

May 14, 2020

Please see the update from the SBA Office of Advocacy. You can stay up-to-date on our office by reading our comment letters and reviewing our research. As always, we are seeking your input on current regulatory alerts and your participation in our regulatory roundtables. Please be in touch directly with the listed Advocacy contact for any questions or comments on these topics. Feel free to contact me with other questions or concerns.

- Christine Myers
Region 2 Advocate

COVID-19 SMALL BUSINESS RESOURCES

[The Office of Advocacy is sharing any resources that may be helpful from Federal agencies on our website here.](#)

RECENT ADVOCACY COMMENT LETTERS

[None currently – See more here.](#)

UPCOMING ADVOCACY AGENCY ROUNDTABLES

[Small Business Labor Safety \(OSHA/MSHA\) Roundtable – May 22, 2020](#)

ADVOCACY NEWS UPDATES

[IRS Treatment Of PPP Loan Proceeds Imposes Unexpected Costs](#)

[DOL Requests Online Feedback On Opening America's Workplaces](#)

[Early Reports Show Deep And Immediate Effects Of COVID-19 On Small Business](#)

[April Small Business Advocate](#)

[IRS Provides Guidance Under The CARES Act To Taxpayers With Net Operating Losses](#)

[DOD Allows Payments To Contractors Who Cannot Work Due To COVID-19 Facility Closures Or Other Restrictions](#)

OFFICE OF ECONOMIC RESEARCH NEWS

[Small Business Facts: Early Data Show Severe Disruptions](#)

[Small Business Economic Bulletin: April 2020](#)

[Research From Advocacy: Bank Lending To Rural Vs Urban Firms In The United States, 2007-2016](#)

OPEN COMMENT PERIODS

Department of Agriculture

USDA Seeks Comments On Organic Livestock And Poultry Practices Economic Analysis Report

On April 23, 2020, the U.S. Department of Agriculture's National Organics Program (NOP) issued a request for comment on an Economic Analysis Report related to the Organic Livestock and Poultry Practices Final Rule, published on January 19, 2017. The final rule was withdrawn on March 13, 2018. As a result of legal action, the agency is now seeking comments from the public on the economic analysis report in an effort to supplement and clarify the record regarding both the final rule and the action to withdraw the final rule. Comments are due by May 26, 2020.

- Read the *Federal Register* notice and submit comment on the proposed rule [here](#).
- Advocacy contact: [Prianka Sharma](#) at (202) 205-6938.

Centers for Medicare and Medicaid Services

CMS Publishes Interim Final Rule Making It Easier For Healthcare Professionals To Order, And Receive Payment For Ordering, COVID-19 Tests

On May 8, 2020, The Centers for Medicare and Medicaid Services (CMS) published an interim final rule (75 FR 27550) with comment period that gives individuals and entities that provide services to Medicare, Medicaid, Basic Health Program, and Exchange beneficiaries needed flexibilities to respond effectively to the serious public health threats posed by the spread of the coronavirus disease 2019 (COVID-19). Recognizing the critical importance of expanding COVID-19 testing, CMS is amending several Medicare policies on an interim basis to cover FDA-authorized COVID-19 serology tests, to allow any healthcare professional authorized to do so under State law to order COVID-19 diagnostic laboratory tests (including serological and antibody tests), and to provide for new specimen collection fees for COVID-19 testing under the Physician Fee Schedule and Outpatient Prospective Payment System. These changes apply to physicians and other practitioners, hospice providers, federally qualified health centers, rural health clinics, hospitals, critical access hospitals, community mental health centers, clinical laboratories, teaching hospitals, providers of the laboratory testing benefit in Medicaid, Opioid treatment programs, and quality reporting programs for inpatient rehabilitation facilities, long-term care hospitals, skilled

nursing facilities, home health agencies and durable medical equipment, prosthetics, orthotics, and supplies suppliers. Any comments must be filed by July 7, 2020.

- See the proposed rule [here](#).
- Submit comments on the proposed rule [here](#).
- Advocacy Contact: [Linwood Rayford](#)

Consumer Product Safety Commission

CPSC Seeks Comments On Proposed Rule To Establish Safety Standards For Baby Crib Bumpers And Liners

On April 3, 2020 the U.S. Consumer Product Safety Commission (CPSC) published a proposed rule to establish a safety standard for crib bumpers and liners and proposed to identify crib bumpers and liners as durable infant or toddler products thus making them subject to CPSC's consumer registration requirements. The proposed rule would incorporate current industry standards but includes several additional modifications by CPSC. The Commission has stated that the rule has the potential to impact small entities and prepared an initial regulatory flexibility analysis that states that depending on the size of the entity, there is the potential for significant economic impact above one percent of annual revenue. Comments are due by June 17, 2020.

- Read the *Federal Register* notice and submit comments [here](#).
- Advocacy contact: [Prianka Sharma](#) at (202) 205-6938.

Environmental Protection Agency

EPA Proposes Federal Combustion Residuals Permit Program

On February 20, 2020, the U.S. Environmental Protection Agency proposed to establish a federal coal combustion residuals (CCR) permit program as required by recent amendments to the Resource Conservation and Recovery Act (RCRA) provided in the Water Infrastructure Improvements for the Nation (WIIN) Act. To implement the WIIN Act, the agency is proposing requirements and procedures to issue federal permits that will apply to Indian country and nonparticipating states to achieve compliance with the CCR disposal regulations. Non-participating states are those that do not have a state CCR permit program approved by EPA. Under the WIIN Act, states have the authority to operate permit programs, if EPA determines that the state's requirements are as protective as the federal standards. The proposed requirements include definitions, compliance deadlines, application requirements, content and duration, and modification requirements and procedures.

EPA will hold a virtual public hearing on April 15, 2020 in Washington, D.C.; register [here](#).

- Comments are due on May 20, 2020.

- Read the proposal and submit comments [here](#).
- Advocacy contact: Tabby Zeb at (202) 205-6790 or email at tayyaba.zeb@sba.gov.

EPA's Preliminary Regulatory Determinations For Contaminants On The Fourth Drinking Water Contaminant Candidate List

On March 10, 2020, EPA published its preliminary regulatory determinations for eight contaminants listed on its fourth Contaminant Candidate List under the Safe Drinking Water Act. The agency presented its preliminary determinations to regulate two contaminants: perfluorooctanesulfonic acid (PFOS) and perfluorooctanoic acid (PFOA). EPA also provided a preliminary determination to not regulate six contaminants: 1,1-dichloroethane, acetochlor, methyl bromide, metolachlor, nitrobenzene, and Royal Demolition explosive. A regulatory determination is a decision about whether or not to begin the process to propose and promulgate a national primary drinking water regulation for an unregulated contaminant. EPA also included updates on three other contaminants: strontium, 1,4-dioxane, and 1,2,3-trichloropropane.

Comments are now due on June 10, 2020. Extended from the original date of May 11, 2020.

Read the proposal and submit comments [here](#).

Advocacy contact: Tabby Zeb at (202) 205-6790 or email at tayyaba.zeb@sba.gov.

EPA Extends Comment Period For Preliminary Listing Of Manufacturers Subject To Fees Under TSCA

On March 13, 2020, the U.S. Environmental Protection Agency (EPA) published a 60-day comment period extension for its preliminary lists identifying manufacturers that may be subject to fee obligations under the Toxic Substance Control Act (TSCA) for EPA-initiated risk evaluations for its next 20 high-priority chemicals. Under TSCA, manufacturers include importers of the chemical substances as well as those who import the chemical as part of an article, as an impurity or a byproduct. Under the fees rule, the agency will collect payment from all the manufacturers who manufacture any of the 20 high-priority chemicals. The total fee is shared among all identified manufacturers; small businesses are provided a discount on their fees. EPA is providing a 60-day extension of the comment period, from March 27, 2020, for the public to comment on the list and to self-report, if not included on the preliminary list.

- Comments are now due on May 27, 2020.
- Read the notice, review the lists and submit comments [here](#).
- Advocacy contact: Tabby Zeb at (202) 205-6790 or email at tayyaba.zeb@sba.gov.

EPA Publishes Draft Risk Evaluation For Asbestos And Schedules Public Peer Review Meetings

On April 3, 2020, EPA published its draft risk evaluation for asbestos. Under the Toxic Substance Control Act (TSCA), EPA is required to conduct risk evaluations to determine whether existing

chemicals present an unreasonable risk of injury to health or the environment under the conditions of use. In this draft risk evaluation, EPA is examining the only known form of asbestos, chrysotile, currently used by the chlor-alkali industry and in other products such as sheet gaskets, automotive parts among others. In the draft risk evaluation, EPA found preliminary unreasonable risk of injury to human health for certain conditions of use to workers, occupational non-users, consumers and bystanders. EPA, however, did not present any preliminary unreasonable risk findings to the environment for any of the evaluated conditions of use. A final determination that a condition of use presents an unreasonable risk of injury to health or the environment will move the uses into the risk management phase under TSCA. This means that the agency will have to regulate those risks, which can include use-restrictions or bans.

EPA has submitted this evaluation for peer review through its Science Advisory Committee on Chemicals. The virtual peer review meeting is scheduled for April 27-30, 2020. You can find more information and register for the meeting [here](#).

Comments on the draft risk evaluation are due on June 2, 2020.

Read the draft risk evaluation and other supporting documents and submit comments [here](#).

Advocacy contact: Tabby Zeb at (202) 205-6790 or email at tayyaba.zeb@sba.gov.

EPA Publishes First Set Of Draft Scope Documents For Next Batch Of High-Priority Chemicals

On April 9, 2020, EPA published a notice announcing the availability of draft scope documents for the risk evaluations to be conducted for 13 of its 20 high-priority chemicals designated in December 2019. The scoping documents include the conditions of use, hazards, exposures, and the potentially exposed or susceptible subpopulations the EPA plans to consider in conducting the risk evaluation for the chemicals. The agency is providing a 45-day comment period for the public to provide additional data or information.

Comments are due on May 26, 2020.

Read the notice and submit comments [here](#) or you can submit comments on each individual chemical [here](#).

Advocacy contact: Tabby Zeb at (202) 205-6790 or email at tayyaba.zeb@sba.gov.

EPA Publishes Final Set Of Draft Scope Documents For The Next Batch Of High-Priority Chemicals

On April 23, 2020, EPA published a notice announcing the availability of draft scope documents for the risk evaluations to be conducted for the remaining 7 of its 20 high-priority chemicals designated in December 2019. The scoping documents include the conditions of use, hazards, exposures, and the potentially exposed or susceptible subpopulations the EPA plans to consider

in conducting the risk evaluation for the chemicals. The agency is providing a 45-day comment period for the public to provide additional data or information.

Comments are due on June 8, 2020.

Read the notice and submit comments [here](#) or you can submit comments on each individual chemical [here](#).

Advocacy contact: Tabby Zeb at (202) 205-6790 or email at tayyaba.zeb@sba.gov.

EPA Publishes Draft Risk Evaluation For Perchloroethylene And Announces Public Peer Review Meetings

On May 4, 2020, EPA published its draft risk evaluation for perchloroethylene (PCE). Under the Toxic Substance Control Act (TSCA), EPA is required to conduct risk evaluations to determine whether existing chemicals present an unreasonable risk of injury to health or the environment under the conditions of use. PCE has a wide variety of uses ranging from a solvent in dry cleaning and vapor degreasing and adhesives in consumer products, among others. In the draft risk evaluation, EPA found preliminary unreasonable risk of injury to human health and the environment for certain conditions of use to workers, occupational non-users, consumers, bystanders and aquatic organisms. A final determination that a condition of use presents an unreasonable risk of injury to health or the environment will move the uses into the risk management phase under TSCA. This means that the agency will have to regulate those risks, which can include use-restrictions or bans.

EPA has submitted this evaluation for peer review through its Science Advisory Committee on Chemicals. The virtual peer review meeting is scheduled for May 26-29, 2020. You can register to attend and provide comments at the meeting [here](#).

Comments on the draft risk evaluation are due on July 6, 2020.

Read the draft risk evaluation and other supporting documents and submit comments [here](#).

Advocacy contact: Tabby Zeb at (202) 205-6790 or email at tayyaba.zeb@sba.gov.

Department of Energy

DOE Seeks Comments On Reviews Of Energy Conservation Standards

The U.S. Department of Energy is requesting comments and information on reviews of several current energy conservation standards for the below listed products. In each review the agency seeks to determine whether to amend efficiency standards, and whether it is technologically feasible and economically justified to do so. The agency is also evaluating the impact on small entities, and as such the public is invited to submit specific small business considerations. The standards open for comment are as follows:

- ***Energy Conservation Standards for General Service Fluorescent Lamps and Incandescent Reflector Lamps.*** The agency seeks to determine whether to amend the standards. Read more [here](#). Comments due by June 1, 2020.
- ***Energy Conservation Test Procedures for Battery Chargers.*** The agency seeks information and data to consider whether to amend the test-procedures and standards. Read more [here](#). Comments due by June 3, 2020.
- ***Energy Conservation Test Procedures for Commercial Warm Air Furnaces.*** The agency seeks information and data to consider whether to amend the test-procedures and standards. Read more [here](#). Comments due by June 4, 2020.
- ***Energy Conservation Standards for Air-Cooled Commercial Package Air Conditioning and Heating Equipment and Commercial Warm Air Furnaces.*** The agency seeks to determine whether to amend the standards. Read more [here](#). Comments due by June 11, 2020.
- ***Energy Conservation Standards for Water-Source Heat Pumps.*** The agency seeks to determine whether to amend the standards. Read more [here](#). Comments due by June 11, 2020.
- ***Energy Conservation Standards for Small Electric Motors.*** The agency has determined that more stringent standards would not be cost-effective and seeks comments on this determination. Read more [here](#). Comments due by June 29, 2020.

Advocacy contact: [Prianka Sharma](#) at (202) 205-6938.

Federal Energy Regulatory Commission

FERC Seeks Comments On Revisions To Regulations For Electric Transmission Incentives Policies

On April 2, 2020, the Federal Energy Regulatory Commission (FERC) published a proposed rule to revise existing regulations that implement section 219 of the Federal Power Act. The Commission states that these changes are necessary in light of changes in transmission development and planning in the last few years. The proposed rule offers nine distinct changes to the existing regulations, including a departure from the risks and challenges approach used to evaluate requests for transmission incentives, among others. The Commission has certified that the rule will not have a significant economic impact on a substantial number of small entities. Comments are due by July 1, 2020.

- Read the *Federal Register* notice and submit comment on the proposed rule [here](#).
- Advocacy contact: [Prianka Sharma](#) at (202) 205-6938.

Federal Communications Commission

FCC Releases Agenda And Draft Proposals For May Open Commission Meeting

The Federal Communications Commission has announced the agenda for its May 15, 2020 Open Commission Meeting. At the meeting the FCC will vote on the following proposals; please follow the links below to view the draft documents in circulation at the FCC:

- **Transitioning the 900 MHz Band to Enable Broadband Deployment**
The Commission will consider a [Report and Order](#) that would realign the 900 MHz band to create a new six megahertz broadband segment to support the growing technological needs of our nation's industries, while reserving the remaining four megahertz of the band for narrowband operations. (WT Docket No. 17-200)
- **Facilitating Deployment of Satellite Earth Stations in Motion**
The Commission will consider a [Second Report and Order and Report and Order](#) addressing rules to facilitate the deployment of geostationary-satellite orbit and non-geostationary-orbit fixed-satellite service earth stations that operate while in motion. (IB Docket Nos. 17-95, 18-315)
- **Revising Broadcaster Rules on Public Notice of Filing Applications**
The Commission will consider a [Report and Order](#) that would modernize and simplify the written and on-air public notices broadcasters must provide upon the filing of certain applications. (MB Docket Nos. 17-264, 17-105, 05-6)
- **Modernizing Regulatory Fee Rules to Level the Playing Field, Initiating FY20 Process**
The Commission will consider a [Report and Order and Notice of Proposed Rulemaking](#). The Report and Order would level the playing field between domestic and foreign licensed space stations by assessing a regulatory fee on non-U.S. licensed space stations with United States market access. The Notice of Proposed Rulemaking initiates the Commission's annual regulatory fee proceeding. (MD Docket Nos. 20-105, 19-105)

Please contact [Jamie Saloom](#) at the Office of Advocacy with your small business concerns.

Department of the Interior

DOI Seeks Comments On Two Proposed Rules To Allow Electric Bikes On Federal Lands

On April 7 and 8th, 2020, the U.S. Department of the Interior's Fish and Wildlife Service and National Park Service respectively issued two proposed rules pertaining to the use of electric bikes (e-bikes) on National Wildlife Refuge Lands and National Park Service Systems. Both proposed rules solicit comments on suggestions for guidance and controls for use of the e-bikes. Comments on both rules are due by June 8, 2020.

- Read the *Federal Register* notice and submit comment on the Fish and Wildlife Service proposed rule [here](#).

- Read the *Federal Register* notice and submit comment on the National Park Service proposed rule [here](#).
- Advocacy contact: [Prianka Sharma](#) at (202) 205-6938.

DOI Seeks Comments On Station-Specific Hunting And Sport Fishing Regulations

On April 9, 2020, the U.S. Department of the Interior’s Fish and Wildlife Service issued a proposed rule to open eight National Wildlife Refuges to hunting and sport fishing that are currently closed to these activities. Additionally, the service is proposing to open or expand these activities at 89 other Refuges, and create station-specific regulations pertaining to various statutes including migratory bird hunting, upland game hunting, sport fishing etc. The agency is seeking public comment on the proposals for the various Refuges. Comments are due by June 8, 2020.

- Read the *Federal Register* notice and submit comment on the proposed rule [here](#).
- Advocacy contact: [Prianka Sharma](#) at (202) 205-6938.

Small Business Administration

SBA Publishes An Interim Final Rule On Business Loan Program Temporary Changes: Paycheck Protection Program

On April 15, 2020, the U.S. Small Business Administration (SBA) published an interim final rule for the implementation of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act or the Act). The CARES Act temporarily adds a new product, titled the “Paycheck Protection Program,” to SBA’s 7(a) Loan Program. It provides for forgiveness of up to the full principal amount of qualifying loans guaranteed under the Paycheck Protection Program in order to provide economic relief to small businesses nationwide adversely impacted by COVID-19. This interim final rule outlines formal guidance and requests public comment.

Comments are due on May 15, 2020. This interim final rule is effective April 15, 2020.

This interim final rule applies to applications submitted under the Paycheck Protection Program through June 30, 2020, or until funds made available for this purpose are exhausted. Even though this rule is already effective, SBA may use information from public comments to identify issues and make corrections in the rule, if necessary.

Read the notice at [2020-07672](#). Submit comments at <https://www.regulations.gov/comment?D=SBA-2020-0015-0001>

Advocacy contact: Jennifer A. Smith at Jennifer.Smith@sba.gov.

SBA Publishes Interim Final Rule On Eligibility Of Affiliates For Temporary Business Loan Programs: Paycheck Protection Program

On April 15, 2020, the U.S. Small Business Administration (SBA) published an interim final rule (the Initial Rule) announcing the implementation Coronavirus Aid, Relief, and Economic Security Act (CARES Act or the Act). The Act temporarily adds a new program, titled the “Paycheck Protection Program,” to the SBA’s 7(a) Loan Program which provides for forgiveness of up to the full principal amount of qualifying loans guaranteed under the Paycheck Protection Program (or PPP). This interim final rule supplements the Initial Rule with additional guidance regarding affiliate rules and requests public comment. The interim rule discusses how affiliates will be considered in determining the borrower’s eligibility for PPP.

Comments must be received on or before May 15, 2020.

This interim final rule is effective April 15, 2020.

This interim final rule applies to applications submitted under the Paycheck Protection Program through June 30, 2020, or until funds made available for this purpose are exhausted. Even though this rule is already effective, SBA may use information from public comments to identify issues and make corrections in the rule, if necessary.

Read the notice at [2020-07673](#). Submit comments to <https://www.regulations.gov/comment?D=SBA-2020-0019-0001>.

Advocacy contact: Jennifer A. Smith at Jennifer.Smith@sba.gov.

Securities and Exchange Commission

SEC Requests Comments On Facilitating Capital Formation In Private Markets

On March 31, 2020, the Securities and Exchange Commission (SEC) published in the Federal Register the proposed rule *Facilitating Capital Formation and Expanding Investment Opportunities by Improving Access to Capital in Private Markets*. The agency states that the proposed rule provides amendments that will “simplify, harmonize, and improve certain aspects of the exempt offering framework to promote capital formation while preserving or enhancing important investor protections.” Since Congress passed the Jumpstart Our Business Startups Act of 2012, the SEC has introduced, expanded, or otherwise revised several exemptions from registration. The proposed rule seeks to fill gaps in and address the complexities of the existing framework of exemptions.

The proposed rule would affect all issuers conducting exempt offerings under the Securities Act, the Exchange Act, Regulation A, and Regulation Crowdfunding. The SEC has prepared and published an Initial Regulatory Flexibility Analysis (IRFA) for the proposed rule. The agency requests public comment on its IRFA, specifically on the following

- The number of small entities that may be affected by the proposed amendments;
- The existence or nature of the potential impact of the proposed amendments on small entities discussed in the analysis;

- How the proposed amendments could further lower the burden on small entities; and
- How to quantify the impact of the proposed amendments.

The comment period closes June 1, 2020.

See the [video regulatory alert here](#).

- Review the proposed rule and submit a comment [here](#).
- Advocacy Contact: [Charles Jeane](#) at (202) 205-7168.

CONTACT

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