

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF LABOR

### Employment and Training Administration

[DOL Docket No. ETA–2020–0006]

RIN 1205–AC00

#### Strengthening Wage Protections for the Temporary and Permanent Employment of Certain Aliens in the United States: Proposed Delay of Effective Date

**AGENCY:** Employment and Training Administration, Department of Labor.  
**ACTION:** Proposed delay of effective date; request for comments.

**SUMMARY:** In accordance with the Presidential directive as expressed in the memorandum of January 20, 2021, from the Assistant to the President and Chief of Staff, entitled “Regulatory Freeze Pending Review,” this action proposes, following a 15 day comment period, to further delay until May 14, 2021, the effective date of the rule entitled *Strengthening Wage Protections for the Temporary and Permanent Employment of Certain Aliens in the United States*, published in the **Federal Register** on January 14, 2021. The current effective date is March 15, 2021. This proposed delay of 60 days will allow agency officials the opportunity to review any questions of fact, law, or policy the rule may raise.

**DATES:** The Department invites written comments on the proposed delayed effective date from interested parties. Written comments must be received by (postmarked, sent, or received) by February 16, 2021.

**ADDRESSES:** You may submit written comments electronically by the following method:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions on the website for submitting comments.

*Instructions.* Include the docket number ETA–2020–0006 in your comments. All comments received will be posted without change to <http://www.regulations.gov>.

[www.regulations.gov](http://www.regulations.gov). Please do not include any personally identifiable or confidential business information you do not want publicly disclosed.

**FOR FURTHER INFORMATION CONTACT:** Brian Pasternak, Administrator, Office of Foreign Labor Certification, Employment and Training Administration, Department of Labor, 200 Constitution Avenue NW, Room N–5311, Washington, DC 20210, telephone: (202) 693–8200 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone numbers above via TTY/TDD by calling the toll-free Federal Information Relay Service at 1 (877) 889–5627.

#### SUPPLEMENTARY INFORMATION:

The Employment and Training Administration (ETA) published a final rule entitled *Strengthening Wage Protections for the Temporary and Permanent Employment of Certain Aliens in the United States* on January 14, 2021 (86 FR 3608). The Agency bases this action on the Presidential directive as expressed in the memorandum of January 20, 2021, from the Assistant to the President and Chief of Staff, entitled “Regulatory Freeze Pending Review.” The Memorandum directs agencies to consider delaying the effective date for regulations for the purpose of reviewing questions of fact, law, and policy raised therein. Therefore, in accordance with the Memorandum, ETA proposes to delay the effective date for the rule entitled “*Strengthening Wage Protections for the Temporary and Permanent Employment of Certain Aliens in the United States*” to May 14, 2021. Given the complexity of this regulation, ETA has determined that a 60-day extension of the effective date is necessary to provide adequate time to review this regulation. The proposed extension of the effective date will not affect the compliance dates of the rule.

ETA seeks comment on the proposed delay, including the proposed delay’s impact on any legal, factual, or policy issues raised by the underlying rule and whether further review of those issues warrants such a delay. All other comments on the underlying rule will be considered to be outside the scope of this rulemaking. ETA therefore seeks comment by February 16, 2021 on its

proposal to extend the effective date by 60 days to May 14, 2021.

**Nancy Rooney,**  
*Deputy Assistant Secretary.*  
[FR Doc. 2021–02090 Filed 1–27–21; 4:15 pm]  
**BILLING CODE 4510–FP–P**

## DEPARTMENT OF THE INTERIOR

### Office of the Assistant Secretary Indian Affairs

#### 25 CFR Part 1000

[212A2100DD/AAK001030/  
AOA501010.999900 253G]

#### Self-Governance PROGRESS Act Negotiated Rulemaking Committee Establishment; Nominations

**AGENCY:** Office of the Assistant Secretary—Indian Affairs, Interior.  
**ACTION:** Notice of intent to establish committee; request for nominations.

**SUMMARY:** The U.S. Department of the Interior (DOI) is announcing its intent to establish a Self-Governance PROGRESS Act Negotiated Rulemaking Committee (Committee) to negotiate and advise the Secretary of the Interior (Secretary) on a proposed rule to implement the Practical Reforms and Other Goals To Reinforce the Effectiveness of Self-Governance and Self-Determination for Indian Tribes Act of 2019 (PROGRESS Act). The DOI is soliciting comments on its proposal to form a negotiated rulemaking committee; and invites nominations for Committee members who will adequately represent the interests that are likely to be significantly affected by the proposed rule.

**DATES:** Comments regarding the intent to establish this Committee and nominations for Committee members must be submitted no later than March 3, 2021.

**ADDRESSES:** Send written comments and nominations to Ms. Vickie Hanvey, by any of the following methods:

- *(Preferred method) Email to:* [consultation@bia.gov](mailto:consultation@bia.gov);
- Mail, hand-carry or use an overnight courier service to Ms. Vickie Hanvey, Office of Self-Governance, Office of the Assistant Secretary—Indian Affairs, 1849 C Street NW, Mail Stop 4660, Washington, DC 20240.

**FOR FURTHER INFORMATION CONTACT:** Ms. Vickie Hanvey, Program Policy Analyst, Office of Self-Governance, Office of the Assistant Secretary—Indian Affairs; telephone: (918) 931-0745; email: [Vickie.hanvey@bia.gov](mailto:Vickie.hanvey@bia.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On October 21, 2020, the PROGRESS Act was signed into law. See Public Law 116-180. The PROGRESS Act amends subchapter I of the Indian Self-Determination and Education Assistance Act (ISDEAA), 25 U.S.C. 5301 *et seq.*, which addresses Indian Self-Determination, and subchapter IV of the ISDEAA which addresses DOI's Tribal Self-Governance Program. The PROGRESS Act calls for a negotiated rulemaking committee to be established under 5 U.S.C. 565, with membership consisting only of representatives of Federal and Tribal governments, with the Office of Self-Governance serving as the lead agency for the DOI. The PROGRESS Act also authorizes the Secretary to adapt negotiated rulemaking procedures to the unique context of self-governance and the government-to-government relationship between the United States and Indian Tribes.

This notice is published in accordance with the Negotiated Rulemaking Act of 1996 (NRA) (5 U.S.C. 561 *et seq.*); FACA; and the PROGRESS Act.

**II. Scope of the Proposed Rule To Be Negotiated**

The PROGRESS Act requires DOI to establish the negotiated rulemaking committee to develop proposed regulations to implement subchapter IV, regarding the Self-Governance Program. See Public Law 116-180, Section 413. Current regulations implementing the Self-Governance Program are found at 25 CFR part 1000, Annual Funding Agreements under the Tribal Self-Government Act Amendments to the Indian Self-Determination and Education Act. It is anticipated that the proposed rule will revise those regulations at 25 CFR part 1000 to amend, delete, and add provisions as appropriate to implement the PROGRESS Act.

**III. The Committee and Process for Negotiated Rulemaking**

The Committee will be charged with developing proposed regulations for the Secretary's implementation of the PROGRESS Act's provisions regarding the DOI's Self-Governance Program. In negotiated rulemaking, recommended provisions of a proposed rule are

developed by a committee composed of at least one representative of the Federal Government and representatives of the interests that will be significantly affected by the rule. In compliance with FACA and the NRA, the DOI will use the following procedures for this negotiated rulemaking. The DOI may modify them in response to comments received on this notice of intent or during the negotiation process.

**A. Committee Formation**

The Committee will be formed in full compliance with the requirements of FACA and the NRA, and operate in full compliance with the NRA and the guidelines of its charter.

**B. Composition of Committee**

The Secretary is seeking nominations for representatives to serve on the Committee who can represent the interests listed in Section C, and who have a demonstrated ability to communicate well with groups about the interests they will represent. The Committee membership will consist of approximately 15, but not more than 25 members in accordance with the NRA.

Tribal Committee membership must:

- Include only representatives of the interests described below;
- Include representatives with a demonstrated ability to communicate well with groups about the interests they will represent; and
- Include Tribal representatives appointed by the Secretary that are:
  - Elected officials of Tribal governments acting in their official capacities;
  - Or their designated employees with authority to act on their behalf in their official capacities;
  - Representative of Tribes with a geographical balance; and
  - A majority of whom are representative of Indian Tribes with existing self-governance funding agreements.
- Comply with the FACA.

FACA regulations require the membership of a FACA committee to be fairly balanced in its member in terms of the points of view represented and the functions to be performed. See 41 CFR 102-3.30. In making membership decisions, the Secretary will consider whether the interest represented by a nominee will be affected significantly by the final products of the Committee, which may include report(s) and/or proposed regulations; whether that interest is already adequately represented by nominees; and whether the potential addition would adequately represent that interest.

Federally registered lobbyists are ineligible to serve on all FACA and non-

FACA boards, committees, or councils in an individual capacity. The term "individual capacity" refers to individuals who are appointed to exercise their own individual best judgment on behalf of the government, such as when they are designated Special Government Employees, rather than being appointed to represent a particular interest.

**C. Interests Identified**

Under Section 562 of the NRA, "interest" means, with respect to an issue or matter, multiple parties which have a similar point of view or which are likely to be affected in a similar manner. A limited number of identifiable interests will be significantly affected by the rule. Those parties are Indian Tribes and Tribal organizations as defined in section 4(l) of the Indian Self-Determination and Education Assistance Act that are currently participating in the Tribal Self-Governance Program and those that are not currently participating in, but are interested in participating in Tribal Self-Governance Program.

The DOI is accepting comments identifying other interests that may be significantly affected by the final products of the Committee, which may include report(s) and/or proposed regulations, until the date listed in the **DATES** section of this notice of intent.

**D. Committee Member Responsibilities**

The Committee is expected to meet approximately 3-5 times and each meeting is expected to last multiple hours for a consecutive 2-3 days each. The initial meeting will be held by teleconference and/or web conference; later meetings may be held either virtually or in person. The Committee's work is expected to occur over the course of 6-12 months, and it is the Secretary's intent to publish the proposed rule for notice and comment by the statutory deadline of July 21, 2022 (within 18 months of the anticipated date of the Committee's establishment). However, the Committee may continue its work for up to two years.

Because of the scope and complexity of the tasks at hand, Committee members must be able to invest considerable time and effort in the negotiated rulemaking process. Committee members must be able to attend all Committee meetings, work on Committee work groups, consult with their constituencies between Committee meetings, and negotiate in good faith toward a consensus on issues before the Committee. Because of the complexity of the issues under consideration, as

well as the need for continuity, the Secretary reserves the right to replace any member who is unable to participate in the Committee's meetings.

Under 5 U.S.C. 568(c), members of a negotiated rulemaking committee are responsible for their own expenses of participation in such committee, except that an Agency may, in accordance with Section 7(d) of the FACA, pay for a member's reasonable travel and per diem expenses, expenses to obtain technical assistance, and a reasonable rate of compensation, if:

- Such member certifies a lack of adequate financial resources to participate in the Committee; and
- The agency determines that such member's participation in the Committee is necessary to assure an adequate representation of the member's interest.

The DOI commits to pay the reasonable travel and per diem expenses of Committee members, if appropriate, under the NRA and Federal travel regulations.

#### *E. Facilitator*

The Committee may use a neutral facilitator. The facilitator will not be involved with the substantive development or enforcement of the regulation. The facilitator's role is to help the negotiation process run smoothly, and help participants define and reach consensus.

#### *F. Administrative and Technical Support*

The DOI will provide sufficient administrative and technical resources for the Committee to complete its work in a timely fashion. The DOI, with the help of the facilitator, will prepare and provide a final report of any issues on which the Committee reaches consensus.

#### *G. Training and Organization*

At the first meeting of the Committee, a neutral facilitator will provide training on negotiated rulemaking, interest-based negotiations, and consensus-building. In addition, at the first meeting, Committee members will make organizational decisions concerning protocols, scheduling, and facilitation of the Committee.

#### *H. Committee Meeting Procedures*

The members of the Committee, with the assistance of the facilitator, may adopt procedures for Committee meetings.

### **IV. Request for Nominations to the Committee**

The PROGRESS Act requires that the Committee be comprised of only Federal

and Tribal government representatives. Tribes may nominate Tribal leaders to serve on the Committee who will adequately represent the interests that are likely to be significantly affected by the proposed rule. Each nomination is expected to include a nomination for a primary representative and an alternate who can fulfill the obligations of membership should the primary representative be unable to attend. The Committee membership should reflect a diversity of interests, and nominees should only be of representatives and alternates who:

- Are elected officials of Tribal governments (or their designated employees with authority to act on their behalf) acting in their official capacities; and
- Will be able to:
  - Represent one or more of the specified interests with the authority to embody the views of that interest, communicate with interested constituents, and have a clear means to reach agreement on behalf of the interest(s);
  - Coordinate, to the extent possible, with other interests who may not be represented on the Committee;
  - Negotiate effectively on behalf of the interest(s) represented;
  - Commit the time and effort required to attend and prepare for meetings; and
  - Collaborate among diverse parties in a consensus-seeking process.

The DOI will consider nominations for representatives only if they are nominated through the process identified in this Notice of Intent. The DOI will not consider any nominations that we receive in any other manner. The DOI will not consider nominations for Federal representatives; only the Secretary may nominate Federal employees to the Committee.

Nominations must include the following information about each nominee:

1. A current letter from the governing body or chairperson of the Tribe representing one of the interest(s) identified supporting the nomination of the individual to serve as a representative for the Tribe on the Committee;
2. A resume reflecting the nominee's qualifications and experience, to include the nominee's name, Tribal affiliation, job title, major job duties, employer, business address, business telephone and fax numbers (and business email address, if applicable);
3. The interest(s) to be represented by the nominee (see Section III.C of this notice) and whether the nominee will

represent other interest(s) related to this rulemaking; and

4. A brief description of how the nominee will represent the views of the identified interest(s), communicate with constituents, and have a clear means to reach agreement on behalf of the interest(s) they are representing.

5. A statement on whether the nominee is only representing one interest or whether the expectation is that the nominee represents a specific group of interests.

To be considered, nominations must be received by the close of business on the date listed in the **DATES** section, at the location indicated in the **ADDRESSES** section.

### **V. Solicitation of Public Comments**

Members of the public are invited to submit comments on this proposal to establish the Committee.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

### **VI. Next Steps**

Following the receipt of nominations and comments, DOI will publish a second notice in the **Federal Register** with a list of persons to represent the interests that are likely to be significantly affected by the rule and the person or persons proposed to represent the DOI. Persons who will be significantly affected by the proposed rule and who believe that their interests will not be adequately represented by any person specified in that second **Federal Register** notice will be given an opportunity to apply or nominate another person for membership on the Committee to represent such interests with respect to the proposed rule.

Following the second **Federal Register** notice and responses to it, DOI expects to establish the Committee. After the Committee reaches consensus on the recommended provisions of the proposed rule, as discussed in more detail below, the DOI will publish a proposed rule in the **Federal Register**.

### **VII. Determination That Negotiated Rulemaking is in the Public Interest**

Under 5 U.S.C. 563, the head of the agency is required to determine that the use of the negotiated rulemaking procedure is in the public interest.

In making such a determination, the agency head must consider certain factors. Taking these factors into account, the Secretary, through the authority delegated to the Assistant Secretary—Indian Affairs, has determined that a negotiated rulemaking is in the public interest because:

1. A rule is needed. The PROGRESS Act directs the Secretary to conduct a negotiated rulemaking pursuant to the NRA.

2. A limited number of identifiable interests will be significantly affected by the rule.

3. There is a reasonable likelihood that the Committee can be convened with a balanced representation of persons who can adequately represent the interests discussed in item 2, above, and who are willing to negotiate in good faith to attempt to reach a consensus on provisions of a proposed rule.

4. There is a reasonable likelihood that the Committee will reach consensus on a proposed rule within a fixed period of time.

5. The use of negotiated rulemaking will not delay the development of a proposed rule because time limits will be placed on the negotiation. We anticipate that these negotiations will expedite a proposed rule and ultimately the acceptance of a final rule.

6. The DOI is making a commitment to ensure that the Committee has sufficient resources to complete its work in a timely fashion.

7. The DOI, to the maximum extent possible and consistent with the legal obligations of the Agency, will use the consensus report of the Committee as the basis for a proposed rule for public notice and comment.

For the above reasons, I hereby certify that the Self-Governance PROGRESS Act Negotiated Rulemaking Committee is in the public interest.

**Tara Sweeney,**

*Assistant Secretary—Indian Affairs.*

[FR Doc. 2021-01149 Filed 1-29-21; 8:45 am]

**BILLING CODE 4337-15-P**

## POSTAL SERVICE

### 39 CFR Part 20

#### **New Outbound Commercial Provider Initiative (OCPI) Program Information; Opportunity for Comments**

**AGENCY:** Postal Service™.

**ACTION:** Advance notice of proposed rulemaking; invitation to comment.

**SUMMARY:** The Postal Service is providing an advance notification and introduction to the Outbound

Commercial Provider Initiative (OCPI) program. This document provides general information on the OCPI program, related mailing requirements, and shipping standards. The Postal Service is exploring the advisability of the OCPI program and providing support to mailers to assure their ability to adhere to the new OCPI program guidelines.

**DATES:** Comments on this advance notice are due March 3, 2021.

**ADDRESSES:** Due to the current COVID-19 pandemic, comments in response to this document will only be accepted via email—any comments or communications sent via fax or mail will not be accepted.

When sending communication and comments related to the OCPI program, the following instructions and guidelines apply:

- All comments and questions should be sent to the Manager, International Products and Major Accounts, Global Business, at the following email address: *ProductClassification@usps.gov*.

- Communications must also include the following:

- *Subject Line:* OCPI Program Advanced Notice Comments
- Name of Sender

All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or inappropriate for public disclosure.

You may inspect and photocopy all written comments, by appointment only, at USPS® Headquarters Library, 475 L'Enfant Plaza SW, 11th Floor North, Washington, DC 20260. These records are available for review Monday through Friday, 9 a.m. to 4 p.m., by calling 202-268-2906.

**FOR FURTHER INFORMATION CONTACT:**

Frank Cebello, 202-268-8058; or *GlobalBusinessOCPI@usps.gov*.

**SUPPLEMENTARY INFORMATION:** The Postal Service is providing this notification to set forth the following general information and guidelines for the OCPI program:

1. An overview of the OCPI program with general information to advise and notify USPS customers, partners, and affiliates;

2. Discussion of the countries and specific products that will be serviced through the OCPI program; and

3. Specific changes and requirements associated with the OCPI program, relating to mail preparation, induction, and acceptance, such as:

- i. Customs Form(s), shipping label(s), and tag(s),

- ii. New, OCPI-specific Commercial Invoice, and

- iii. Process changes and requirements related to OCPI service provider destinations

4. References for advanced notifications of OCPI program feature changes.

#### **Overview**

The Postal Service expects to implement these new program service enhancements on or about March 31, 2021.

As cross-border eCommerce continues to grow and demand for a variety of shipping solutions continues, the Postal Service has encountered a need to identify alternatives for commercial shipments going through its international mail streams. The Postal Service relies entirely on foreign postal operators to deliver our customer packages worldwide, making outbound shipments subject to several limitations including shipping rates, transit times, and scan visibility. The rapidly expanding eCommerce market coupled with the increase in competition has motivated the Postal Service to explore alternate delivery service channels and competitive market strategies for product offerings in order to provide the services that customers demand, while remaining competitive in the global eCommerce market.

The Outbound Commercial Provider Initiative (OCPI) is a strategic program designed to help the Postal Service remain competitive in the cross-border shipping market, whereby it can effectively compete with alternative providers. OCPI also enables the continuity of service in situations where issues arise with foreign postal operators, such as strikes, unfavorable bilateral negotiations, COVID-19 impacts, or significant service issues. Creating an alternative channel also offers opportunities for providing enhanced service options. Additional benefits of the OCPI Program include but are not limited to:

- Offering new services that are currently unavailable through the postal channels;

- Improving service delivery times because of options to deliver products by commercial suppliers to select countries; and

- Providing a more enhanced customer experience, through advancements in customer service and package visibility on international outbound operations.