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SMALL BUSINESS ADMINISTRATION

13 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: U.S. Small Business Administration.

ACTION: Semiannual regulatory agenda.

SUMMARY:

This Regulatory Agenda is a semiannual summary of all current and projected rulemakings 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 activity. 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 provides this notice under the requirements of the Regulatory Flexibility Act, 5 U.S.C. sections 601 to 612 and Executive Order 12866, "Regulatory Planning and Review," which require each agency to publish a semiannual agenda of regulations. The Regulatory Agenda is a summary of all current and projected Agency rulemakings, as well as actions completed since the publication of the last Regulatory Agenda. SBA's last Semiannual Regulatory Agenda was published on June 9, 2016, at 81 FR 37392. The Semiannual Agenda of the SBA conforms to the Unified Agenda format developed by the Regulatory Information Service Center. The complete Unified Agenda will be available online at www.reginfo.gov in a format that greatly enhances a user's ability to obtain information about the rules in SBA's Agenda.

The Regulatory Flexibility Act requires federal agencies to publish those regulatory actions that are likely to have a significant economic impact on a substantial number of small entities in their regulatory flexibility agendas in the **Federal Register**. SBA's Regulatory Agenda includes regulatory actions that are in the SBA's regulatory flexibility agenda. Publication of these entries is limited to fields that contain information required by the Regulatory Flexibility Act's Agenda requirements. Additional information on these entries is available in the Unified Agenda published on the Internet.

NAME: Maria Contreras-Sweet,
Administrator.

Small Business Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
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400	Small Business Development Center Program Revisions	3245–AE05
401	Small Business HUBZone Program; Government Contracting Programs; Office of Hearings and Appeals	3245–AG38
402	Record Disclosure and Privacy	3245–AG52
403	Small Business Timber Set-Aside Program	3245–AG69
404	Women-Owned Small Business and Economically Disadvantaged Women-Owned Small Business — Certification	3245–AG75
405	Disaster Loan Programs; Federal Flood Risk Management Standard	3245–AG77

Small Business Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
406	Miscellaneous Amendments to Business Loan Programs and Surety Bond Guarantee Program	3245–AF85
407	Agent Revocation and Suspension Procedures	3245–AG40
408	Small Business Investment Company (SBIC) Program - Impact SBICs (Reg Plan Seq No. 142)	3245–AG66
409	Small Business Investment Companies; Passive Business Expansion & Technical Clarifications	3245–AG67
410	Credit for Lower Tier Small Business Subcontracting	3245–AG71

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

Small Business Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier
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		Number
411	Immediate, Expedited, and Private Disaster Assistance Loan Programs	3245–AF99
412	Small Business Size Standards; Alternative Size Standard for 7(a), 504, and Disaster Loan Programs	3245–AG16

Small Business Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
413	Small Business Mentor Protégé Programs	3245–AG24
414	Small Business Government Contracting and National Defense Authorization Act of 2013 Amendments	3245–AG58
415	Affiliation for Business Loan Programs and Surety Bond Guarantee Program	3245–AG73

Small Business Administration (SBA)	Proposed Rule Stage

400. SMALL BUSINESS DEVELOPMENT CENTER PROGRAM REVISIONS

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

Abstract: Updates the 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	12/00/16	

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

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RIN: 3245–AE05

**401. 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 Order 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	01/00/17	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Mariana Pardo, Director, Office of HUBZone, Small Business Administration, 409 3rd Street SW., Washington, DC 20416

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RIN: 3245-AG38

402. RECORD DISCLOSURE AND PRIVACY

Legal Authority: 5 U.S.C. 301, 552 and 552(a); 31 U.S.C. 9701; 44 U.S.C. 3501 et seq.; E.O. 12600; 52 FR 23781

Abstract: SBA proposes to amend its Record Disclosure and Privacy regulations to implement the Openness Promotes Effectiveness in our National Government Act and the FOIA Improvement Act of 2016. The amendments, among other things, will update the Agency's Freedom of Information Act regulations to adjust the time for the public to submit an appeal of SBA's decision regarding a request for information, correct an obsolete address and provide applicable website addresses, and clarify the definition of news media for purposes of assessing processing fees.

Timetable:

Action	Date	FR Cite
NPRM	11/00/16	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Laura Magere, Director, Freedom of Information Act Office, Small Business Administration, 409 Third Street SW., Washington, DC 20416

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RIN: 3245–AG52

403. 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 proposing to amend 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 is considering comments received during the ANPRM process, 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	05/00/17	

Regulatory Flexibility Analysis Required: Yes

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RIN: 3245–AG69

404. 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. SBA is issuing this Advance Notice of Proposed Rulemaking to get public feedback on how best to implement this statutory provision. SBA intends to request information on whether SBA should: create its own certification program, rely on private certifiers, allow Federal agencies to create their own certification systems, or create a hybrid system. SBA also intends to request information from the public concerning State government certification programs.

Timetable:

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

Regulatory Flexibility Analysis Required: Yes

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RIN: 3245–AG75

405. 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	11/00/16	

Regulatory Flexibility Analysis Required: Yes

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RIN: 3245–AG77

Small Business Administration (SBA)	Final Rule Stage

406. 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. Several minor modifications to the 504 Loan Program and governance rules for Certified Development Company (CDC) are also proposed in a follow-on to the Final Rule: 504 and 7(a) Loan Program Updates (March 21, 2014), along with alignment of terminology for 7(a) lenders that are federally regulated to synchronize with existing industry requirements. SBA plans to propose several other miscellaneous amendments to improve oversight and operations of its finance programs.

This rule proposes to make four changes to the Surety Bond Guarantee (SBG) Program. The first would change the threshold for notification to SBA of changes in the contract or bond amount. Second, the change would require sureties to submit quarterly contract completion reports. Third, SBA proposes to increase the eligible contract limit for the Quick Bond Application and Agreement from \$250,000 to \$400,000. Finally, SBA proposes to 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
Comment Period End	10/11/16	
Final Rule	03/00/17	

Regulatory Flexibility Analysis Required: Yes

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RIN: 3245-AF85

407. 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; removes 8(a) program specific procedures for Agent suspension and revocation; 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	
Second NPRM Comment Period End	02/14/15	
Final Rule	12/00/16	

Regulatory Flexibility Analysis Required: Yes

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RIN: 3245–AG40

408. SMALL BUSINESS INVESTMENT COMPANY (SBIC) PROGRAM – IMPACT SBICS

Regulatory Plan: This entry is Seq. No. 142 in part II of this issue of the **Federal Register**.

RIN: 3245–AG66

409. SMALL BUSINESS INVESTMENT COMPANIES; PASSIVE BUSINESS EXPANSION &

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 current rule creates unnecessary complications in defining two exceptions and does not provide SBA with sufficient protections. SBA is simplifying the rule to allow a more flexible two pass-through entity structure but provides SBA certain protections to offset risks associated with 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	11/00/16	

Regulatory Flexibility Analysis Required: Yes

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RIN: 3245–AG67

410. 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 proposing to amend its regulations to implement section 1614 of the National Defense Authorization Act (NDAA) of 2014, Pub. L. No. 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.

Timetable:

Action	Date	FR Cite
NPRM	10/06/15	80 FR 60300

NPRM Comment Period End	12/07/15	
Final Rule	12/00/16	

Regulatory Flexibility Analysis Required: Yes

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RIN: 3245-AG71

Small Business Administration (SBA)	Long-Term Actions

411. IMMEDIATE, EXPEDITED, AND PRIVATE DISASTER ASSISTANCE LOAN PROGRAMS

Legal Authority: 15 U.S.C. 636(c); 15 U.S.C. 636j; 15 U.S.C. 657n

Abstract: Through this advanced notice of proposed rulemaking, SBA solicited comments from potential lenders and the public on three guaranteed disaster loan programs: (1) The expedited disaster assistance program (EDAP), under which the SBA would guarantee short-term loans of up to \$150,000 made by private lenders to eligible small businesses located in a catastrophic disaster area; (2) the private disaster assistance program (PDAP), under which SBA would guarantee loans of up to \$2 million made by private lenders to eligible small businesses and homeowners located in a catastrophic disaster area; and (3) the immediate disaster assistance program (IDAP), under which the SBA would guarantee interim loans of up to \$25,000 made by private lenders to eligible small businesses, which would then be repaid with the proceeds of SBA direct disaster loans. SBA will seek input on what program features would be required for lenders to participate in these guaranteed disaster loan programs. SBA plans to use this feedback in drafting proposed rules for the EDAP and PDAP programs and in considering changes to the existing IDAP regulations.

Timetable:

Action	Date	FR Cite
ANPRM	10/21/15	80 FR 63715
ANPRM Comment Period End	12/21/15	
NPRM	08/00/18	

Regulatory Flexibility Analysis Required: Yes**Agency Contact:** Dianna L. Seaborn

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RIN: 3245–AF99**412. SMALL BUSINESS SIZE STANDARDS; ALTERNATIVE SIZE STANDARD FOR 7(A), 504, AND DISASTER LOAN PROGRAMS****Legal Authority:** Pub. L. 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

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RIN: 3245–AG16

Small Business Administration (SBA)	Completed Actions

413. SMALL BUSINESS MENTOR PROTÉGÉ PROGRAMS

Legal Authority: Pub. L. 111–240; sec. 1347; 15 U.S.C. 657r

Abstract: The U.S. Small Business Administration (SBA or Agency) is amending its regulations to implement provisions of the Small Business Jobs Act of 2010 and the National Defense Authorization Act for Fiscal Year 2013. Based on authorities provided in these two statutes, the rule establishes a Government-wide mentor-protégé program for all small business concerns, consistent with SBA’s mentor-protégé program for Participants in SBA’s 8(a) Business Development (BD) program. The rule also makes minor changes to the mentor-protégé provisions for the 8(a) Business Development program in order to make the mentor-protégé rules for each of the programs as consistent as possible. The rule amends the current joint venture provisions to clarify the conditions for creating and operating joint venture partnerships, including the effect of such partnerships on any mentor-protégé relationships. Finally, the rule makes several additional changes to current size, 8(a) Office of Hearings and Appeals or HUBZone regulations, concerning among other things, ownership and control, changes in primary industry, standards of review and interested party status for some appeals.

Completed:

Reason	Date	FR Cite

Final Rule	07/25/16	81 F.R. 48558
Final Rule Effective	08/24/16	

Regulatory Flexibility Analysis Required: Yes

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RIN: 3245-AG24

414. SMALL BUSINESS GOVERNMENT CONTRACTING AND NATIONAL DEFENSE

AUTHORIZATION ACT OF 2013 AMENDMENTS

Legal Authority: 15 U.S.C. 631; Pub. L. 112-239

Abstract: The U.S. Small Business Administration (SBA or Agency) is amending its regulations to implement provisions of the National Defense Authorization Act of 2013, which pertain to performance requirements applicable to small business and socioeconomic program set aside contracts and small business subcontracting. SBA is making changes to its regulations concerning the nonmanufacturer rule and affiliation rules. Further, SBA is allowing a joint venture to qualify as small for any government procurement as long as each partner to the joint venture qualifies individually as small under the size standard corresponding to the NAICS code assigned in the solicitation.

Completed:

Reason	Date	FR Cite
Final Rule	05/31/16	81 FR 34243
Final Rule Effective	06/30/16	

Regulatory Flexibility Analysis Required: Yes

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RIN: 3245-AG58

415. AFFILIATION FOR BUSINESS LOAN PROGRAMS AND SURETY BOND GUARANTEE PROGRAM

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

Abstract: The U.S. Small Business Administration (SBA) has determined that changing conditions in the American economy and a constantly evolving small business community compel it to seek ways to improve program efficiency for its Surety Bond Guarantee (SBG) Program, and the business loan programs consisting of the 7(a) Loan Program, the Business Disaster Loan Programs (the Economic Injury Disaster Loans, Reservist Injury Disaster Loans, Physical Disaster Business Loans, Immediate Disaster Assistance Program loans), the Microloan Program, and the Development Company Program (the 504 Loan Program). As a result, SBA is simplifying guidelines for determining affiliation for eligibility based on size as it relates to these programs. This rule redefines affiliation for all five Programs, thereby simplifying eligibility determinations.

Completed:

Reason	Date	FR Cite
Final Rule	06/27/16	81 FR 41423
Final Rule Effective	07/27/16	

Regulatory Flexibility Analysis Required: Yes

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RIN: 3245-AG73

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