES CENTER
TEXAS ROSE (RATEPAYERS' ORGANIZATION TO SAVE ENERGY)
TRI-CITY COMMUNITY ACTION PROGRAM (Mass.)**

**RE: PROPOSED INFORMATION COLLECTION ACTIVITY, 78 FED. REG. 34105
(6/6/2013)**

Submitted: August 2, 2013

I. Introduction

On June 6, 2013, the Children and Families Administration of the Department of Health and Human Services (“Department”) published a “Proposed Information Collection Activity” notice and an opportunity for the public to comment (“Notice”). The Department seeks to collect information that will assist in determining: (1) the average reduction in energy burden for households receiving LIHEAP fuel assistance; (2) the percent of unduplicated households where LIHEAP prevented a potential home energy crisis; and (3) the percent of unduplicated households where LIHEAP benefits restored home energy.

A. Description of the Low-income Commenters

These comments are submitted by Action, Inc.; Citizens for Citizens; Community Action of the Franklin, Hampshire and North Quabbin Regions; The Energy Project; Low Income Utility Advocacy Project; the Massachusetts Energy Directors Association; National Consumer Law Center; Pennsylvania Utility Law Project; Texas Legal Services Center; Texas ROSE

(Ratepayers' Organization to Save Energy); and Tri-City Community Action Program. These groups will be collectively referred to as "Low-income Commenters." A brief description of each group follows.

Action, Inc. is a community action program based in Gloucester, Massachusetts. Its mission is to improve the lives of disadvantaged individuals and families in Cape Ann and beyond by minimizing the effects of poverty, promoting economic security, and advocating for social change. Action delivers energy programs including LIHEAP and the Weatherization Assistance Program (WAP) to low-income households in the greater Cape Ann area.

Citizens for Citizens is a community action program based in Fall River, Massachusetts. Its mission is to advocate on behalf of low-income residents and attack the causes and effects of poverty through the provision of direct and integrated services, the promotion of self-sufficiency, and the advancement of social change. CFC delivers energy programs including LIHEAP and WAP to low-income households in the cities of Fall River and Taunton and in several adjoining towns.

Community Action of the Franklin, Hampshire and North Quabbin Regions is a community action program based in Greenfield, Massachusetts. The agency is dedicated to promoting economic justice and improving the quality of life for people with lower incomes, and delivers energy programs including LIHEAP and WAP to low-income households in portions of western Massachusetts.

The Energy Project works with all the WAP and LIHEAP providers in Washington State to increase funding for and improve delivery of programs that help low-income households maintain access to affordable home energy services.

The Low Income Utility Advocacy Project engages in administrative and legislative advocacy in Illinois in the utility/energy area on behalf of low income households and not-for-profits. It is a project of the Shriver Poverty Law Center, Voices for Illinois Children and Heartland Alliance for Human Needs and Human Justice.

The Massachusetts Energy Directors Association includes representatives of each of the approximately two dozen agencies that deliver LIHEAP and WAP in Massachusetts. Its purpose is to provide a forum for these agencies to meet with the Department of Housing and Community Development – the state LIHEAP agency – and discuss issues of common concern, with the goal of providing excellent service to the households LIHEAP and WAP serve.

The nonprofit National Consumer Law Center® (NCLC®) works for economic justice for low-income and other disadvantaged people in the U.S. through policy analysis and advocacy, publications, litigation, and training. Since its founding in 1969, NCLC has worked on a broad range of low-income energy issues, particularly LIHEAP and WAP. NCLC publishes “Access to Utility Service,” a treatise on low-income energy issues that includes separate chapters on LIHEAP and WAP.

The Pennsylvania Utility Law Project, as the designated statewide specialized project of the nonprofit Pennsylvania Legal Aid Network, provides representation, advice, and support in energy and utility matters on behalf of low-income, residential utility customers.

The Texas Legal Services Center is a non-profit legal office which provides assistance and training to poverty law advocates and their clients in the areas of litigation support, education and communication. TLSC has a long history of involvement with a broad range of low-income energy programs, including LIHEAP and WAP.

Texas ROSE (Ratepayers' Organization to Save Energy) is a non-profit membership organization dedicated to affordable electricity and a healthy environment. Texas ROSE has been involved in helping to create utility programs to provide lower rates for low-income consumers and weatherization programs to permanently lower energy use and utility bills.

Tri-City Community Action Program (Tri-CAP) is the anti-poverty agency for Malden, Medford, Everett and surrounding Massachusetts towns. Tri-CAP's goal is to build strong communities where everyone can meet their basic needs, advance economically, and fulfill their potential. Tri-CAP is a state sub-grantee agency both the LIHEAP and WAP programs.

B. Overview of the Comments

The Low-income Commenters do not question the general policy goal of the Department to obtain better data on the role LIHEAP plays in reducing energy burdens and preventing home energy crises – provided that meaningful, useful data can be collected without unduly burdening the state LIHEAP grantees and their subgrantees which actually process applications and deliver critically needed assistance to clients. However, it is questionable whether meaningful data can be collected, at least for some of the categories proposed by the Department. It is even more questionable that this can be done without so burdening state grantees and their subgrantees that delivering much-needed assistance to clients will be hampered.

It is true that for many of the 14 categories of data which the Department proposes to collect,¹ some states already collect the data and that many more could perhaps do so without being unduly burdened. However, there are certain categories of the data being sought which are either extremely burdensome or impossible to collect. As such, Low-income Commenters question “the accuracy of the agency’s estimate of the burden of the proposed collection of

¹ The “14 categories” refers to the 14 bullet points under the three performance measure headings in the Notice, 78 Fed. Reg. 34105, 2nd & 3rd columns.

information.” Notice, 78 Fed. Reg. 34106, col. 1. For some of the data categories which present the greatest reporting burdens, there are alternative ways to achieve the Department’s overall goals that would minimize those burdens.² Those alternatives might provide equally good, if not better, data than states would have to collect regarding the energy consumption and bills of the more than 5 million households served by LIHEAP, if the proposed data collection is implemented.³ As explained more fully below, data that states might collect regarding individual households could well produce results that lack “quality, utility and clarity.” 78 Fed. Reg. 34106, col. 1. Because there are alternatives to collecting all of the individual household data being sought, we believe there are “ways to minimize the burden of the collection of information on respondents.” 78 Fed. Reg. 34106, col. 2.

Low-income Commenters discuss below these problematic data categories so that the Department can fairly and reasonably balance the benefit of obtaining better data against the burden of collecting it and the likelihood that some of it will be inaccurate, incomplete or of limited utility. It is essential that the Department keep in mind that the primary purpose of LIHEAP is “to assist low-income households” in “meeting their immediate home energy needs.” 42 U.S.C. § 8621(a). While it is also valuable to gather data regarding “those with the lowest incomes [and who] pay a high proportion of household income for home energy,” *id.*, these comments are meant to ensure that the proposed data collection plan does not unduly interfere with assisting households in meeting their energy needs. At the outset, however, Commenters

² See section VI, below.

³ The National Energy Assistance Directors’ Association estimates that 9 million households were served by LIHEAP in FY 2011. “LIHEAP Winter Heating Households Served FY 10 & FY 11 Projected Based on Eligible Applications,” <http://neada.org/wp-content/uploads/2013/05/2011-02-06LIHEAP11ProjServed.pdf>. While this is an unofficial estimate, Low-income Commenters are not aware of an official report to Congress on LIHEAP more recent than the FY 2008 report submitted in 2010 (https://www.acf.hhs.gov/sites/default/files/ocs/liheap07rc_0.pdf). Figure 5 (p. v) of that report lists 5 million households as receiving heating assistance in FY 08 and 400,000 receiving cooling assistance. In these comments, the nine million household figure is often used.

address some broader policy questions, including those for which the Department has specifically sought comment.

II. The Proposed Collection Of Information Is Not Absolutely Necessary For The Proper Performance Of The Functions Of The Agency, Even If Helpful To Carry Out Those Functions; The Information Collected Will Have Limited Practical Utility⁴

The Department’s primary function relative to LIHEAP is to “assist low-income households, particularly those with the lowest incomes, that pay a high proportion of household income for energy, primarily in meeting their home energy needs.” 42 U.S.C. § 8621(a).

Among the sixteen assurances a state must provide in order to receive LIHEAP funding under 42 U.S.C. § 8624(b), there is no mention of the type of data collection the Department is proposing. The Department has in fact carried out its statutory mandate for over 30 years without collecting the full range of data now being sought, so it is clearly not essential that this data be collected in order to properly operate LIHEAP.⁵

However, Low-income Commenters do not question, and readily acknowledge, that it would be very helpful for the Department, in carrying out its functions under the LIHEAP statute, to obtain the data being sought. But given the inherent inaccuracies and incompleteness of some of the data the Department seeks, the information will have limited practical utility.

⁴ See Notice, 78 Fed. Reg. 34106, 1st column, request for comment (a).

⁵ In the “Description” contained in the Notice (78 Fed. Reg. 34105), the Department states that the proposed data collection is, at least in part, “in response” to GAO Report 10-621, *Low Income Home Energy Assistance Program – Greater Fraud Prevention Controls Are Needed* (June 2010). However, as the title and body of that report makes clear, its focus was on potential fraud, waste and abuse within the program, not on data collection regarding energy burdens and preventing home energy crises. None of the “Recommendations for Executive Action” contained on page 15 of that report mentioned collecting data relating to energy burden or prevention of terminations.

However, the Notice does quite reasonably refer to the recommendations of the LIHEAP Performance Measures Implementation Working Group as impetus for the proposed data collection effort. But those recommendations are not a legal mandate with which the Department must comply, and they are appropriately being subject to public comment such as this one.

For example, the ability of states to collect the data varies quite widely. Some states (such as Massachusetts) are already collecting data in most of the 14 categories, while other states (such as Texas) do not have a centralized data collection system. This will make it hard to draw any meaningful comparisons between states: state A might appear to do a better job of preventing terminations than state B, simply because State A is better at collecting relevant data from clients or energy providers. It will be particularly hard to draw meaningful state-to-state comparisons because states vary in the income limits for their programs, causing some states to serve, on average, a lower income population with higher energy burdens and other states to serve, on average, higher income households with lower energy burdens.⁶ Similarly, trying to draw meaningful conclusions from aggregated, national data will prove quite challenging, when so many states will not be able to provide complete data: if most states cannot collect accurate and complete consumption and cost data from vendors of deliverable fuels – which is likely the case – it will not be possible to perform a meaningful calculation of current energy burdens.

III. General Comments Regarding Average Reduction In Energy Burden

The “average percentage reduction in energy burden for households receiving LIHEAP assistance”⁷ can be calculated as the difference between the energy burden before and after LIHEAP payments are made, as shown in the following formula :

$$\left(\frac{\text{EnBill}}{\text{Income}} - \frac{(\text{EnBill} - \text{LIHEAP})}{\text{Income}} \right) \times 100 = \% \text{ Reduction in energy burden}$$

Where:

EnBill = Average household energy bills⁸

Income = Average household income of LIHEAP recipients

⁶ Under 42 U.S.C. § 8624(b)(2), states have discretion to use various forms of categorical eligibility (§ 8624(b)(2)(A)) or different income limits (e.g., up to 150% of the state poverty level or 60% of state median income).

⁷ Notice, 78 Fed. Reg. 34105, 2nd column.

⁸ Depending on the purpose, the energy bills could include only the heat-related bills, or, alternatively, could include all energy bills (to the extent used by the households) for natural gas, electricity, and any delivered fuel (heating oil, propane, wood, coal, etc.)

LIHEAP = Average LIHEAP payment received by households

For example, if prior to receiving average LIHEAP payments of \$700, the average household energy bills were \$2,700 and average household income was \$20,000, then reduction in energy burden is calculated thus:

$$\left(\frac{\$2,700}{\$20,000} - \frac{\$2,000}{\$20,000} \right) \times 100 = 3.5 \%$$

The gross energy burden before LIHEAP payment was 13.5% (\$2,700/\$20,000), whereas after the LIHEAP payment the net energy burden declines to 10% (\$2,000/\$20,000), so the reduction in energy burden is 3.5%.

It is reasonable for the Department to expect LIHEAP grantees (and their subgrantees) to collect solid data on LIHEAP payments and household income, as this imposes relatively little burden on the agencies that determine whether households are income-eligible and then make the LIHEAP payments. The problematic part of the formula is collecting complete and accurate data regarding the household's energy bills. Low-income Commenters believe it will be close to impossible to collect good data regarding deliverable fuels, and therefore worthwhile to consider the alternative that states use external data sources or reasonable estimates for determining household energy bills, in lieu of collecting data for the estimated nine million households that receive LIHEAP.

Using the above hypothetical example, if a state estimates that the average household's energy bill is \$2,700 using reliable sources, such as "RECS" data⁹ or data provided by that

⁹ "RECS" is the Residential Energy Consumption Survey prepared by the Energy Information Agency. See <http://www.eia.gov/consumption/residential/>

state's utilities and deliverable fuel trade associations¹⁰, it would determine that the reduction in energy burden is 3.5%.

Now, let's assume that despite using reliable sources, the state significantly underestimated household energy bills, and that the true, average household energy bill is \$4,000. **The percentage reduction in energy bills is still 3.5%.** In fact, algebraically, the % reduction in energy burden can be directly determined by dividing the average LIHEAP payment by the average household income: in the example above, a \$700 LIHEAP payment reduces energy burden by 3.5% if average household income is \$20,000 **regardless of the size of the household's energy bills.**

While the gross (pre-LIHEAP payment) and net (post-LIHEAP payment) energy burdens will vary, depending on the assumptions or calculations made to determine average energy bills, the percentage reduction in energy burdens is invariant once the average LIHEAP payments and average household income are known. Low-income Commenters urge the Department not to require burdensome collection of energy bill data for millions of LIHEAP households, in the illusive hope that gross and net energy burdens can be more accurately determined through that route. While it is valuable for the Department to be able to demonstrate the percentage reduction in energy bills due to LIHEAP payments – whether to Congressional appropriators or any other constituency – there is less value in determining the absolute value of the gross and net energy burdens, since these values are a function of a range of factors that have little to do with how well LIHEAP works. Those absolute values fluctuate with global oil prices; state-to-state

¹⁰ In its “Fiscal Year 2012 Annual Report” regarding LIHEAP, the Massachusetts Department of Housing and Community Development (“DHCD”) included an “Energy Burden and LIHEAP Assistance” table. Using reliable sources (but not relying on data reported for each household served by LIHEAP), DHCD estimated that households using “Delivered Fuel” (heating oil/propane) had “average home heating costs” of \$2,800 and that households heating with utilities (natural gas/electricity) had “average home heating costs” of \$1,100, to determine gross and net energy burdens.

variations in utility-provided gas and electricity prices; variations in weather; household size; type of building structure; and level of weatherization.

The pre- and post-LIHEAP payment energy burdens are also impossible to calculate accurately for the many low-income households that use secondary heating sources which the local sub-grantee cannot track. For example, a household that has natural gas heating may plug in electric space heaters if the gas service is terminated for non-payment. A household in an area where cord wood is relatively inexpensive may fill the oil tank until the LIHEAP benefit is exhausted, and then start using a wood stove if it cannot afford to buy more oil. Some households that heat with electricity or gas will turn on the oven if either utility supply is terminated, despite the serious safety risk. In all of these cases, the state grantee and sub-grantees would have almost no ability to determine the consumption attributable to these secondary sources.

Most importantly, gathering the energy consumption and billing data necessary to accurately determine energy burdens would needlessly tie up front-line staff who provide assistance to LIHEAP-eligible households. As discussed immediately below, the Department has significantly underestimated the annual reporting burden associated with the proposed data collection. Alternative approaches to determining gross and net energy burden, discussed in section VI below, would not tie up local agency staff.

IV. The Department Has Significantly Underestimated The Annual Reporting Burden

The Department has specifically solicited comments on “the accuracy of the agency’s estimate of the burden of the proposed collection of information.” Notice, 78 Fed. Reg. 34106,

1st column.¹¹ Those estimates are significantly lower than the workloads that state grantees, their subgrantees and energy companies will likely incur, perhaps by a factor of as much as 100.

Any “annual burden” estimate should include all of the hours that reporting will require, whether the burden falls directly on the state LIHEAP grantee, or is delegated in part to either a sub-grantee the state uses to administer the program or the utility companies and deliverable vendors who serve clients.¹² It is particularly important to consider the burden on sub-grantees because they are the entities that process applications, deal with emergencies, and make sure clients receive the assistance they need. In many states, these sub-grantees are non-profit entities already straining to process LIHEAP applications and deliver assistance to eligible households. Since the amount of funding to the sub-grantees to administer the program is largely correlated with the overall appropriation for LIHEAP,¹³ it has declined significantly in recent years.¹⁴ It would be unwise policy for the Department to impose reporting obligations that increase operating costs for grantees and sub-grantees without yielding the practical benefits of useable and reliable data. The questionable value of the data that would be derived from these new

¹¹ Soliciting comments on estimated reporting burden is required by 44 U.S.C. § 3506(c)(2)(A)(ii).

¹² Under the Paperwork Reduction Act of 1995, 44 U.S.C. § 3501 *et seq.*, the reporting “burden” which the Department must estimate is defined as the “time, effort, or financial resources expended by *persons* to generate, maintain, or provide information to or for a Federal agency . . .” 5 U.S.C. § 3502(2) (emphasis added). “Person” is defined to include “an individual, partnership, association, corporation, business trust, or legal representative, an organized group of individuals, a State, territorial, tribal, or local government or branch thereof . . .” 5 U.S.C. § 3502(10). It is thus unquestionable that the Department’s estimate of the reporting burden of the proposed “Information Collection Activity” must include any “time, effort or financial resources expended” by sub-grantees of any state LIHEAP grantee and by energy companies. One of the primary purposes of this law is to “minimize the paperwork burden” for *any* “person” who would be burdened by “the collection of information by or for the Federal Government.” 44 U.S.C. § 3501(1).

¹³ A state may not use more than 10% of its LIHEAP grant “for planning and administering the use” of the funds it receives from the Department. In general, reductions in federal appropriations therefore result in cuts in funds for administration, unless the state has been using less than the 10% limit and chooses to increase the administrative percentage when federal funding declines.

¹⁴ Appropriations for LIHEAP (including any contingency funding) peaked at \$5.1 billion in FY 2009 and 2010. For FY 2013, the funds allocated to states, tribes and territories were approximately \$3.3 billion, a one-third cut from the peak level.

reporting requirements does not justify making it more difficult and more costly for sub-grantees to carry out their important work of qualifying needy applicants for LIHEAP assistance.

It is equally important to avoid over-burdening vendors of deliverable fuels. Many of them are small businesses without sophisticated data collection and reporting capabilities. Even the larger ones generally do not necessarily have the ability to accurately capture the complete consumption and price data being sought. If the reporting burdens become too heavy, some of these vendors will stop serving low-income clients.¹⁵

Low-income Commenters asked sub-grantee agencies in Massachusetts to estimate how much time they spend annually collecting and reporting to the state grantee agency the data they already collect within the 14 categories contained in the Notice. Massachusetts has been a leader in anticipating the requirements that the Department now is proposing to require and thus has actual experience with the burdens of doing so.

Three agencies responded, including one of the largest in the state and two smaller agencies. Their estimates ranged from 40 to over 200 hours per agency. The agency with the highest percentage of oil heat households had the highest estimate of reporting burden, since gathering data from deliverable vendors is by far the most burdensome.

There are 22 LIHEAP sub-grantees in Massachusetts. It is therefore likely that the current reporting burden for the state grantee and its sub-grantees well exceeds 1,000 hours¹⁶, not counting the additional burden that full compliance with the Notice's requirements will create, nor the time that it will take utility companies and vendors of deliverable fuels to gather data. This total alone is more than 10 times the per-state estimate included in the Notice. Other states

¹⁵ Vendors of deliverable fuels already face highly constrained profit margins, in states, such as Massachusetts, that use a "margin-over-rack" pricing system to compensate vendors serving LIHEAP customers.

¹⁶ This conservatively assumes that the low-end estimate of 40 hours is a representative estimate for all agencies, and that no other agencies are spending near the high-end average of over 200 hours reported by one agency.

will likely have to spend even more time to meet the new requirements, since all of the Massachusetts sub-grantees have spent years implementing a uniform, state-wide data collection and reporting system. In the absence of such a uniform system, compliance with the requirements in the Notice will be much more burdensome.¹⁷

The burden on vendors of deliverable fuels will also be great. At the July 22, 2013 hearing on the draft Massachusetts “Low Income Home Energy Assistance Detailed State Plan,” Patti Wright, the Fuel Assistance Supervisor for Petro Heating Oil, testified that her company, which has 1,100 low-income/LIHEAP accounts, spends between 90 and 180 hours annually on data collection requested by the state LIHEAP grantee, the Department of Housing and Community Development. Petro is one of the larger companies serving low-income households in Massachusetts, so they are likely more efficient than smaller companies may be in collecting and reporting data. Since there are approximately 60,000 oil-heat households served by the Massachusetts LIHEAP each year (60 times the Petro base of customers), Low-income Commenters estimate that the deliverable dealers alone will have a reporting burden of 5,000 to 10,000 hours, assuming that all of the oil companies will be as efficient as Petro on data collection and reporting. This is as much as 100 times the estimate the Department included in the Notice.

V. Specific Problems In Collecting Consumption and Billing Data From Deliverable Fuel Vendors, And From Electric Utilities Not Receiving LIHEAP Payments

A. Delivered Fuels

Under the performance measure, “Average Reduction in Energy Burden for Households Receiving LIHEAP Fuel Assistance,” the Department plans to require grantees to collect the average annual heating expenditures and consumption for those using natural gas, electricity,

¹⁷ The Department estimates the annual burden as 100 hours per state, if the state already has adequate data systems in place, and 400 hours if the state needs to put new systems in place. 78 Fed. Reg. 34106.

fuel oil or propane as the heating fuel. Notice, 78 Fed. Reg. 34105. Some states already collect reasonably complete and accurate data regarding households which heat with electricity and gas from regulated utility companies, although many do not. Low-income Commenters focus here on the difficulties presented by collecting such data from deliverable fuel vendors selling heating oil and propane.

First, by definition, households purchase these fuels in discrete deliveries, perhaps 2 to 6 times over a winter heating season. A household heating with oil is relatively free to switch dealers at any time. Low-income customers in particular may switch over the course of the winter either because they are shopping for the cheapest, cash-on-delivery price every time the tank is low, or because the customer's prior dealer will no longer deliver due to an overdue balance. Local sub-grantee agencies have no ability to track down all of the purchases that may be made in these circumstances. At the Massachusetts LIHEAP state plan hearing on July 22, 2033, the Fuel Assistance Supervisor for Petro Heating Oil testified that any consumption data her company could collect would not be complete or accurate, precisely because so many of her clients switch dealers over the course of the heating season.

Second, in some states there are programs run by non-profit organizations or charities which arrange for free deliveries of oil. In Massachusetts, the LIHEAP sub-grantee agencies report that these one-time purchases are often made through dealers which are different than the dealer the customer normally uses and which is known to the sub-grantee.¹⁸ The sub-grantee cannot capture the associated consumption and expenditure information.

¹⁸ For example, the "Joe4Oil" program often provides vouchers allowing a household to purchase 100 gallons of heating oil. <http://www.citizensenergy.com/english/pages/OilHeatProgram>. The Good Neighbor Fund also may provide assistance that the local LIHEAP sub-grantee agency would not be able to track. <http://www.magoodneighbor.org/assistance.html>.

These two concerns are not speculative. Peter Wingate, the energy director at Community Action of the Franklin, Hampshire and North Quabbin Regions, which serves much of western Massachusetts, stated that “it’s extremely common for clients to use one vendor for LIHEAP deliveries then use whomever has the lowest cost per gallon for any additional deliveries.” He added that during the past two years, an average of 750 LIHEAP clients in his area separately received a delivery of oil paid for by “Joe4Oil” (a charitable program, see note 18), “often not with the client’s LIHEAP vendor” so that he would have no ability to track total consumption for those clients. Moreover, a survey his agency conducted showed that “50% of households augmented delivered fuels with wood heat” or electric space heaters so that data he collects from oil or propane vendors significantly understates true energy consumption and expenditures. Similarly, Liz Berube, the energy director in Fall River, Massachusetts states that “many of our clients use other vendors” over the course of the winter and the agency has no way to track this usage. Because LIHEAP benefits rarely cover the full cost of heating with oil – the most expensive of the primary heating sources – the local LIHEAP sub-grantee agency simply cannot know all of the vendors from whom clients purchase their heating fuel, unless the client chooses to use only one dealer for the entire year.

Third, many of the deliverable fuel vendors are very small operations. Many of them have limited resources for capturing the type of data the Department seeks, and limited willingness to be burdened with these data obligations given how small they are and how challenging it is for them to keep their businesses viable. The LIHEAP director in Iowa reported to Low-income Commenters that he was concerned about deliverable vendors in his state declining to sign vendor agreements if this reporting obligation is added.

Given how challenging it would be to collect data regarding delivered fuels, and the inherent inaccuracies of that data, the Department should allow states to use alternative means to develop reasonable estimates of consumption and expenditures for these fuels, as discussed more fully in section VI.

B. Data Regarding Electricity Where It Is Not The Primary Heating Source

The Department intends that LIHEAP grantees will collect information regarding annual electricity usage, “for each household that has a *nonelectric* main heating fuel and uses cooling equipment.” Notice, 78 Fed. Reg. 34105 (emphasis added). This data collection will have extremely limited practical utility, and the quality of the data collected will be quite poor in many states.

Low-income Commenters assume that most states are not currently collecting electric consumption information about clients who do not heat with electricity and use cooling equipment. Asking the question, “Do you use cooling equipment?”, will lead to gathering data that has extremely limited practical utility. For example, households that occasionally use a window fan or single window air conditioning unit may answer a question about using cooling in the negative because they do not feel that they are using cooling equipment sufficiently to answer “yes.”¹⁹ Moreover, getting the **total** electric consumption of these households does not reveal anything about the portion of their usage that is cooling-related. The Department could not determine anything about the increased usage attributable to cooling since grantees are not collecting electric consumption data on households not using electricity for cooling.

¹⁹ Low-income Commenters suggest that, if the Department does require states to ask questions about “cooling use,” that the question should be whether the household uses electricity for air conditioning (but not fans). Consumption attributable to fan use is relatively small. One government web site estimates fan usage at 200kWh annually. The Energy Information Administration simply includes fan consumption in the “Other” category even though it separately tracks usage attributable to water heating, space heating, refrigerators and air conditioners. Residential Energy Consumption Survey, Table CE3.1 Household Site End-Use Consumption in the U.S., Totals and Averages, 2009, available at: <http://www.eia.gov/consumption/residential/data/2009/index.cfm?view=consumption#end-use>. The Department should do the same here: not try to determine fan use separately.

More problematic is the fact that states will have a very difficult if not impossible task collecting electric consumption data on these households. If the household is not using electricity for heating (e.g., is using natural gas or a deliverable fuel for heat), the LIHEAP grantee agency may have no relationship with the electric company that would allow it to obtain this data, unless that state operates a cooling program and is providing assistance on the household's electric bills. By definition, in the two dozen or so states that do not have a cooling component²⁰, the LIHEAP grantee is making payments on the household's natural gas or deliverable fuel vendor bill (unless the household heats with electricity). The electricity company will not be obliged to provide the LIHEAP agency data regarding households not receiving LIHEAP. Low-income Commenters have heard from utilities that they could not release this consumption data without obtaining a specific release from the household. While it is possible for the state to obtain such releases, this would involve asking LIHEAP applicants to sign such releases even though in these two dozen states, there is no connection to the benefits they receive because the state plan does not include a cooling component. This will needlessly bog down the application process. Clients already find it challenging to compile all the documents they need to gather in order to receive assistance.²¹ Asking these clients to sign releases about their electric consumption, even though they may not receive any assistance on their electric bills, will only slow down the ability of states to serve households in need.

Data collected about the electric consumption of those who use electricity for cooling will have almost no practical utility. The Department has not explained the reason such data

²⁰ The estimate of the number of states without a cooling component was drawn from <http://liheap.ncat.org/tables/FY2013/components.htm> and additional information provided by the LIHEAP Clearinghouse.

²¹ In Massachusetts, for example, tens of thousands of applicants are rejected annually because their application documents are incomplete.

would be collected or the uses to which it will be put. It is hard to speculate what that use would be.

LIHEAP is a block grant program under which states are not legally required to operate a cooling program. Gathering data on the electricity consumption of those who do not heat with electricity but who use it for cooling will provide effectively meaningless data for a state that does not have a cooling program. The cooling-related consumption of households in those states has as little to do with running LIHEAP as the electric consumption of the households' refrigerators. It will provide relatively little value even for states that do operate a cooling program. For example, if a state that has a cooling program were to determine that the subset of households that do not heat with electricity but use it for cooling have an average annual consumption of 1033 kWh per month, it is not clear how the state could put that data to good use. It cannot be compared to the electric consumption of those who do not use electricity for cooling, since HHS is not collecting that data. Thus, the Department will not be able to determine the incremental electric consumption burden of households that do use electricity for cooling.²² Low-income commenters see no reason why any state – whether one that has a cooling program or not – should be burdened with collecting this data.

VI. Alternative Data Collection Methods Could Provide More Reliable Data And Significantly Reduce The Burden on LIHEAP Sub-grantees and Vendors

A. Using RECS Data to Determine Energy Consumption and Expenditures

As indicated above, calculating the percentage reduction in household energy burden merely requires dividing the dollar value of the LIHEAP benefit by household income. The calculation does not require collecting home energy consumption or expenditure information on an estimated nine million LIHEAP households. However, calculating gross (or net) home

²² As explained in the next section, electric consumption attributable to air conditioning can be derived from the RECS data.

energy burden does require information regarding home energy expenditures. As an alternative to attempting the collection of data regarding each of millions of LIHEAP participants, Low-income Commenters propose a more efficient and reliable means of documenting the energy burden reduction benefits of LIHEAP. The alternative approach entails utilizing reliable, verifiable, publicly-available data sources.

The most accurate and detailed source of U.S. home energy consumption and expenditures is in the Residential Energy Consumption Survey (RECS). The RECS provides detailed information regarding household consumption and expenditures for major end uses – including cooling, heating and major appliances – at the Census Division level. In addition, statistically significant data is available for 27 smaller geographic groupings, including 15 individual states. In addition to home energy consumption and expenditure information, the RECS provides detailed information regarding household and housing unit characteristics, including income, age, housing tenure, and much more. Thus, the RECS consumption and expenditure data may be filtered to provide detailed expenditure information for LIHEAP-eligible households.

Home energy expenditure calculations by Census Division may be derived through the integration of data from the 2009 RECS, the Energy Information Administration's Short Term Energy Outlook (STEO), and climate data from the National Climate Data Center of the National Oceanic and Atmospheric Administration. Total baseline expenditures (2009) are derived by combining the RECS expenditure variables, for each end use and by fuel (e.g., gas use for space heating; electric use for appliances; etc.). For years subsequent to 2009, expenditure estimates are derived by adjusting the baseline expenditures using statistics provided by the National Climatic Data Center of the National Oceanic and Atmospheric Administration, National

Environmental Satellite, Data and Information Service. These data are employed to calculate an adjustment factor for each census division so that RECS data on heating and cooling expenditures for 2009 may be adjusted to reflect actual weather during subsequent years. In addition, price adjustment factors for years subsequent to 2009 are calculated using historical and projected prices by Census Division for natural gas and electricity and by Petroleum Area Defense District for propane and heating oil as provided by the Energy Information Administration's STEO.

Finally, state-level expenditure estimates may be derived by adjusting the RECS Census Division and Reportable Domain results by calculating the weighted average state expenditures as reported in the Energy Information Administration's State Energy Data System.

As an example of the methodological approach just described, the following table reflects 2009 RECS expenditure data for Massachusetts, sorted by heating fuel and for 150% poverty status (used here as a proxy for LIHEAP income eligibility).

			Home Energy Expenditure			
Main space heating fuel			2009	2010	2011	2012
Income at or below 150% FPL						
Natural Gas	No	N	1,026,495	1,026,495	1,026,495	1,026,495
		Mean	\$2,346	\$2,190	\$2,168	\$1,973
	Yes	N	310,711	310,711	310,711	310,711
		Mean	\$2,111	\$1,951	\$1,941	\$1,740
	Total	N	1,337,206	1,337,206	1,337,206	1,337,206
		Mean	\$2,292	\$2,134	\$2,116	\$1,919
Propane/LPG	No	N	47,238	47,238	47,238	47,238
		Mean	\$2,547	\$2,476	\$2,603	\$2,210
	Yes	N	13,812	13,812	13,812	13,812
		Mean	\$2,762	\$2,733	\$2,919	\$2,398
	Total	N	61,050	61,050	61,050	61,050
		Mean	\$2,595	\$2,534	\$2,674	\$2,252
Heating Oil	No	N	681,982	681,982	681,982	681,982
		Mean	\$3,121	\$3,195	\$3,501	\$3,157
	Yes	N	82,682	82,682	82,682	82,682
		Mean	\$2,321	\$2,360	\$2,564	\$2,333
	Total	N	764,665	764,665	764,665	764,665
		Mean	\$3,034	\$3,105	\$3,400	\$3,068
Electricity	No	N	185,440	185,440	185,440	185,440
		Mean	\$1,977	\$1,828	\$1,820	\$1,703
	Yes	N	71,202	71,202	71,202	71,202
		Mean	\$1,405	\$1,271	\$1,276	\$1,177
	Total	N	256,642	256,642	256,642	256,642
		Mean	\$1,818	\$1,673	\$1,669	\$1,557
Other Fuel	No	N	45,864	45,864	45,864	45,864
		Mean	\$2,566	\$2,521	\$2,550	\$2,404
	Yes	N	10,065	10,065	10,065	10,065
		Mean	\$599	\$572	\$554	\$546
	Total	N	55,930	55,930	55,930	55,930
		Mean	\$2,212	\$2,170	\$2,191	\$2,070
Total	No	N	1,987,020	1,987,020	1,987,020	1,987,020
		Mean	\$2,588	\$2,515	\$2,612	\$2,370
	Yes	N	488,472	488,472	488,472	488,472
		Mean	\$2,031	\$1,915	\$1,949	\$1,752
	Total	N	2,475,492	2,475,492	2,475,492	2,475,492
		Mean	\$2,478	\$2,397	\$2,481	\$2,248

RECS 2009 expenditure data, as reflected in the table above were adjusted using the following raw NOAA and EIA/STEO data:

NOAA Heating Degree Day Data

Census Division	HDD2009	Adj2009HDD	HDD2010	Adj2010HDD	HDD2011	Adj2011HDD	HDD2012	Adj2012HDD	HDD2013	Adj2013HDD
New England	6,659	1.00	5,989	0.90	6,511	0.98	5,316	0.80	6,532	0.98
Middle Atlantic	5,848	1.00	5,387	0.92	5,811	0.99	4,707	0.80	5,506	0.94
East North Central	6,654	1.00	6,179	0.93	6,555	0.99	5,189	0.78	6,208	0.93
West North Central	6,830	1.00	6,738	0.99	6,846	1.00	5,308	0.78	6,305	0.92
South Atlantic	2,899	1.00	3,024	1.04	2,957	1.02	2,273	0.78	2,752	0.95
East South Central	3,583	1.00	3,916	1.09	3,260	0.91	2,852	0.80	3,348	0.93
West South Central	2,063	1.00	2,699	1.31	2,168	1.05	1,803	0.87	2,284	1.11
Mountain North	4,762	1.00	5,278	1.11	5,021	1.05	4,661	0.98	6,366	1.34
Mountain South	4,762	1.00	5,278	1.11	5,021	1.05	4,661	0.98	2,282	0.48
Pacific	3,068	1.00	3,220	1.05	3,308	1.08	3,158	1.03	2,739	0.89

NOAA Cooling Degree Day Data

CensusDivision	CDD2009	Adj2009CDD	CDD2010	Adj2010C	CDD2011	Adj2011C	CDD2012	Adj2012C	CDD2013	Adj2013CDD
New England	362	1.00	657	1.81	569	1.57	591	1.63	561	1.55
Mid-Atlantic	587	1.00	997	1.70	896	1.53	851	1.45	872	1.49
East North Central	547	1.00	975	1.78	870	1.59	974	1.78	809	1.48
West North Central	720	1.00	1,123	1.56	1,101	1.53	1,250	1.74	1,031	1.43
South Atlantic	2,025	1.00	2,267	1.12	2,249	1.11	2,142	1.06	2,075	1.02
East South Central	1,497	1.00	2,004	1.34	1,739	1.16	1,760	1.18	1,741	1.16
West South Central	2,570	1.00	2,750	1.07	3,083	1.20	2,887	1.12	2,563	1.00
Mountain North	1,504	1.00	1,450	0.96	1,508	1.00	1,655	1.10	661	0.44
Mountain South	1,504	1.00	1,450	0.96	1,508	1.00	1,655	1.10	2,998	1.99
Pacific	884	1.00	655	0.74	714	0.81	897	1.01	947	1.07

EIA/STEO Heating Oil Price Data

Census Region	P2009FO	Adj2009FO	P2010FO	Adj2010FO	P2011FO	Adj2011FO	P2012FO	Adj2012FO
Northeast	\$285.00	1.00	\$338.00	1.19	\$373.00	1.31	\$380.00	1.33
Midwest	\$285.00	1.00	\$338.00	1.19	\$373.00	1.31	\$380.00	1.33
South	\$285.00	1.00	\$338.00	1.19	\$373.00	1.31	\$380.00	1.33
West	\$285.00	1.00	\$338.00	1.19	\$373.00	1.31	\$380.00	1.33

EIA/STEO Propane Price Data²³

Census Region	P2009Prop	Adj2009Prop	P2010Prop	Adj2010Prop	P2011Prop	Adj2011Prop	P2012Prop	Adj2012Prop
Northeast	\$298.00	1.00	\$323.00	1.08	\$338.00	1.13	\$295.00	0.99
Midwest	\$197.00	1.00	\$212.00	1.08	\$220.00	1.12	\$202.00	1.03
South	\$280.00	1.00	\$303.60	1.08	\$317.70	1.13	\$277.30	0.99
West	\$271.00	1.00	\$297.20	1.10	\$311.00	1.15	\$271.40	1.00

EIA/STEO/ Natural Gas Price Data

²³ Beginning in 2011 EIA stopped reporting propane prices for the South and Pacific regions of the U.S. The agency currently only reports propane prices for the Northeast and Midwest. Based on historical regional price differentials, the table below reflects price estimates for the South equal to 94% of the Northeast price and the West at 92% of the Northeast price.

CensusDivision	P2009NG	Adj2009NG	P2010NG	Adj2010NG	P2011NG	Adj2011NG	P2012NG	Adj2012NG	P2013NG	Adj2013NG	P2014NG	Adj2014NG
New England	\$15.04	1.00	\$14.83	0.99	\$14.03	0.93	\$13.73	0.91	\$14.31	0.95	\$15.52	1.03
Middle Atlantic	\$14.83	1.00	\$13.40	0.90	\$12.88	0.87	\$12.20	0.82	\$12.94	0.87	\$14.54	0.98
East North Central	\$10.72	1.00	\$10.25	0.96	\$9.81	0.92	\$9.20	0.86	\$9.49	0.89	\$10.75	1.00
West North Central	\$10.34	1.00	\$9.92	0.96	\$9.88	0.96	\$9.60	0.93	\$9.62	0.93	\$10.68	1.03
South Atlantic	\$14.97	1.00	\$13.55	0.91	\$13.61	0.91	\$13.71	0.92	\$13.78	0.92	\$15.50	1.04
East South Central	\$13.19	1.00	\$11.43	0.87	\$11.20	0.85	\$11.28	0.86	\$11.20	0.85	\$12.96	0.98
West South Central	\$11.67	1.00	\$11.05	0.95	\$10.54	0.90	\$11.12	0.95	\$10.88	0.93	\$11.77	1.01
Mountain North Sub-Division	\$10.40	1.00	\$9.65	0.93	\$9.39	0.90	\$9.41	0.90	\$9.23	0.89	\$10.46	1.01
Mountain South Sub-Division	\$10.40	1.00	\$9.65	0.93	\$9.39	0.90	\$9.41	0.90	\$9.23	0.89	\$10.46	1.01
Pacific	\$10.44	1.00	\$10.35	0.99	\$10.36	0.99	\$9.75	0.93	\$10.15	0.97	\$10.81	1.04

EIA/STEO/ Electricity Price Data

CensusDivision	P2009Elec	Adj2009Elec	P2010Elec	Adj2010Elec	P2011Elec	Adj2011Elec	P2012Elec	Adj2012Elec	P2013Elec	Adj2013Elec	P2014Elec	Adj2014Elec
New England	\$17.50	1.00	\$16.20	0.93	\$15.90	0.91	\$15.70	0.90	\$15.80	0.90	\$16.10	0.92
Middle Atlantic	\$14.80	1.00	\$15.80	1.07	\$15.80	1.07	\$15.30	1.03	\$15.60	1.05	\$15.80	1.07
East North Central	\$10.90	1.00	\$11.40	1.05	\$11.80	1.08	\$12.00	1.10	\$12.20	1.12	\$12.50	1.15
West North Central	\$9.10	1.00	\$9.60	1.05	\$10.10	1.11	\$10.50	1.15	\$10.70	1.18	\$11.00	1.21
South Atlantic	\$11.30	1.00	\$11.00	0.97	\$11.20	0.99	\$11.40	1.01	\$11.30	1.00	\$11.50	1.02
East South Central	\$9.60	1.00	\$9.60	1.00	\$10.10	1.05	\$10.30	1.07	\$10.40	1.08	\$10.60	1.10
West South Central	\$11.00	1.00	\$10.70	0.97	\$10.40	0.95	\$10.30	0.94	\$10.70	0.97	\$10.90	0.99
Mountain North Sub-Division	\$10.20	1.00	\$10.50	1.03	\$10.60	1.04	\$10.90	1.07	\$11.20	1.10	\$11.40	1.12
Mountain South Sub-Division	\$10.20	1.00	\$10.50	1.03	\$10.60	1.04	\$10.90	1.07	\$11.20	1.10	\$11.40	1.12
Pacific	\$12.10	1.00	\$12.30	1.02	\$12.40	1.02	\$13.10	1.08	\$13.30	1.10	\$13.50	1.12

As noted above, the RECS does not report home energy consumption and expenditures for all states. In cases of states that are not reported by the RECS, Census Division expenditures may be adjusted using state residential expenditure data from the EIA State Energy Data System (http://www.eia.gov/state/seds/data.cfm?incfile=/state/seds/sep_sum/html/sum_ex_res.html&sid=US). To create state adjustment factors the SEDS data from this table must be grouped by Census Division and weighted by household counts available from the U.S. Census Division's Current Population Survey.

B. Another Alternative: State-Specific, Industry-Provided Data

As an alternative to using these published federal sources just discussed, a state could also obtain data from its own utility companies or deliverable fuel vendors regarding average consumption and prices. For example, the Massachusetts Department of Energy Resources publishes weekly price surveys for home heating oil and propane that would provide highly accurate information about prices.²⁴ Low-income Commenters are not aware of any barrier to

²⁴ <http://www.mass.gov/eea/energy-utilities-clean-tech/home-auto-fuel-price-info/>

other states engaging in similar price surveys. Doing so would eliminate the reporting burden that would otherwise fall on all of the local agencies, which would have to collect data on every single household that receives a delivered fuel. To obtain reliable consumption estimates, a state could work with vendors of delivered fuels to choose a statistically-significant sample of customers who are served by those vendors year-round²⁵, which would provide higher-quality, more reliable data than the approach proposed by the Department while again significantly reducing the reporting burden.

It is likely that utilities are in an even better position to provide accurate data about average consumption and expenditures of households receiving LIHEAP payments given that they tend to have much more sophisticated IT systems than deliverable fuel vendors.

VII. Comments About Specific States

Low-income Commenters do not have the capacity to survey all fifty states to find out the extent to which the proposed data requirements will be burdensome. However, with regard to several states, we have spoken to the state LIHEAP agency, state sub-grantees, and/or advocates who are familiar with how LIHEAP is run. We share these observations:

Iowa: The state LIHEAP director reports that there are approximately 250 businesses in Iowa providing deliverable fuels, and that it will be hard to meet the proposed data requirements applicable to deliverable fuels for two reasons. First, determining the number of times “LIHEAP benefits were used to purchase fuel” after the household “had a notice from a bulk fuel dealer regarding an unpaid or past due balance” or “number of households who inform LIHEAP staff that they are nearly out of a deliverable fuel” will require states to collect inherently unreliable information from LIHEAP applicants. Some clients who self-report that they are nearly out of

²⁵ We underscore this point because data collected through the means proposed in the Department’s Notice would often result in obtaining data on only a portion of the household’s energy purchases. See discussion in V.A., above.

fuel may say so because they are factually mistaken, or because they hope to receive more expedited treatment. Many households that are in fact nearly out of fuel, or that have received a notice of an unpaid or past due balance, will not report it because doing so will usually not affect their benefits. Clients therefore have little reason to report this information accurately.

Second, it already proves difficult each year to get deliverable fuel vendors to sign the required vendor agreements. Because many deliverable fuel vendors are small businesses, requiring additional reporting about consumption may result in a decrease in the number of vendors willing to participate in the program.²⁶

Illinois: Allen Cherry, an advocate for low-income consumers who has been working on issues relating to LIHEAP for decades, reports that it will prove challenging and time-consuming to gather accurate and complete information about annual energy expenditures and consumption for customers using deliverable fuels. There are several hundred heating oil companies in Illinois that serve LIHEAP households. Many of them will not be able to provide data electronically to the state grantee agency.

New York, Rhode Island and Massachusetts: Low-income Commenters have spoken with staff at National Grid, a utility with significant operations in New York, Rhode Island and Massachusetts. The company has serious concerns about its ability to share electric consumption data with state grantees, for customers who are not receiving LIHEAP payments. Privacy rules make it hard for data on these customers to be shared.

Pennsylvania: The Pennsylvania Utility Law Project (PULP) reports that a reliable data base for deliverable fuels is not available and would probably be beyond the ability of the State Department of Public Welfare to develop. Given the large number of small, deliverable fuel

²⁶ State LIHEAP agency personnel and sub-grantee staff in Massachusetts and California also expressed concerns about the difficulty in collecting data regarding consumption of deliverable fuels, and the inherent unreliability of the data collected.

vendors and their active past resistance to increased data collection, it is not likely that a workable data base for deliverable fuels will be created.

PULP submits that the primary obligation of local LIHEAP agencies is to assist in the prevention of loss of service. Additional data collection responsibilities will significantly hamper this obligation. Pennsylvania, particularly in large urban areas such as Philadelphia, has had significant backlogs and delays in the processing of cash grant applications, leading often to the loss of utility service for LIHEAP eligible applicants. This current problem will be exacerbated if the requested data needs to be compiled.

Furthermore, the attempt to collect information regarding the effect of a LIHEAP grant on reducing the energy burden of a Customer Assistance Program (CAP) recipient may prove of dubious value in Pennsylvania where there are a variety of different CAP program design models.²⁷ Each large regulated natural gas and electric utility administers its own CAP. Each may have a different form of a Percentage of Income Payment Plan, discount rate model, or a hybrid model. As a result, there are a variety of mechanisms which are being used to allocate LIHEAP grants to CAP customer accounts. This lack of consistency will make extrapolation of any data regarding the effect of a LIHEAP grant on the reduction of energy burdens difficult, if not impossible.

Texas: We have been told by the Texas Association of Community Action Agencies, which has many members who are LIHEAP sub-grantees, that Texas does not have a centralized data collection system, and, of the fourteen data collection points, only one is currently captured by Texas sub-grantees. This will make it quite challenging for Texas to comply with the reporting mandates, at least for some time to come.

²⁷ A brief description of Pennsylvania's Customer Assistance Programs can be found here: http://www.puc.state.pa.us/consumer_info/electricity/energy_assistance_programs.aspx

VIII. CONCLUSION

The Department is proposing to add significant, additional reporting requirements on state LIHEAP grantees, state sub-grantees, and energy vendors at a time when LIHEAP funding is shrinking. Agencies thus have smaller administrative budgets to process applications and serve needy households, and additional reporting requirements will make it even harder to serve those households on a timely basis.

Some of the data that the Department proposes to collect, especially in connection with deliverable fuels and electricity consumption of those who do not heat with electricity, will be extremely challenging to collect and will not yield reliable, useful data, even if it can be collected. To the extent the Department believes it is essential to collect data on deliverable fuel consumption and expenditures, and non-heat related electric consumption, it should allow states to use reliable data sources such as those contained in the Residential Energy Consumption Survey or sources that can be provided to states by utility companies and deliverable fuel vendors.

The Low-income Commenters urge the Department not to overburden the program with reporting requirements that will not lead to providing better assistance to eligible households.

We look forward to working with the Department on ways to achieve its data goals using less burdensome alternatives than those proposed in these comments.

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