



SMALL BUSINESS ADMINISTRATION

13 CFR Ch. I

Semiannual Regulatory Agenda

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

ACTION: Semiannual regulatory agenda.

SUMMARY:

This semiannual Regulatory Agenda (Agenda) is a 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. Timely public comment for any rule may be submitted at the government-wide e-government website, <http://www.regulations.gov>.

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unnecessary burdens or costs that exceed their benefits; eliminate jobs or inhibit job creation; or are ineffective or outdated.

The Regulatory Flexibility Act requires SBA to publish in the Federal Register a semiannual regulatory flexibility agenda describing those rules SBA expects to consider in the next 12 months that are likely to have a significant economic impact on a substantial number of small entities (5 U.S.C. 602). The rules published in the Federal Register with this notice include only those that meet this requirement. Additional information on these rules and on all other rulemakings SBA expects to consider is included in the Federal Government's complete Unified Agenda, which will be available online at www.reginfo.gov in a format that offers users enhanced ability to obtain information about SBA's rules from the Agenda database.

Dated: 9/19/17

NAME: Linda E. McMahon,
Administrator.

Small Business Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
333	Small Business Size Standards; Alternative Size Standard for 7(a), 504, and Disaster Loan Programs	3245-AG16

Small Business Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
334	Small Business Development Center Program Revisions	3245–AE05
335	Small Business HUBZone Program; Government Contracting Programs; Office of Hearings and Appeals	3245–AG38
336	Women-Owned Small Business and Economically Disadvantaged Women-Owned Small Business—Certification (Reg Plan Seq No. 120)	3245–AG75
337	Disaster Loan Programs; Federal Flood Risk Management Standard	3245–AG77
338	Ownership and Control of Service-Disabled Veteran-Owned Small Business Concerns	3245–AG85
339	National Defense Authorization Acts of 2016 and 2017, RISE After Disaster Act of 2015, and Other Small Business Government Contracting Amendments	3245–AG86
340	Small Business Size Standards: Educational Services; Health Care and Social Assistance; Arts, Entertainment and Recreation; Accommodation and Food Services; Other Services	3245–AG88
341	Small Business Size Standards: Agriculture, Forestry, Fishing and Hunting; Mining, Quarrying, and Oil and Gas Extraction;	3245–AG89

	Utilities; Construction	
342	Small Business Size Standards: Transportation and Warehousing; Information; Finance and Insurance; Real Estate and Rental and Leasing	3245-AG90
343	Small Business Size Standards: Professional, Scientific and Technical Services; Management of Companies and Enterprises; Administrative and Support, Waste Management and Remediation Services	3245-AG91

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

Small Business Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
344	Miscellaneous Amendments to Business Loan Programs and Surety Bond Guarantee Program	3245-AF85
345	Small Business Timber Set-Aside Program	3245-AG69

Small Business Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
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346	Agent Revocation and Suspension Procedures	3245-AG40
347	Small Business Investment Companies; Passive Business Expansion & Technical Clarifications	3245-AG67

Small Business Administration (SBA)	Prerule Stage

333. SMALL BUSINESS SIZE STANDARDS; ALTERNATIVE SIZE STANDARD FOR 7(A), 504, AND DISASTER LOAN PROGRAMS

EO 13771 Designation: Other

Legal Authority: Pub. L. 111-240, sec. 1116

Abstract: SBA will request public comment on options to 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 eventual 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. SBA loan program alternative size standards do not affect other Federal Government programs, including Federal procurement.

Timetable:

Action	Date	FR Cite
ANPRM	01/00/18	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration,
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RIN: 3245–AG16

Small Business Administration (SBA)	Proposed Rule Stage

334. SMALL BUSINESS DEVELOPMENT CENTER PROGRAM REVISIONS

EO 13771 Designation: Other

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	03/00/18	

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

**335. SMALL BUSINESS HUBZONE PROGRAM; GOVERNMENT CONTRACTING PROGRAMS;
OFFICE OF HEARINGS AND APPEALS**

EO 13771 Designation: Other

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	05/00/18	

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

336. WOMEN-OWNED SMALL BUSINESS AND ECONOMICALLY DISADVANTAGED WOMEN-OWNED SMALL BUSINESS—CERTIFICATION

Regulatory Plan: This entry is Seq. No. 120 in part II of this issue of the **Federal Register**.

RIN: 3245-AG75

337. DISASTER LOAN PROGRAMS; FEDERAL FLOOD RISK MANAGEMENT STANDARD

EO 13771 Designation: Regulatory

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

Abstract: This rule would describe which disaster loans are subject to federal flood risk managements standards. It would apply 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, Program Analyst, Office of Disaster Assistance, Small Business Administration, 409 Third Street SW., Washington, DC 20416

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338. OWNERSHIP AND CONTROL OF SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS CONCERNS

EO 13771 Designation: Other

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	01/00/18	

Regulatory Flexibility Analysis Required: Yes

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RIN: 3245–AG85

339. NATIONAL DEFENSE AUTHORIZATION ACTS OF 2016 AND 2017, RISE AFTER DISASTER ACT OF 2015, AND OTHER SMALL BUSINESS GOVERNMENT CONTRACTING AMENDMENTS

EO 13771 Designation: Other

Legal Authority: 15 U.S.C. 637(d)(17); Pub. L. 114–328, sec. 1811, 1821; Pub. L. 114–92, sec. 863; Pub. L. 114–88, sec. 2105, 2108

Abstract: Section 1811 of the of the National Defense Authorization Act (NDAA) for Fiscal Year 2017, Public Law 114-328, Dec. 23, 2016, (NDAA) of 2017 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. Sections 2105 and 2108 of Public Law 114-88 provide agencies with double credit when they award to a local small business in a disaster area and provide local small businesses with access to federal surplus property.

Timetable:

Action	Date	FR Cite
NPRM	12/00/17	

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

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RIN: 3245–AG86

340. • SMALL BUSINESS SIZE STANDARDS: EDUCATIONAL SERVICES; HEALTH CARE AND SOCIAL ASSISTANCE; ARTS, ENTERTAINMENT AND RECREATION; ACCOMMODATION AND FOOD SERVICES; OTHER SERVICES

EO 13771 Designation: Other

Legal Authority: 15 U.S.C. 632(a)

Abstract: The Small Business Jobs Act of 2010 (Jobs Act) requires SBA to conduct every five years a detailed review of all size standards and to make appropriate adjustments to reflect market conditions. As part of the second five-year review of size standards under the Jobs Act, in this proposed rule, SBA will evaluate size standards for all industries in North American Industry Classification System (NAICS) Sector 61 (Educational Services), Sector 62 (Health Care and Social Assistance), Sector 71 (Arts, Entertainment and Recreation), Sector 72 (Accommodation and Food Services), and Sector 81 (Other Services) and make necessary adjustments to size standards in these sectors. This is one of a

series of proposed rules that will examine groups of NAICS sectors. SBA will apply its Size Standards Methodology to this proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	09/00/18	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW., Washington, DC 20416

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RIN: 3245–AG88

341. • SMALL BUSINESS SIZE STANDARDS: AGRICULTURE, FORESTRY, FISHING AND HUNTING; MINING, QUARRYING, AND OIL AND GAS EXTRACTION; UTILITIES; CONSTRUCTION

EO 13771 Designation: Other

Legal Authority: 15 U.S.C. 632(a)

Abstract: The Small Business Jobs Act of 2010 (Jobs Act) requires SBA to conduct every five years a detailed review of all size standards and to make appropriate adjustments to reflect market conditions. As part of the second five-year review of size standards under the Jobs Act, in this proposed rule, SBA will evaluate each industry that has a receipts-based standard in North American Industry Classification System (NAICS) Sector 11 (Agriculture, Forestry, Fishing and Hunting), Sector 21 (Mining,

Quarrying, and Oil and Gas Extraction), Sector 22 (Utilities), and Sector 23 (Construction), and make necessary adjustments to size standards in these sectors. This is one of a series of proposed rules that will examine groups of NAICS sectors. SBA will apply its Size Standards Methodology to this proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	09/00/18	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW., Washington, DC 20416

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RIN: 3245–AG89

342. • SMALL BUSINESS SIZE STANDARDS: TRANSPORTATION AND WAREHOUSING; INFORMATION; FINANCE AND INSURANCE; REAL ESTATE AND RENTAL AND LEASING

EO 13771 Designation: Other

Legal Authority: 15 U.S.C. 632(a)

Abstract: The Small Business Jobs Act of 2010 (Jobs Act) requires SBA to conduct every five years a detailed review of all size standards and to make appropriate adjustments to reflect market conditions. As part of the second five-year review of size standards under the Jobs Act, in this proposed

rule, SBA will evaluate each industry that has a receipts-based standard in North American Industry Classification System (NAICS) Sector 48-49 (Transportation and Warehousing), Sector 51 (Information), Sector 52 (Finance and Insurance), and Sector 53 (Real Estate and Rental and Leasing) and make necessary adjustments to size standards in these sectors. This is one of a series of proposed rules that will examine groups of NAICS sectors. SBA will apply its Size Standards Methodology to this proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	09/00/18	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW., Washington, DC 20416

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RIN: 3245–AG90

343. • SMALL BUSINESS SIZE STANDARDS: PROFESSIONAL, SCIENTIFIC AND TECHNICAL SERVICES; MANAGEMENT OF COMPANIES AND ENTERPRISES; ADMINISTRATIVE AND SUPPORT, WASTE MANAGEMENT AND REMEDIATION SERVICES

EO 13771 Designation: Other

Legal Authority: 15 U.S.C. 632(a)

Abstract: The Small Business Jobs Act of 2010 (Jobs Act) requires SBA to conduct every five years a detailed review of all size standards and to make appropriate adjustments to reflect market conditions. As part of the second five-year review of size standards under the Jobs Act, in this proposed rule, SBA will evaluate each industry that has a receipts-based standard in North American Industry Classification System (NAICS) Sector 54 (Professional, Scientific and Technical Services), Sector 55 (Management of Companies and Enterprises), and Sector 56 (Administrative and Support, Waste Management and Remediation Services) and make necessary adjustments to size standards in these sectors. This is one of a series of proposed rules that will examine groups of NAICS sectors. SBA will apply its Size Standards Methodology to this proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	09/00/18	

Regulatory Flexibility Analysis Required: Yes

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RIN: 3245–AG91

Small Business Administration (SBA)	Final Rule Stage
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344. MISCELLANEOUS AMENDMENTS TO BUSINESS LOAN PROGRAMS AND SURETY BOND GUARANTEE PROGRAM

EO 13771 Designation: Deregulatory

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 has formalized such delegated authorities in this rule. The rule makes 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 also aligns terminology for 7(a) lenders that are federally regulated to synchronize with existing industry requirements. SBA is also making several other miscellaneous amendments to improve oversight and operations of its finance programs.

This rule makes 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 requires sureties to submit quarterly contract completion reports. Third, SBA is increasing the eligible contract limit for the Quick Bond Application and Agreement from \$250,000 to \$400,000. Finally, the rule increases 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 increases from 70 percent to 80 percent or 90 percent, 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	08/21/17	82 FR 39491
Final Rule Effective	09/20/17	
Final Action	03/00/18	

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

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RIN: 3245-AF85

345. SMALL BUSINESS TIMBER SET-ASIDE PROGRAM

EO 13771 Designation: Other

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 Advance Notice of Proposed Rulemaking and Notice of Proposed Rulemaking 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	03/00/18	

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

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RIN: 3245-AG69

Small Business Administration (SBA)	Completed Actions

346. AGENT REVOCATION AND SUSPENSION PROCEDURES

EO 13771 Designation: Other

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

Abstract: SBA is withdrawing this rule which proposed to establish 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; clarify existing and related regulations as to suspension, revocation, and debarment; and remove Office of Hearings and Appeals jurisdiction over Agent suspensions and revocations and government-wide debarment and suspension actions.

Completed:

Reason	Date	FR Cite
Withdrawn	09/11/17	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Debra Mayer

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RIN: 3245–AG40

347. SMALL BUSINESS INVESTMENT COMPANIES; PASSIVE BUSINESS EXPANSION & TECHNICAL CLARIFICATIONS

EO 13771 Designation: Not subject to, not significant

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

Abstract: The SBA revised 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.

Completed:

Reason	Date	FR Cite
Final Rule	12/28/16	81 FR 95419
Final Rule Effective	01/27/17	
Delay of Effective Date Opportunity for Public	01/26/17	82 FR 8499

Comment		
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 and Withdrawal of Final Rule	08/18/17	82 FR 39335
Final Rule Effective	09/18/17	

Regulatory Flexibility Analysis Required: Yes

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RIN: 3245-AG67

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