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Small Business Administration

Semiannual Regulatory Agenda

SMALL BUSINESS ADMINISTRATION**13 CFR Ch. I****Semiannual Regulatory Agenda**

AGENCY: U.S. Small Business Administration (SBA).

ACTION: Semiannual regulatory agenda.

SUMMARY: This Regulatory Agenda is a semiannual summary of current and projected regulatory and deregulatory actions and completed actions of the Small Business Administration (SBA). SBA expects that this summary information will enable the public to be more aware of, and effectively participate in, SBA's regulatory and deregulatory activities. SBA invites the public to submit comments on any aspect of this Agenda.

FOR FURTHER INFORMATION CONTACT:**General**

Please direct general comments or inquiries to Imelda A. Kish, Law Librarian, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416, (202) 205-6849, imelda.kish@sba.gov.

Specific

Please direct specific comments and inquiries on individual regulatory activities identified in this Agenda to the individual listed in the summary of the regulation as the point of contact for that regulation.

SUPPLEMENTARY INFORMATION: SBA is fully committed to implementing the Administration's regulatory reform policies, as established by Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs (January 30, 2017) and Executive Order 13777, Enforcing the Regulatory Reform

Agenda (February 24, 2017). In order to fully implement the goal of these executive orders, SBA seeks feedback from the public in identifying any SBA regulations that affected parties believe impose unnecessary burdens or costs that exceed their benefits; eliminate jobs or inhibit job creation; or are ineffective or outdated.

Publication in the **Federal Register** is mandated for rules that, under the Regulatory Flexibility Act (5 U.S.C. 602), are likely to have a significant economic impact on a substantial number of small entities. Additional information on these rules is included in the complete Regulatory Agenda, which is available online at www.reginfo.gov in a format that greatly enhances the public's ability to obtain information about SBA's rules.

Linda E. McMahon,
Administrator.

SMALL BUSINESS ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
204	Small Business Development Center Program Revisions	3245-AE05
205	Small Business HUBZone Program; Government Contracting Programs; Office of Hearings and Appeals	3245-AG38
206	Women-Owned Small Business and Economically Disadvantaged Women-Owned Small Business—Certification.	3245-AG75
207	Ownership and Control of Service-Disabled Veteran-Owned Small Business Concerns	3245-AG85
208	Small Business Government Contracting and National Defense Authorization Acts of 2016 and 2017 Amendments.	3245-AG86

SMALL BUSINESS ADMINISTRATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
209	Miscellaneous Amendments to Business Loan Programs and Surety Bond Guarantee Program	3245-AF85
210	Agent Revocation and Suspension Procedures	3245-AG40
211	Small Business Investment Companies; Passive Business Expansion & Technical Clarifications	3245-AG67
212	Small Business Timber Set-Aside Program	3245-AG69

SMALL BUSINESS ADMINISTRATION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
213	Small Business Size Standards; Alternative Size Standard for 7(a), 504, and Disaster Loan Programs	3245-AG16
214	Disaster Loan Programs; Federal Flood Risk Management Standard	3245-AG77

SMALL BUSINESS ADMINISTRATION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
215	Credit for Lower Tier Small Business Subcontracting	3245-AG71

SMALL BUSINESS ADMINISTRATION (SBA)

Proposed Rule Stage

204. Small Business Development Center Program Revisions

Legal Authority: 15 U.S.C. 634(b)(6); 15 U.S.C. 648

Abstract: Updates the Small Business Development Center (SBDC) program regulations by proposing to amend: (1) Procedures for approving applications for new Host SBDCs; (2) approval procedures for travel outside the continental U.S. and U.S. territories; (3) procedures and requirements regarding findings and disputes resulting from financial exams, programmatic reviews, accreditation reviews, and other SBA oversight activities; (4) requirements for new or renewal applications for SBDC grants, including the requirements for electronic submission through the approved electronic Government submission facility; (5) procedures regarding the determination to affect suspension, termination or non-renewal of an SBDC's cooperative agreement; and (6) provisions regarding the collection and use of the individual SBDC client data.

Timetable:

Action	Date	FR Cite
ANPRM	04/02/15	80 FR 17708
ANPRM Comment Period End.	06/01/15	
NPRM	08/00/17	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Adriana Menchaca-Gendron, Associate Administrator for Small Business Development Centers, Small Business Administration, 409 3rd Street SW., Washington, DC 20416, Phone: 202 205-6988.

RIN: 3245-AE05

205. Small Business Hubzone Program; Government Contracting Programs; Office of Hearings and Appeals

Legal Authority: 15 U.S.C. 657a

Abstract: SBA has been reviewing its processes and procedures for implementing the HUBZone program and has determined that several of the regulations governing the program should be amended in order to resolve certain issues that have arisen. As a result, the proposed rule would constitute a comprehensive revision of part 126 of SBA's regulations to clarify current HUBZone Program regulations, and implement various new procedures. The amendments will make it easier for participants to comply with the program requirements and enable them to

maximize the benefits afforded by participation. In developing this proposed rule, SBA will focus on the principles of Executive Orders 12866, 13771 and 13563 to determine whether portions of regulations should be modified, streamlined, expanded or repealed to make the HUBZone program more effective and/or less burdensome on small business concerns. At the same time, SBA will maintain a framework that helps identify and reduce waste, fraud, and abuse in the program.

Timetable:

Action	Date	FR Cite
NPRM	09/00/17	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Mariana Pardo, Director, Office of HUBZone, Small Business Administration, 409 3rd Street SW., Washington, DC 20416, Phone: 202 205-2985, Email: mariana.pardo@sba.gov.

RIN: 3245-AG38

206. Women-Owned Small Business and Economically Disadvantaged Women-Owned Small Business—Certification

Legal Authority: Pub. L. 113-291, sec. 825; 15 U.S.C. 637(m)

Abstract: Section 825 of the National Defense Authorization Act for Fiscal Year 2015 (NDAA), Public Law 113-291, 128 Stat. 3292, Dec. 19, 2014, included language requiring that women-owned small business concerns and economically disadvantaged women-owned small business concerns are certified by a Federal agency, a State government, the Administrator, or national certifying entity approved by the Administrator as a small business concern owned and controlled by women. This rule will propose the standards and procedures for participation in this certification program, including procedures governing certifications issued by SBA and third parties. This rule will also propose to revise the procedures for continuing eligibility, program examinations, protest and appeals. The proposed revisions will reflect public comments that SBA received in response to the Advanced Notice of Proposed Rulemaking that the agency issued in December 2016 to solicit feedback on implementation of the program. Finally, SBA is planning to continue to utilize new technology to improve its efficiency and decrease small business burdens, and therefore, the new certification procedures will be

based on an electronic application and certification process.

Timetable:

Action	Date	FR Cite
ANPRM	12/18/15	80 FR 78984
ANPRM Comment Period End.	02/16/16	
NPRM	09/00/17	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Kenneth Dodds, Director, Office of Policy, Planning and Liaison, Small Business Administration, 409 3rd Street SW., Washington, DC 20416, Phone: 202 619-1766, Fax: 202 481-2950, Email: kenneth.dodds@sba.gov.

RIN: 3245-AG75

207. • Ownership and Control of Service-Disabled Veteran-Owned Small Business Concerns

Legal Authority: Pub. L. 114-328, sec. 1832, 1835

Abstract: Section 1832 of the National Defense Authorization Act for Fiscal Year 2017 (NDAA), Public Law 114-328, Dec. 23, 2016, provides for a government-wide, uniform definition of a small business concern owned and controlled by a service-disabled veteran. Section 1835 requires the Small Business Administration (SBA) and the Department of Veterans Affairs (VA) to issue guidance, not later than 180 days after the date of enactment of the NDAA of 2017. The proposed rule will propose to amend SBA's regulations to create a uniform definition of a small business owned and controlled by a service-disabled veteran to be used for purposes of eligibility for government procurements by agencies other than the VA under the authority of 15 U.S.C. 657f, and by the VA for VA procurements in accordance with 38 U.S.C. 8127. These changes will include addressing ownership by an employee stock ownership plan (ESOP) and ownership and control by a surviving spouse. Section 1835 provides that the SBA and VA shall provide notice and opportunity for comment for at least 60 days.

Timetable:

Action	Date	FR Cite
NPRM	06/00/17	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Kenneth Dodds, Director, Office of Policy, Planning and Liaison, Small Business Administration, 409 3rd Street SW., Washington, DC 20416, Phone: 202 619-1766, Fax: 202

481–2950, Email: kenneth.dodds@sba.gov
 RIN: 3245–AG85

208. • Small Business Government Contracting and National Defense Authorization Acts of 2016 and 2017 Amendments

Legal Authority: 15 U.S.C. 637(d)(17); Pub. L. 114–328, sec. 1811, 1821; Pub. L. 114–92, sec. 863

Abstract: Section 1822 of the National Defense Authorization Act (NDAA) for Fiscal Year 2017, Public Law 114–328, Dec. 23, 2016, establishes a pilot program for qualified subcontractors to obtain past performance ratings that can be used to compete for prime contracts. Section 1811 of the NDAA of 2017 also limits the scope of review of Procurement Center Representatives for certain Department of Defense procurements performed outside of the United States. Section 1821 of the NDAA of 2017 establishes that failure to act in good faith in providing timely subcontracting reports shall be considered a material breach of the contract. Section 863 of the NDAA for FY 2016, Public Law 114–92, Nov. 25, 2015, establishes procedures for the publication of acquisition strategies if the acquisition involves consolidation or substantial bundling. SBA also intends to request comment on various proposed changes requested by industry or other agencies, including those pertaining to exclusions from calculating compliance with the limitations on subcontracting, an agency's ability to set aside orders under set-aside contracts, and a contracting officer's authority to request reports on a prime contractor's compliance with the limitations on subcontracting.

Timetable:

Action	Date	FR Cite
NPRM	09/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kenneth Dodds, Director, Office of Policy, Planning and Liaison, Small Business Administration, 409 3rd Street SW., Washington, DC 20416, Phone: 202 619–1766, Fax: 202 481–2950, Email: kenneth.dodds@sba.gov

RIN: 3245–AG86

Small Business Administration (SBA)

Final Rule Stage

209. Miscellaneous Amendments to Business Loan Programs and Surety Bond Guarantee Program

Legal Authority: 15 U.S.C. 636(a); 15 U.S.C. 694b

Abstract: Certain lenders have been delegated the authority to make loan decisions without prior approval from SBA under certain circumstances. SBA plans to formalize such delegated authorities in this proposed rule. The rule will make several minor modifications to the 504 Loan Program and governance rules for Certified Development Company (CDC) in a follow-on to the Final Rule: 504 and 7(a) Loan Program Updates (March 21, 2014). The rule will also align terminology for 7(a) lenders that are federally regulated to synchronize with existing industry requirements. SBA will also make several other miscellaneous amendments to improve oversight and operations of its finance programs.

This rule will make four changes to the Surety Bond Guarantee (SBG) Program. The first changes the threshold for notification to SBA of changes in the contract or bond amount. Second, the change will require sureties to submit quarterly contract completion reports. Third, SBA will increase the eligible contract limit for the Quick Bond Application and Agreement from \$250,000 to \$400,000. Finally, the rule will increase the guarantee percentage in the Preferred Surety Bond program to reflect the statutory change made by the National Defense Authorization Act of 2016. The guarantee percentage will increase from 70% to 80% or 90%, depending on contract size and socioeconomic factors currently in effect in the Prior Approval Program.

Timetable:

Action	Date	FR Cite
NPRM	08/09/16	81 FR 52595
NPRM Comment Period End.	10/11/16	
Final Rule	08/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dianna L. Seaborn, Director, Office of Financial Assistance, Small Business Administration, 409 Third Street SW., Washington, DC 20416, Phone: 202 205–3645, Email: dianna.seaborn@sba.gov

RIN: 3245–AF85

210. Agent Revocation and Suspension Procedures

Legal Authority: 15 U.S.C. 634; 15 U.S.C. 642

Abstract: This rule establishes detailed procedures for the suspension and revocation of an Agent's privilege to do business with the United States Small Business Administration (SBA) within a single Part of the Code of

Federal Regulations; clarifies existing and related regulations as to suspension, revocation, and debarment; and removes Office of Hearings and Appeals jurisdiction over Agent suspensions and revocations and government-wide debarment and suspension actions. This rule will also conform SBA suspension and revocation procedures for Agents with general government-wide nonprocurement suspension and debarment procedures.

Timetable:

Action	Date	FR Cite
NPRM	10/16/14	79 FR 62060
NPRM Comment Period Extended.	12/12/14	79 FR 73853
NPRM Comment Period End.	12/15/14	
NPRM Comment Period Extended End.	02/14/15	
Final Rule	12/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Debra Mayer, Chief, Supervision and Enforcement, Office of Credit Risk Management, Small Business Administration, 409 Third Street SW., Washington, DC 20416, Phone: 202 205–7577, Email: debra.mayer@sba.gov

RIN: 3245–AG40

211. Small Business Investment Companies; Passive Business Expansion and Technical Clarifications

Legal Authority: 15 U.S.C. 681 *et seq.*

Abstract: The SBA is revising the regulations for the Small Business Investment Company (SBIC) program to further expand the use of Passive Businesses and provide needed protections for SBA with regard to such investments. SBICs are generally prohibited from investing in passive businesses under the Small Business Investment Act of 1958 as amended as well as by regulations. Current program regulations provided for two exceptions that allow an SBIC to structure an investment utilizing a passive small business as a pass-through. The first exception identified in 107.720(b)(2) provides that an SBIC may structure an investment utilizing two pass-through entities to make an investment into an active business. The second exception identified in 107.720(b)(3) allows partnership SBICs with SBA prior approval to invest in a wholly owned passive business that in turn provides financing to an active small business only if a direct financing would cause its investors to incur Unrelated Business Taxable Income (UBTI). The second

exception is commonly known as a blocker corporation. The rule clarifies the first exception and further expands the second exception, while providing additional protection to SBA from the risk posed by passive investment structures. As part of the rule, SBA will also make technical corrections and clarifications, including conforming the regulation to the new "family of funds" statutory provision.

Timetable:

Action	Date	FR Cite
NPRM	10/05/15	80 FR 60077
NPRM Comment Period End.	12/04/15	
Final Rule	12/28/16	81 FR 95419
Final Rule Effective.	01/27/17	
Delay of Effective Date Opportunity for Public Comment.	01/26/17	82 FR 8499
Comment Period End.	02/19/17	
Final Rule Effective.	03/21/17	
Delay of Effective Date.	03/21/17	82 FR 14428
Final Rule Effective.	05/20/17	
Delay of Effective Date and Request for Comment.	05/02/17	82 FR 20433
Comment Period End.	06/01/17	
Final Rule Effective.	08/18/17	
Final Rule	08/00/17	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Theresa M. Jamerson, Senior Policy Advisor, Investment Division, Small Business Administration, 409 3rd Street SW., Washington, DC 20461, *Phone:* 202 205-7563, *Email:* theresa.jamerson@sba.gov. *RIN:* 3245-AG67

212. Small Business Timber Set-Aside Program

Legal Authority: 15 U.S.C. 631; 15 U.S.C. 644(a)

Abstract: The U.S. Small Business Administration (SBA or Agency) is amending its Small Business Timber Set-Aside Program (the Program) regulations. The Small Business Timber Set-Aside Program is rooted in the Small Business Act, which tasked SBA with ensuring that small businesses receive a fair proportion of the total sales of government property. Accordingly, the Program requires Timber sales to be set aside for small business when small business participation falls below a certain amount. SBA considered comments

received during the ANPRM and NPRM processes, including on issues such as, but not limited to, whether the saw timber volume purchased through stewardship timber contracts should be included in calculations, and whether the appraisal point used in set-aside sales should be the nearest small business mill. In addition, SBA is considering data from the timber industry to help evaluate the current program and economic impact of potential changes.

Timetable:

Action	Date	FR Cite
ANPRM	03/25/15	80 FR 15697
ANPRM Comment Period End.	05/26/15	
NPRM	09/27/16	81 FR 66199
NPRM Comment Period End.	11/28/16	
Final Rule	09/00/17	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: David W. Loines, Area Director, Office of Government Contracting, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202 205-7311, *Email:* david.loines@sba.gov. *RIN:* 3245-AG69

SMALL BUSINESS ADMINISTRATION (SBA)

Long-Term Actions

213. Small Business Size Standards; Alternative Size Standard for 7(a), 504, and Disaster Loan Programs

Legal Authority: 111-240, sec. 1116
Abstract: SBA will amend its size eligibility criteria for Business Loans, certified development company (CDC) loans under title V of the Small Business Investment Act (504) and economic injury disaster loans (EIDL). For the SBA 7(a) Business Loan Program and the 504 program, the amendments will provide an alternative size standard for loan applicants that do not meet the small business size standards for their industries. The Small Business Jobs Act of 2010 (Jobs Act) established alternative size standards that apply to both of these programs until SBA's Administrator establishes other alternative size standards. For the disaster loan program, the amendments will provide an alternative size standard for loan applicants that do not meet the Small Business Size Standard for their industries. These alternative size standards do not affect other Federal Government programs, including Federal procurement.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Khem Raj Sharma, *Phone:* 202 205-7189, *Fax:* 202 205-6390, *Email:* khem.sharma@sba.gov. *RIN:* 3245-AG16

214. Disaster Loan Programs; Federal Flood Risk Management Standard

Legal Authority: 15 U.S.C. 634(b)(6); E.O. 11988; E.O. 13690

Abstract: In accordance with Executive Order 11988, Floodplain Management, as amended by Executive Order 13690, Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input, SBA will propose a rule to describe which disaster loans are subject to the FFRMS. SBA will propose to apply the FFRMS and corresponding elevation component to disaster loans that meet one of the following conditions: (1) SBA funds will be used for total real estate reconstruction at the damaged site that is located in the Special Flood Hazard Area (SFHA); (2) SBA funds will be used for new real estate construction at a relocation site that is located in the SFHA; or (3) SBA funds will be used for code required elevation at the damaged site that is located in the SFHA.

Timetable:

Action	Date	FR Cite
NPRM	08/00/18	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Alejandro Contreras, *Phone:* 202 205-6674, *Email:* alejandro.contreras@sba.gov. *RIN:* 3245-AG77

SMALL BUSINESS ADMINISTRATION (SBA)

Completed Actions

215. Credit for Lower Tier Small Business Subcontracting

Legal Authority: Pub. L. 113-66, sec. 1614

Abstract: The U.S. Small Business Administration (SBA or Agency) is amending its regulations to implement section 1614 of the National Defense Authorization Act (NDAA) of 2014, Public Law 113-66, December 26, 2013. Under the statute, when an other than small prime contractor has an

individual subcontracting plan for a contract, the large business may receive credit towards its small business subcontracting goals for subcontract awards made to small business concerns at any tier. Currently, other than small business prime contractors only report on their performance awarding

subcontracts to small businesses at the first tier level.
Completed:

Reason	Date	FR Cite
Final Rule Final Rule Effective.	12/23/16 01/23/17	81 FR 94246

Regulatory Flexibility Analysis Required: Yes.
Agency Contact: Kenneth Dodds,
Phone: 202 619–1766, *Fax:* 202 481–2950, *Email:* kenneth.dodds@sba.gov.
RIN: 3245–AG71
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