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DEPARTMENT OF EDUCATION
2 CFR Part 3474
RIN 1894-AA07
[Docket ID ED–2015–OS–0105]

Open Licensing Requirement for Competitive Grant Programs

AGENCY: Office of the Secretary, Department of Education.

ACTION: Interim final rule; further delay of effective date; request for comments.

SUMMARY: In accordance with a directive from the memorandum entitled “Regulatory Freeze Pending Review,” published in the Federal Register on January 24, 2017 (Memorandum), the Secretary further delays until May 22, 2017, the effective date of the final regulations entitled Open Licensing Requirement for Competitive Grant Programs (Open Licensing), published in the Federal Register on January 19, 2017 (82 FR 7376). The current effective date is March 21, 2017. The additional delay will allow the Department the opportunity for further review of the final regulations.

DATES: As of March 17, 2017, the effective date of the final regulations published January 19, 2017 (82 FR 7376) delayed until March 21, 2017 on January 30, 2017 (82 FR 8669), delaying the effective date of the final regulations from March 20, 2017, to March 21, 2017, in accordance with a directive from the Memorandum to temporarily postpone for 60 days from the date of the Memorandum the effective dates of all regulations that had been published in the Federal Register but had not yet taken effect.

ADDRESS: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

Supplementary Information: The Department published the final regulations in the Federal Register on January 19, 2017 (82 FR 7376). We published a document in the Federal Register on January 30, 2017 (82 FR 8669), delaying the effective date of the final regulations from March 20, 2017, to March 21, 2017, in accordance with a directive from the Memorandum to temporarily postpone for 60 days from the date of the Memorandum the effective dates of all regulations that had been published in the Federal Register but had not yet taken effect. The Memorandum also directed agencies to consider further delaying the effective dates beyond that 60-day period. Upon review, the Department has determined that it is appropriate to further delay the effective date of the final regulations to May 22, 2017, for the purpose of additional consideration.

Invitation to Comment: We invite you to submit comments regarding this interim final rule. We will consider comments on the delayed effective date only. We will not consider comments on the final regulations. See ADDRESSES for instructions on how to submit comments.

During and after the comment period, you may inspect all public comments about this interim final rule by accessing Regulations.gov. You may also inspect the comments in person in Room 6W100, 400 Maryland Avenue SW., Washington, DC, between 8:30 a.m. and 4:00 p.m. Washington, DC time, Monday through Friday of each week, except Federal holidays. If you want to schedule time to inspect comments, please contact the person listed under FOR FURTHER INFORMATION CONTACT.

Waiver of Rulemaking and Delayed Effective Date: Under the Administrative Procedure Act (APA) (5 U.S.C. 553), the Department generally offers interested parties the opportunity to comment on proposed regulations and publishes rules not less than 30 days before their effective dates. However, the APA provides that an agency is not required to conduct notice-and-comment rulemaking or delay effective dates when the agency, for good cause, finds that the requirement is impracticable, unnecessary, or contrary to the public interest (5 U.S.C. 553(b)(B) and (d)(3)). There is good cause to waive both of these requirements here as the President’s appointees and designees need to delay the effective date of these regulations to have adequate time to review these regulations, as well as all of the Department’s regulatory activity, and neither the notice and comment processes nor the delayed effective date could be implemented in time to allow for this review before the March 21 effective date.

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SUPPLEMENTARY INFORMATION: The National Organic Program (NOP) is authorized by the Organic Foods Protection Act (OFPA) of 1990, as amended (7 U.S.C. 6501–6522). The USDA Agricultural Marketing Service (AMS) administers the NOP. Final regulations implementing the NOP, also referred to as the USDA organic regulations (7 CFR 205.1–205.690), were published December 21, 2000 (65 FR 80548), and became effective on October 21, 2002. Through these regulations, the AMS oversees national standards for the production, handling, and labeling of organically produced agricultural products. Since becoming effective, the USDA organic regulations have been frequently amended, mostly for changes to the National List in 7 CFR 205.601–205.606.

The National List identifies the synthetic substances that may be used and the nonsynthetic (natural) substances that may not be used in organic production. The National List also identifies synthetic, nonsynthetic nonagricultural, and nonorganic agricultural substances that may be used in organic handling. The OFPA and the USDA organic regulations, as indicated in §205.105, specifically prohibit the use of any synthetic substance in organic production and handling unless the synthetic substance is on the National List. Section 205.105 also requires that any nonorganic agricultural substance and any nonsynthetic nonagricultural substance used in organic handling appear on the National List.

As stipulated by OFPA, recommendations to amend the National List are developed by the NOSB, operating in accordance with the Federal Advisory Committee Act (5 U.S.C. App. 2 et seq.), to assist in the evaluation of substances to be used or not used in organic production and handling, and to advise the Secretary on the USDA organic regulations. OFPA also requires a review of all substances included on the National List within 5 years of their addition to or renewal on the list. During this sunset review, the NOSB considers any new information pertaining to a substance’s impact on human health and the environment, its necessity, and its compatibility with organic production and handling. If a listed substance is not reviewed by NOSB and renewed by USDA within the five year period, its allowance or