

of their children; family functioning, disposable income or poverty; or the behavior and personal responsibility of youth, as determined under section 654(c) of the Treasury and General Government Appropriations Act of 1999.

**Paperwork Reduction Act of 1995**

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that OMB approve all collections of information by a federal agency from the public before they can be implemented. This rule is projected to have no impact on current reporting and recordkeeping burden for health centers. This rule would result in no new reporting burdens. HHS welcomed but did not receive comments that this rule would result in new reporting burdens for health centers.

**List of Subjects in 42 CFR Part 51c**

Grant programs—Health, Health care, Health facilities, Reporting and recordkeeping requirements.

Dated: December 16, 2020.

**Thomas J. Engels,**

*Administrator, Health Resources and Services Administration.*

Dated: December 17, 2020.

**Alex M. Azar II,**

*Secretary, Department of Health and Human Services.*

Accordingly, by the authority vested in me as the Secretary of Health and Human Services, and for the reasons set forth in the preamble, 42 Code of Federal Regulations Part 51c is amended as follows:

**PART 51c—GRANTS FOR COMMUNITY HEALTH CENTERS**

■ 1. The authority statement for part 51c is revised to read as follows:

**Authority:** 42 U.S.C. 254b (Sec. 330, Public Health Service Act); 42 U.S.C. 216 (Sec. 215, Public Health Service Act).

■ 2. Section 51c.303 is amended by adding paragraph (w) to read as follows:

**§ 51c.303 Project elements.**

\* \* \* \* \*

(w)(1) *Provision.* To the extent that an applicant for funding under Section 330(e) of the Public Health Service Act (42 U.S.C. 254b(e)) has indicated that it plans to distribute, either directly, or through a written agreement, drugs purchased through the 340B Drug Pricing Program (42 U.S.C. 256b), and to the extent that such applicant plans to make insulin and/or injectable epinephrine available to its patients, the applicant shall provide an assurance that it has established practices to

provide insulin and injectable epinephrine at or below the discounted price paid by the health center grantee or subgrantee under the 340B Drug Pricing Program (plus a minimal administration fee) to health center patients with low incomes, as determined by the Secretary, who have a high cost sharing requirement for either insulin or injectable epinephrine; have a high unmet deductible; or have no health insurance.

(2) *Definitions.* For purposes of this paragraph (w) exclusively:

(i) *Established practices.* The health center has written policies, procedures, and/or other relevant documents that it has established practices to offer insulin and injectable epinephrine at no more than the discounted price paid by the health center under the 340B Drug Pricing Program plus a minimal administration fee. Such established practices may reflect that provision of insulin and injectable epinephrine at or below the 340B discounted price is subject to potential restrictions through contracts with third-party payors.

(ii) *Health center grantee or subgrantee.* Organizations receiving an award under section 330(e) of the PHS Act (i.e., health centers) directly or as subgrantees of section 330(e) grant funding.

(iii) *Minimal administration fee.* The minimal administration fee includes any dispensing fee, counseling costs, and any other charges associated with the patient receiving the medication. The administration fee may not create a barrier to low-income health center patients accessing these drugs, and health centers should make every reasonable effort to keep the fee as low as possible. Health centers may refer to the Medicaid dispensing fee in their state as a reference for minimal administration fees. When there is a separate fee associated with provision of the pharmaceutical service, such as a dispensing fee, health centers must apply a sliding fee discount to that fee.

(iv) *Individuals with low incomes.* Individuals and families with annual incomes no greater than 350 percent of the Federal Poverty Guidelines.

(v) *High cost sharing requirement.* A cost sharing requirement that exceeds twenty percent of the amount the health center charges its patients for the drug is a high cost sharing requirement. Cost sharing refers to a patient’s out-of-pocket costs, including, but not limited to, deductibles, coinsurance, and copayments, or similar charges.

(vi) *High deductible.* High deductible refers to a deductible amount that is not less than the amount required for a high deductible health plan as defined in

section 223(c)(2)(A) of the Internal Revenue Code, as implemented by the Internal Revenue Service.

(vii) *High unmet deductible.* High unmet deductible refers to the amount a patient owes toward their high deductible at any time during a plan year in which the outstanding deductible portion exceeds 20 percent of the total deductible for the plan year.

(viii) *Health insurance.* Health insurance refers to private insurance, State and exchange plans, employer-funded plans, and coverage under titles XVIII, XIX, and XXI of the Social Security Act.

(ix) *“Patient.”* an individual is not be considered a “patient” of the health center if the only health care service received by the individual from the health center is the dispensing of a drug or drugs for subsequent self-administration or administration in the home setting.

[FR Doc. 2020–28483 Filed 12–22–20; 8:45 am]

BILLING CODE 4165–15–P

**SURFACE TRANSPORTATION BOARD**

**49 CFR Part 1002**

[Docket No. EP 758]

**Filing Fee Waiver Requests**

**AGENCY:** Surface Transportation Board.  
**ACTION:** Final rule.

**SUMMARY:** The Surface Transportation Board (Board or STB) clarifies and updates its rules regarding requests to waive or reduce certain filing fees.

**DATES:** This rule is effective on January 22, 2021.

**FOR FURTHER INFORMATION CONTACT:** Jonathon Binet at (202) 245–0368. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877–8339.

**SUPPLEMENTARY INFORMATION:** The Independent Offices Appropriations Act (IOAA), codified at 31 U.S.C. 9701, provides that each service of value provided by an agency to a person (except those on official business of the U.S. Government) shall be self-sustaining to the extent possible and, accordingly, permits agencies to establish fees for services provided by the agency. The Office of Management and Budget (OMB) subsequently established a policy of full cost recovery for government services under which agencies must assess and collect user fees. OMB Circular A–25, User Charges (July 8, 1993). Under these authorities, the Board’s predecessor—the Interstate Commerce Commission (ICC)—adopted

the fee structure at 49 CFR 1002.2 to “cover all the [agency’s] expenses, including administrative expenses.” See *Crystal City R.R.—Aban. Exemption—in LaSalle, Zavala, & Dimmit Cnty., Tex.*, AB 427X et al., slip op. at 2 (ICC served Aug. 22, 1995).

The Board’s regulations also provide for waiver or reduction of filing fees in certain limited circumstances. Under 49 CFR 1002.2(e)(1), the Board’s filing fees generally are waived for filings made by a federal government agency or a state or local government entity.<sup>1</sup> Additionally, in “extraordinary situations,” a filing fee may be waived or reduced if the applicant shows that the waiver or reduction is in the best interest of the public or that payment of the fee would impose an undue hardship on the requestor. 49 CFR 1002.2(e)(2)(ii).

In 2000, the Board issued a policy statement that clarified its anticipated approach to fee waivers in several respects. *Reguls. Governing Fees for Serv.* 5 S.T.B. 352 (2000). As relevant here, the Board clarified that for state and local government entities, fees would be assessed pursuant to section 1002.2 “to any entity (a state or local governmental entity, a quasi-governmental entity, or a government-subsidized transportation company) that owns or proposes to own a carrier, or that is a shipper, and comes before the Board in that capacity. . . . The fee waiver will be available to a state or local government entity that is not acting in the capacity of a carrier or shipper.” 5 S.T.B. at 355. The Board also stated that “[f]ees will also be assessed to quasi-governmental corporations or government-subsidized transportation companies for any filing submitted for which there is a fee.” *Id.*

The Board has determined that it is appropriate to clarify its regulations and codify certain existing policies and practices to promote transparency and assist stakeholders who are considering requesting a waiver or reduction of filing fees. The Board will amend 49 CFR 1002.2(e)(1) to provide, consistent with *Regulations Governing Fees for Services*, that the fee waiver for government entities is not available to (1) quasi-governmental entities or government-subsidized transportation companies, or (2) any state and local

government entity that is acting in the capacity of a carrier or shipper, or any such entity that owns or proposes to own a carrier and is before the agency in its proprietary role. As explained in *Regulations Governing Fees for Services*, when government entities are acting in a commercial capacity, they should be treated the same as any other entity that acts in a commercial capacity for purposes of fee waivers. 5 S.T.B. at 354–55.<sup>2</sup> This approach balances Congress’ policy that agencies provide services in a manner that is “self-sustaining to the extent possible” through collection of fees, 31 U.S.C. 9701(a), with the agency’s longstanding view that government entities should not generally be charged fees when the benefits of their actions flow to the general public. See 5 S.T.B. at 354–55.

The Board will also clarify in section 1002.2(e)(1) and (e)(2) how applicants for fee waivers or reductions will be notified of decisions on their requests, consistent with the Board’s existing practices. In certain circumstances when a fee waiver request is granted under section 1002.2(e)(1) during the processing of the filing, the filing will be stamped “Filing Fee Waived” and posted in the public docket, and the Board need not provide any further notice to the applicant that the fee waiver request was granted.<sup>3</sup> In all other circumstances, if a request for a fee waiver or reduction is granted or denied under either section 1002.2(e)(1) or (e)(2), the Board, through the Chief of the Section of Administration in the Office of Proceedings, will notify the applicant by letter.<sup>4</sup>

Additionally, the Board has held that third parties lack any legal interest in, and therefore cannot challenge or appeal, the grant or denial of a fee waiver or reduction request. *Hartwell First United Methodist Church—Adverse Aban. & Discontinuance—Great Walton R.R.*, AB 1242 (STB served June 2, 2017). The Board will codify that principle by amending 49 CFR 1002.2(e) to provide that third-party appeals of fee

waiver or reduction decisions are not permitted.

Finally, the Board will amend the language in 49 CFR 1002.2(e) to consistently refer to the entity seeking a fee waiver or reduction as the “fee waiver applicant.”

#### Administrative Procedure Act

Under the Administrative Procedure Act (APA), the public generally may participate in the promulgation of rules through a notice and comment period. 5 U.S.C. 553(b) & (c). However, an agency may publish “rules of agency organization, procedure, or practice” in final form without notice and comment. See 5 U.S.C. 553(b)(3)(A). Because the Board has determined that these updates to its regulations relate to agency organization, practice, and procedure, the Board finds that notice and public comment on these changes is unnecessary.

#### Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 601–612, generally requires an agency to prepare a regulatory flexibility analysis of any rules subject to notice-and-comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Because the Board has determined that notice and comment are not required under the APA for these rulemakings, the requirements of the RFA do not apply.

#### Paperwork Reduction Act

These final rules do not require a new or amended information collection under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3521.

#### Congressional Review Act

The Board has determined that this action is not a rule as defined by the Congressional Review Act, 5 U.S.C. 804(3).

#### List of Subjects in 49 CFR Part 1002

Administrative Practice and procedure, Common carriers, Freedom of information.

##### *It is ordered:*

1. The Board adopts the final rules as set forth in this decision. Notice of the adopted rules will be published in the **Federal Register**.

2. This decision is effective on January 22, 2021.

Decided: December 17, 2020.

<sup>1</sup> For purposes of section 1002.2(e)(1), the phrases “federal government agency” or “government entity” do not include a quasi-governmental entity or government-subsidized transportation company. The Board has indicated that a quasi-governmental entity can include a public service corporation. See *Reguls. Governing Fees for Servs. Performed in Connection with Licensing & Related Servs.—Pol’y Statement*, 5 S.T.B. 352, 354–55 (2000).

<sup>2</sup> The fee waiver for federal government agencies, which is based on the IOAA’s waiver for persons on official business of the United States Government, will continue to apply. *Reguls. Governing Fees for Serv.*, 5 S.T.B. at 353.

<sup>3</sup> This process is only used in limited circumstances where it is clear that the government-entity applicant qualifies for a waiver of the fee (e.g., when a government entity requests to extend a negotiating period under a notice of interim trail use or abandonment).

<sup>4</sup> Pursuant to 49 CFR 1104.12(d), service of decisions and other Board issuances as appropriate will be made by electronic means except in the case of paper filers that have not consented to e-service, in which case service upon that recipient will be made by mail.

By the Board, Board Members Begeman, Fuchs, and Oberman.

**Jeffrey Herzig,**  
Clearance Clerk.

For the reasons set forth in the preamble, the Surface Transportation Board amends part 1002 of title 49, chapter X, of the Code of Federal Regulations as follows:

## PART 1002—FEES

■ 1. The authority citation for part 1002 continues to read as follows:

**Authority:** 5 U.S.C. 552(a)(4)(A), (a)(6)(B), and 553; 31 U.S.C. 9701; and 49 U.S.C. 1321.

■ 2. Amend § 1002.2 by revising paragraphs (e)(1), (e)(2)(i), (ii), and (iii) and adding paragraph (e)(3) to read as follows:

### § 1002.2 Filing fees.

\* \* \* \* \*

(e) \* \* \*

(1) Except as noted in this paragraph (e)(1), filing fees are waived for an application, petition, notice, tariff, contract summary, or other document that is filed by a federal government agency or a state or local government entity. A fee waiver is not available under this paragraph for a quasi-governmental entity or government-subsidized transportation company. A fee waiver is also not available to any state or local government entity that is acting in the capacity of a carrier or shipper or that owns or proposes to own a carrier and is before the agency in its proprietary role.

(i) *When to request.* At the time that a filing is submitted to the Board, the fee waiver applicant may request a waiver of the fee prescribed in this part. Such request should be addressed to the Chief, Section of Administration, Office of Proceedings, Surface Transportation Board.

(ii) *Board action.* The Board will either stamp the relevant filing with the notation “Filing Fee Waived,” or the fee waiver applicant will be notified of the decision to grant or deny the request for waiver by the Chief, Section of Administration, Office of Proceedings.

(2) \* \* \*

(i) *When to request.* At the time that a filing is submitted to the Board, the fee waiver applicant may request a waiver or reduction of the fee prescribed in this part. Such request should be addressed to the Chief, Section of Administration, Office of Proceedings.

(ii) *Basis.* The fee waiver applicant must show the waiver or reduction of the fee is in the best interest of the public, or that payment of the fee would impose an undue hardship on the fee waiver applicant.

(iii) *Board action.* The Chief, Section of Administration, Office of Proceedings will notify the fee waiver applicant of the decision to grant or deny the request for waiver or reduction.

(3) *Review.* No third-party appeals of fee waiver or reduction decisions are permitted.

\* \* \* \* \*

[FR Doc. 2020–28408 Filed 12–22–20; 8:45 am]

BILLING CODE 4915–01–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 635

[Docket No. 180117042–8884–02; RTID 0648–XA699]

#### Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; quota transfer.

**SUMMARY:** NMFS is transferring 19.5 metric tons (mt) of Atlantic bluefin tuna (BFT) from the 28.9-mt General category December 2021 subquota to the January through March 2021 subquota period. This action is based on consideration of the regulatory determination criteria regarding inseason adjustments and applies to Atlantic tunas General category (commercial) permitted vessels and Atlantic Highly Migratory Species (HMS) Charter/Headboat category vessels with a commercial sale endorsement when fishing commercially for BFT.

**DATES:** Effective January 1, 2021, through March 31, 2021.

**FOR FURTHER INFORMATION CONTACT:** Sarah McLaughlin, [sarah.mclaughlin@noaa.gov](mailto:sarah.mclaughlin@noaa.gov), 978–281–9260, Nicholas Velseboer, [nicholas.velseboer@noaa.gov](mailto:nicholas.velseboer@noaa.gov), or Larry Redd, [larry.redd@noaa.gov](mailto:larry.redd@noaa.gov), 301–427–8503.

**SUPPLEMENTARY INFORMATION:** Regulations implemented under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT)

and as implemented by the United States among the various domestic fishing categories, per the allocations established in the 2006 Consolidated Atlantic HMS Fishery Management Plan (2006 Consolidated HMS FMP) (71 FR 58058, October 2, 2006) and amendments. NMFS is required under ATCA and the Magnuson-Stevens Act to provide U.S. fishing vessels with a reasonable opportunity to harvest the ICCAT-recommended quota.

The current baseline General and Reserve category quotas are 555.7 mt and 29.5 mt, respectively. See § 635.27(a). Each of the General category time periods (January through March, June through August, September, October through November, and December) is allocated a “subquota” or portion of the annual General category quota. The baseline subquotas for each time period are as follows: 29.5 mt for January through March; 277.9 mt for June through August; 147.3 mt for September; 72.2 mt for October through November; and 28.9 mt for December. Any unused General category quota rolls forward from one time period to the next and is available for use in subsequent time periods.

#### Transfer of 19.5 mt From the December 2021 Subquota to the January Through March 2021 Subquota

Under § 635.27(a)(9), NMFS has the authority to transfer quota among fishing categories or subcategories, after considering regulatory determination criteria provided under § 635.27(a)(8). NMFS has considered all of the relevant determination criteria and their applicability to this inseason quota transfer. These considerations include, but are not limited to, the following:

Regarding the usefulness of information obtained from catches in the particular category for biological sampling and monitoring of the status of the stock (§ 635.27(a)(8)(i)), biological samples collected from BFT landed by General category fishermen and provided by BFT dealers provide valuable data for ongoing scientific studies of BFT age and growth, migration, and reproductive status. Additional opportunity to land BFT, and potentially over a greater portion of the January through March time period, would support the continued collection of a broad range of data for these studies and for stock monitoring purposes.

NMFS also considered the catches of the General category quota to date (including in December 2020 and during the winter fishery in the last several years), and the likelihood of closure of that segment of the fishery if no adjustment is made (§ 635.27(a)(8)(ii)