(b) Exception to Paragraphs (g)(2) and (3)

Where the applicable Safran ARRIEL MM chapters provide instructions to send the Module 03 to a Safran Helicopter Engines-approved repair center, the operator may choose to send the Module 03 to any FAA-approved repair center capable of performing the required actions.

(i) Mandatory Terminating Action

As terminating action to the requirements in paragraph (g) of this AD, within 365 days after the effective date of this AD, revise the ALS of the existing approved aircraft maintenance program (AMP) by incorporating:

(i) Task 05–10–00–150–801–A01, “Airworthiness Limitations—General,” from the applicable Safran ARRIEL MM chapter.

(ii) Task 05–10–00–200–801–A01, “Airworthiness Limitations—Authorized In-Service Life Limits,” from the applicable Safran ARRIEL MM chapter.


(j) Definitions

(1) For the purpose of this AD, a “critical part” is a part identified in paragraph I.C., “Table of authorized in-service life limits for the ARRIEL 2D,” or “Table of authorized in-service life limits for the ARRIEL 2E.”

(2) For the purpose of this AD, the “Chapter 05–10–00 of the Safran ARRIEL MM is:

(i) Chapter 05–10–00 of Safran Aircraft Engines ARRIEL 2D MM No. X292 R1 450 2, Update No. 20, dated June 15, 2020; or


(3) For the purpose of this AD, the “approved maintenance program” is defined as the basis for which the operator ensures the continuing airworthiness of each operated helicopter.

(k) Credit for Previous Actions

(1) For affected Safran Arriel 2D model turboshaft engines, you may take credit for revising the ALS of the existing approved AMP that is required by paragraph (i) of this AD if you incorporated the tasks before the effective date of this AD using Chapter 05–10–00 of Safran ARRIEL 2D MM No. X292 R1 450 2, Update No. 19, dated December 30, 2019.

(2) For affected Safran Arriel 2E model turboshaft engines, you may take credit for revising the ALS of the existing approved AMP that is required by paragraph (i) of this AD if you incorporated the tasks before the effective date of this AD using Chapter 05–10–00 of Safran ARRIEL 2E MM No. X292 R2 300 2, Update No. 15, dated December 30, 2019.

(l) Alternative Methods of Compliance (AMOCs)

(1) The Manager, ECO Branch, FAA, has the authority to approve AMOCs for this AD if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in Related Information. You may email your request to: AMOCDFAA@faa.gov.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(m) Related Information

(1) For more information about this AD, contact Wego Wang, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7133; fax: (781) 238–7199; email: wendo.wang@faa.gov.

(2) Refer to European Union Aviation Safety Agency (EASA) AD 2018–0273, dated December 13, 2018, for more information. You may examine the EASA AD in the AD docket at https://www.regulations.gov by searching for and locating it in Docket No. FAA–2020–1038.

(n) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Section 05–10–00, Airworthiness Limitations, of Chapter 05, Airworthiness Limitations—Frequencies—Inspections, of the Safran Helicopter Engines ARRIEL 2D Maintenance Manual, Volume 1, No. X 292 R1 450 2, Update No. 20, dated June 15, 2020.


(3) For service information identified in this AD, contact Safran Helicopter Engines, S.A., 64511 Bordes—Cedex, France; phone: (33) 05 59 74 40 00; fax: (33) 05 59 74 45 15.

(4) You may view this service information at FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (781) 238–7759.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email: fedreg.lerals@nara.gov, or go to: https://www.archives.gov/federal-register/ibr-locations.html.
the Federal eRulemaking Portal, as described above.

Mail/Hand Delivery/Courier Submissions: Submit comments by mail/hand delivery/courier to: Division of the Secretariat, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7479. Alternatively, as a temporary option during the COVID–19 pandemic, you can email such submissions to: cpsc-os@cpsc.gov.

Instructions: All submissions received must include the agency name and docket number for this notice. CPSC may post all comments without change, including any personal identifiers, contact information, or other personal information provided, to: https://www.regulations.gov. Do not submit electronically confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If you wish to submit such information please submit it according to the instructions for written submissions.

Docket: For access to the docket to read background documents or comments received, go to: https://www.regulations.gov, and insert the docket number, CPSC–2015–0029, into the “Search” box, and follow the prompts.


SUPPLEMENTARY INFORMATION:

A. Background

1. Statutory Authority

Section 104(b)(1)(B) of the CPSIA, also known as the Danny Keyser Child Product Safety Notification Act, requires the Commission to promulgate consumer product safety standards for durable infant or toddler products. The law requires these standards to be “substantially the same as” applicable voluntary standards or more stringent than the voluntary standards if the Commission concludes that more stringent requirements would further reduce the risk of injury associated with the product.

The CPSIA also sets forth a process for updating CPSC’s durable infant or toddler standards when the voluntary standard upon which the CPSC standard was based is changed. Section 104(b)(4)(B) of the CPSIA provides that if an organization revises a standard that has been adopted, in whole or in part, as a consumer product safety standard under this subsection, it shall notify the Commission. In addition, the revised voluntary standard shall be considered to be a consumer product safety standard issued by the Commission under section 9 of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2058), effective 180 days after the date on which the organization notifies the Commission (or such later date specified by the Commission in the Federal Register) unless, within 90 days after receiving that notice, the Commission notifies the organization that it has determined that the proposed revision does not improve the safety of the consumer product covered by the standard and that the Commission is retaining the existing consumer product safety standard.

2. ASTM Standard for Children’s Chairs and Stools

On December 15, 2017, the Commission published a final rule issuing a mandatory standard for children’s folding chairs and stools that incorporated by reference the voluntary standard in effect at that time, ASTM F2613–17a, Standard Consumer Specification for Children’s Chairs and Stools. 82 FR 59505. The ASTM standard for children’s folding chairs and stools, ASTM F2613, Standard Consumer Safety Specification for Children’s Chairs and Stools, applies to children’s folding chairs and stools with a seat height of 15 inches or less, and equipped with or without a rocking base. These chairs are intended to be used by a single child who can get in and out of the product unassisted. The standard was codified in the Commission’s regulations at 16 CFR part 1232. Since publication of ASTM F2613–17a, the original mandatory standard, ASTM has published two revisions to ASTM F2613. ASTM F2613–19 was approved and published in November 2019. On April 1, 2020, the Commission issued a direct final rule updating the incorporation by reference to ASTM F2613–19 as the mandatory standard. 85 FR 18111. In February 2021, ASTM approved and published ASTM F2613–21. ASTM officially notified the Commission of this revision on February 22, 2021. The rule is incorporating by reference ASTM F2613–21 as the mandatory standard.

B. Revisions to the ASTM Standard

Under section 104(b)(4)(B) of the CPSIA, unless the Commission determines that ASTM’s revision of a mandatory standard that is a CPSC mandatory standard “does not improve the safety of the consumer product covered by the standard,” the revised voluntary standard becomes the new mandatory standard. As discussed below, the Commission determines that the changes made in ASTM F2613–21 are neutral or improve the safety of children’s folding chairs and stools. Therefore, the Commission will allow the revised voluntary standard ASTM F2613–21 to become effective as a mandatory consumer product safety standard under the statute, effective August 21, 2021.

Differences Between 16 CFR Part 1232 and ASTM F2613–21

In February 2021, ASTM revised ASTM F2613–19. The resulting standard, ASTM F2613–21, includes the following changes:

Substantive Change

ASTM F2613–21 makes one substantive change to the standard by updating the definition of stools in the standard to include ottomans. The Commission finds the substantive change made in ASTM F2613–21 to be an improvement to safety as it clarifies the standard’s scope to include ottomans, a product previously not clearly subject to the mandatory standard.

Non-Substantive Changes

Other changes to the standard were minor or editorial in nature as described below.

• Clarification that infant/toddler rockers are not included within the scope of the standard, because infant/toddler rockers are subject to a different voluntary standard, ASTM F3084–20, Standard Consumer Safety Specification for Infant and Infant/Toddler Rockers.

• Removal of a previous version of a locking test method that is no longer referenced in ASTM F2613–21. The ASTM F2613–21 standard contains the current latching and locking test method that is similar to a previous version of a locking test method. Although removal of the previous version of the test method was included on an ASTM ballot, when ASTM published F2613–19, the previous locking test method was inadvertently retained in the test method section of the standard. There are no performance requirements associated with the previous locking testing method and the test method is not currently being used for testing products to the standard. Therefore, ASTM F2613–21 removed this unused test method.
The Commission finds that all of the non-substantive changes in ASTM F2613–21 are editorial in nature, and therefore, neutral regarding safety, and thus do not affect the safety of children’s folding chairs and stools.

C. Revisions to Parts 1112, 1130, and 1232

CPSC has received an inquiry from a testing laboratory regarding whether 16 CFR part 1232 was intended to apply to non-folding stools, because the title of the Part did not specifically state it applied to “folding chairs and folding stools.” Previous discussions in the preambles of the NPR (80 FR 63155, October 19, 2015) and the final rule (82 FR 50505, December 15, 2017) for the folding chairs and stools standard clearly indicate that folding stools fell within the scope of the mandatory standard. To avoid any misinterpretation regarding the scope of the standard, the Commission is amending the title of the rule to read “Safety standard for children’s folding chairs and children’s folding stools” and the title of the requirements in section 1232.2 to read “Requirements for children’s folding chairs and children’s folding stools” to remove any ambiguity regarding whether the standard applies to children’s folding stools versus non-folding stools. The rule also amends section 1232.1 regarding scope to state it establishes a standard for “children’s folding chairs and children’s folding stools.” For consistency, the rule makes the corresponding amendment to the notice of requirements listed in section 1112.15(b)(43) of 16 CFR part 1112 to read “16 CFR part 1232, Safety Standard for Children’s Folding Chairs and Children’s Folding Stools”. The rule also makes the corresponding amendment to the definition in section 1130.2(a)(13) of 16 CFR part 1130 to read “Children’s folding chairs and children’s folding stools.”

D. Incorporation by Reference

Section 1232.2 of the direct final rule incorporates by reference ASTM F2613–21. The Office of the Federal Register (OFR) has regulations concerning incorporation by reference. 1 CFR part 51. Under these regulations, agencies must discuss, in the preamble to the final rule, ways that the materials the agency incorporates by reference are reasonably available to interested persons and how interested parties can obtain the materials. In addition, the preamble to the final rule must summarize the material. 1 CFR 51.5(b).

In accordance with the OFR’s requirements, section A of this preamble summarizes the major provisions of the ASTM F2613–21 standard that the Commission incorporates by reference into 16 CFR part 1232. The standard is reasonably available to interested parties, and interested parties can purchase a copy of ASTM F2613–21 from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959 USA; phone: 610–832–9585; www.astm.org. Additionally, until the direct final rule takes effect, a read-only copy of ASTM F2613–21 is available for viewing on ASTM’s website at: https://www.astm.org/CPSC.htm. Once the rule takes effect, a read-only copy of the standard will be available for viewing on the ASTM website at: https://www.astm.org/READMELIBRARY/. Interested parties can also schedule an appointment to inspect a copy of the standard at CPSC’s Division of the Secretariat, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone: 301–504–7479; email: cpsc-oe@cpsc.gov.

E. Certification

Section 14(a) of the CPSIA requires that products subject to a consumer product safety rule under the CPSA, or to a similar rule, ban, standard, or regulation under any other act enforced by the Commission, be certified as complying with all applicable CPSC requirements. 15 U.S.C. 2063(a). Such certification must be based on a test of each product, or on a reasonable testing program, or, for children’s products, on tests on a sufficient number of samples by a third party conformity assessment body accredited by the Commission to test according to the applicable requirements. As noted, standards issued under section 104(b)(1)(B) of the CPSIA are “consumer product safety standards.” Thus, they are subject to the testing and certification requirements of section 14 of the CPSA.

Because children’s folding chairs and stools are children’s products, samples of these products must be tested by a third party conformity assessment body whose accreditation has been accepted by the Commission. These products also must comply with all other applicable CPSC requirements, such as the lead content requirements in section 101 of the CPSIA, the tracking label requirement in section 14(a)(5) of the CPSA, and the consumer registration form requirements in section 104(d) of the CPSIA.

F. Notice of Requirements

In accordance with section 14(a)(3)(B)(vi) of the CPSIA, the Commission has previously published a notice of requirements (NOR) for accreditation of third party conformity assessment bodies for testing children’s folding chairs and stools (82 FR 59505, December 15, 2017). The NOR provided the criteria and process for our acceptance of accreditation of third party conformity assessment bodies for testing children’s folding chairs and stools to 16 CFR part 1232. The NORs for all mandatory standards for durable infant or toddler products are listed in the Commission’s rule, “Requirements Pertaining to Third Party Conformity Assessment Bodies,” codified at 16 CFR part 1112.

None of the changes to ASTM F2613–21 would impact a CPSC accepted laboratory’s competence to be able to conduct testing to the revised standard. Therefore, the Commission considers the existing CPSC-accepted laboratories for testing to ASTM F2613–19 to be competent to conduct testing to ASTM F2613–21 as well. Accordingly, the existing NOR for this standard will remain in place, and CPSC-accepted third party conformity assessment bodies are expected in the normal course of renewing their accreditation to update the scope of the testing laboratories’ accreditation to reflect the revised standard.

G. Direct Final Rule Process

The Commission is issuing this rule as a direct final rule. Although the Administrative Procedure Act (APA) generally requires notice and comment rulemaking, section 553 of the APA provides an exception when the agency, for good cause, finds that notice and public procedure are “impracticable, unnecessary, or contrary to the public interest.” 5 U.S.C. 553(b)(B). The Commission concludes that when the Commission updates a reference to an ASTM standard that the Commission has incorporated by reference under section 104(b) of the CPSIA, notice and comment are not necessary.

Under the process set out in section 104(b)(4)(B) of the CPSIA, when ASTM revises a standard that the Commission has previously incorporated by reference as a Commission standard for a durable infant or toddler product under section 104(b)(1)(b) of the CPSIA, that revision will become the new CPSC standard, unless the Commission determines that ASTM’s revision does not improve the safety of the product. Thus, unless the Commission makes such a determination, the ASTM revision becomes CPSC’s standard by operation of law. The Commission is allowing ASTM F2613–21 to become CPSC’s new standard. The purpose of
this direct final rule is merely to update
the reference in the Code of Federal
Regulations (CFR) so that it reflects
accurately the version of the standard
that takes effect by statute. The rule
updates the reference in the CFR, but
under the CPSIA, ASTM F2613–21 takes
effect as the new CPSC standard for
children’s folding chairs and children’s
folding stools, even if the Commission
did not issue this rule. Additionally, the
title and text of Part 1232 is revised to
clarify the scope of the standard
regarding children’s folding stools, with
corresponding revision to the
references in Parts 1112 and 1130 for
consistency. Thus, public comment will
not impact the substantive changes to
the standard or the effect of the revised
standard as a consumer product safety
standard under section 104(b) of the
CPSIA. Under these circumstances,
notice and comment are not necessary.

In Recommendation 95–4, the
Administrative Conference of the
United States (ACUS) endorsed direct
final rulemaking as an appropriate
procedure to expedite promulgating
rules that are noncontroversial and that
are not expected to generate significant
adverse comment. See 60 FR 43108
(August 18, 1995). ACUS recommended
that agencies use the direct final rule
process when they act under the
“unnecessary” prong of the good cause

Consistent with the ACUS
recommendation, the Commission is
publishing this rule as a direct final rule
because we do not expect any significant
adverse comments.

Unless we receive a significant adverse
comment within 30 days, the
rule will become effective on August 21,
2021. In accordance with ACUS’s
recommendation, the Commission
considers a significant adverse comment
to be one where the commenter explains
why the rule would be inappropriate,
including an assertion challenging the
rule’s underlying premise or approach,
or a claim that the rule would be
ineffective or unacceptable without
change. As noted, this rule merely
updates a reference in the CFR to reflect
a change that occurs by statute and
changes to Part 1232 and two other parts for consistency and
clarity.

Should the Commission receive a
significant adverse comment, the
Commission would withdraw this direct
final rule. Depending on the comments
and other circumstances, the
Commission may then incorporate the
adverse comment into a subsequent
direct final rule or publish a notice of
proposed rulemaking, providing an
opportunity for public comment.

H. Regulatory Flexibility Act
The Regulatory Flexibility Act (RFA)
generally requires that agencies review
proposed and final rules for their
potential economic impact on small
entities, including small businesses, and
prepare regulatory flexibility analyses. 5
U.S.C. 603 and 604. The RFA applies to
any rule that is subject to notice and
comment procedures under section 553
of the APA. Id. As explained, the
Commission has determined that notice
and comment are not necessary for this
direct final rule. Thus, the RFA does not
apply. We also note the limited nature
of this document, which merely updates
the incorporation by reference to reflect
the mandatory CPSC standard that takes
effect under section 104 of the CPSIA.

I. Paperwork Reduction Act
The standard for children’s folding
chairs and stools contains information-
collection requirements under the
Paperwork Reduction Act of 1995 (44
U.S.C. 3501–3520). The revisions to the
standard made no changes to that
section of the standard. Thus, the
revisions will have no effect on the
information-collection requirements
related to the standard.

J. Environmental Considerations
The Commission’s regulations
provide a categorical exclusion for the
Commission’s rules from any
requirement to prepare an
environmental assessment or an
environmental impact statement where
they “have little or no potential for
affecting the human environment.” 16
CFR 1021.5(c). This rule falls within the
categorical exclusion, so no
environmental assessment or
environmental impact statement is
required.

K. Preemption
Section 26(a) of the CPSA, 15 U.S.C.
2075(a), provides that where a consumer
product safety standard is in effect and
applies to a product, no state or political
subdivision of a state may establish or
continue in effect a requirement dealing
with the risk of injury unless the state
requirement is identical to the federal standard. Section
26(c) of the CPSA also provides that
states or political subdivisions of states
may adopt or establish a consumer product
safety standards.” Therefore, once a rule
issued under section 104 of the CPSIA
takes effect, it will preempt in
accordance with section 26(a) of the
CPSIA.

L. Effective Date
Under the procedure set forth in
section 104(b)(4)(B) of the CPSIA, when
a voluntary standard organization
revises a standard upon which a
consumer product safety standard was
based, the revision becomes the CPSC
standard within 180 days of notification
to the Commission, unless the
Commission determines that the
revision does not improve the safety of
the product, or the Commission sets a
later date in the Federal Register. The
Commission is taking neither of those
actions with respect to the standard for
children’s folding chairs and stools.
Therefore, ASTM F2613–21 will
automatically take effect as the new
mandatory standard for children’s
folding chairs and stools on August 21,
2021, which is 180 days after the
Commission received notice of the
revision on February 22, 2021.

M. The Congressional Review Act
The Congressional Review Act (CRA;
5 U.S.C. 801–808) states that, before a
rule may take effect, the agency issuing
the rule must submit the rule, and
certain related information, to each
House of Congress and the Comptroller
General. 5 U.S.C. 801(a)(1). The
submission must indicate whether the
rule is a “major rule.” The CRA states
that the Office of Information and
Regulatory Affairs (OIRA) determines
whether a rule qualifies as a “major
rule.” Pursuant to the CRA, this rule
does not qualify as a “major rule,” as
defined in 5 U.S.C. 804(2). To comply
with the CRA, the Office of the General
Counsel will submit the required
information to each House of Congress
and the Comptroller General.

List of Subjects
16 CFR Part 1112
Consumer protection, Incorporation
by reference, Third party conformity
assessment body requirements, Audit.

16 CFR Part 1130
Administrative practice and
procedure, Business and industry,
Consumer protection, Reporting and
recordkeeping requirements.

16 CFR Part 1232
Consumer protection, Imports,
Incorporation by reference, Infants and
children, Law enforcement, Safety,
Toys.

For the reasons stated in the
preamble, the Commission amends title
16 CFR chapter II as follows:
PART 1112—REQUIREMENTS PERTAINING TO THIRD PARTY CONFORMITY ASSESSMENT BODIES

1. The authority citation for part 1112 continues to read as follows:


2. Amend § 1112.15 by revising paragraph (b)(43) to read as follows:

§ 1112.15 When can a third party conformity assessment body apply for CPSC acceptance for a particular CPSC rule or test method?

(b) * * * * (43) 16 CFR part 1232. Safety Standard for Children’s Folding Chairs and Children’s Folding Stools.

PART 1130—REQUIREMENTS FOR CONSUMER REGISTRATION OF DURABLE INFANT OR TODDLER PRODUCTS

3. The authority citation for part 1130 continues to read as follows:


4. Amend § 1130.2 by revising paragraph (a)(13) to read as follows:

§ 1130.2 Definitions.

(a) * * * * (13) Children’s folding chairs and children’s folding stools;

5. Revise part 1232 to read as follows:

PART 1232—SAFETY STANDARD FOR CHILDREN’S FOLDING CHAIRS AND CHILDREN’S FOLDING STOOLS

Sec.

1232.1 Scope.

1232.2 Requirements for children’s folding chairs and children’s folding stools.


§ 1232.1 Scope.

This part establishes a consumer product safety standard for children’s folding chairs and children’s folding stools.

§ 1232.2 Requirements for children’s folding chairs and children’s folding stools.

Each children’s folding chair and children’s folding stool shall comply with all applicable provisions of ASTM F2613–21, Standard Consumer Safety Specification for Children’s Chairs and Stools, approved on February 1, 2021. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy of this ASTM standard from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959 USA; phone: 610–832–9585; www.astm.org. A read-only copy of the standard is available for viewing on the ASTM website at https://www.astm.org/READINGLIBRARY/. You may inspect a copy at the Division of the Secretariat, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone 301–504–7479, email: cpsc-os@cpsc.gov, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email fedreg.legal@nara.gov, or go to www.archives.gov/federal-register/cfr/ibr-locations.html.

Alberta E. Mills, Secretary, U.S. Consumer Product Safety Commission.

FR Doc. 2021–10293 Filed 5–14–21; 8:45 am
BILLING CODE 6355–01–P

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

29 CFR Part 2204

Rules Implementing the Equal Access to Justice Act

AGENCY: Occupational Safety and Health Review Commission.

ACTION: Final rule.


FOR FURTHER INFORMATION CONTACT: Carter Tellinghuisen, Attorney-Advisor, Office of the General Counsel, by telephone at (202) 606–5410 ext. 211, by email at ctellinghuisen@oshrc.gov, or by mail at 1120 20th Street NW, Ninth Floor, Washington, DC 20036–3457.

SUPPLEMENTARY INFORMATION: OSHRC published a notice of proposed rulemaking on March 8, 2021, 86 FR 13251, which announced revisions to the Commission’s rules of procedure implementing EAJA, 29 CFR part 2204, and invited interested persons to submit written comments. OSHRC received no public comments. Accordingly, the Commission now adopts the proposed rule as the agency’s final rule, with one technical amendment to correct a typographical error in § 2204.301(c).

I. Revisions to Part 2204

EAJA directs Federal agencies to consult with the Administrative Conference of the United States ("ACUS") to develop procedural rules to implement the provisions of the statute. 5 U.S.C. 504(c)(1). On August 8, 2019, ACUS published Revised Model Rules for Implementation of the Equal Access to Justice Act to reflect subsequent amendments to the law and practice, and to promote greater accuracy and clarity. 84 FR 38934 (August 8, 2019). The Commission is amending its procedural rules in line with the amendments made by ACUS to the model rules.

ACUS summarized and explained its amendments in the preamble to the amended model rules and in Administrative Conference Recommendation 2019–4. 84 FR 38934, 38933 (August 8, 2019); 84 FR 38927, 38933 (August 6, 2019). To the extent applicable, the Commission relies upon the rationale ACUS provided in those documents as the basis for the amendments to the Commission’s rules.

In addition, the Commission has determined that an adjustment for increases in the cost of living is appropriate in considering an applicant’s request for attorney or agent fees. Accordingly, pursuant to 5 U.S.C. 504(b)(1)(A), the Commission revises §§ 2204.303 and 2204.406(c)(2) to allow an applicant to request, with supporting documentation, an increase in hourly fees to account for inflation as measured by the consumer price index in the relevant locality.

II. Statutory and Executive Order Reviews

Executive Orders 12866 and 13132, and the Unfunded Mandates Reform Act of 1995: The Review Commission is an independent regulatory agency and, as such, is not subject to the requirements of E.O. 12866, E.O. 13132, or the Unfunded Mandates Reform Act, 2 U.S.C. 1501 et seq. Regulatory Flexibility Act: Pursuant to 5 U.S.C. 605(a), a regulatory flexibility analysis is not required because these rules concern “interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice” under 5 U.S.C. 553(b). Paperwork Reduction Act of 1995: The Review Commission has determined that the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., does not apply because these rules do not contain any information collection requirements that require the approval