

U.S.C. 605(b)). FHFA has considered the impact of the proposed rule under the Regulatory Flexibility Act. FHFA certifies that the proposed rule, if adopted as a final rule, would not have a significant economic impact on a substantial number of small entities because the proposed rule is applicable only to the regulated entities, which are not small entities for purposes of the Regulatory Flexibility Act.

C. FHFA Alignment With Administration Policy

On February 19, 2025, the President issued Executive Order 14219 under which federal agencies are required to review all regulations subject to their jurisdiction and repeal, as appropriate, regulations inconsistent with law or policy.⁷ Administration policy includes the policy to be “prudent and financially responsible in the expenditure of funds, from both public and private sources, and to alleviate unnecessary regulatory burdens.”⁸ Administrative priorities include lowering the cost of housing and expanding housing supply.⁹ Administration policies also include, under Executive Order 14173, protecting the civil rights of all Americans, terminating discriminatory and illegal preferences, programs, and activities, and combating illegal private sector diversity, equity, and inclusion preferences, policies, programs, and activities;¹⁰ and, under Executive Order 14151 terminating to the maximum extent allowed by law, all equity programs or action plans.¹¹ Further, Administration policy is to focus enforcement resources on regulations that are squarely authorized by constitutional Federal statutes and to reduce regulatory burden.¹² FHFA believes that amending part 1227 will align with one or more of these policies.

D. Executive Orders 12866, 13563, and 14192

Pursuant to Executive Order 12866 (“Regulatory Planning and Review”), a determination must be made whether a regulatory action is significant and therefore subject to review by the OMB in accordance with the requirements of

the Executive Order.¹³ Executive Order 13563 (“Improving Regulation and Regulatory Review”) supplements and reaffirms the principles, structures, and definitions governing contemporary regulatory review established in Executive Order 12866.¹⁴ This proposed rule was drafted and reviewed in accordance with Executive Order 12866 and Executive Order 13563. OMB has determined that this proposed rule is a “significant regulatory action” as defined in section 3(f) of Executive Order 12866, but not an “economically significant regulatory action” as defined in section 3(f)(1). Executive Order 14192 (“Unleashing Prosperity Through Deregulation”) requires that any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations.¹⁵ This proposed rule, if finalized as proposed, is not expected to be an Executive Order 14192 regulatory action.

VI. Providing Accountability Through Transparency Act of 2023

The Providing Accountability Through Transparency Act of 2023 (5 U.S.C. 553(b)(4)) requires that a notice of proposed rulemaking include the internet address of a summary of not more than 100 words in length of a proposed rule, in plain language, that shall be posted on the internet website under section 206(d) of the E-Government Act of 2002 (44 U.S.C. 3501 note) (commonly known as *regulations.gov*). The proposal and the required summary can be found at www.regulations.gov.

List of Subjects in 12 CFR Part 1227

Administrative practice and procedure, Federal home loan banks, Government-sponsored enterprises, Reporting and recordkeeping requirements.

Accordingly, for the reasons stated in the preamble, under the authority of 12 U.S.C. 4526, FHFA proposes to amend part 1227 of chapter XII of title 12 of the Code of Federal Regulations as follows:

SUBCHAPTER B—ENTITY REGULATIONS

PART 1227—SUSPENDED COUNTERPARTY PROGRAM

■ 1. The authority citation for part 1227 continues to read as follows:

Authority: 12 U.S.C. 4513, 4513b, 4514, 4526.

¹³ 58 FR 51735 (Oct. 4, 1993).

¹⁴ 76 FR 3821 (Jan. 21, 2011).

¹⁵ 90 FR 9065 (Feb. 6, 2025).

PART 1227—[Amended]

■ 2. In part 1227, remove the text “or reputational”, wherever it appears.

Clinton Jones,

General Counsel, Federal Housing Finance Agency.

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FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1272

RIN 2590–AB52

Federal Home Loan Bank New Business Activities

AGENCY: Federal Housing Finance Agency.

ACTION: Notice of Proposed Rulemaking; repeal of 12 CFR part 1272.

SUMMARY: The Federal Housing Finance Agency (“FHFA” or the “Agency”) is requesting comment on this notice of proposed rulemaking repealing the New Business Activities regulation.

DATES: FHFA will accept written comments on the proposed rule on or before August 12, 2026.

ADDRESSES: You may submit your comments on the proposed rule, identified by regulatory information number (RIN) 2590–AB52, by any one of the following methods:

- **Agency Website:** <https://www.fhfa.gov/regulation/federal-register?comments=open>.
- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. If you submit your comment to the Federal eRulemaking Portal, please also send it by email to FHFA at RegComments@fhfa.gov to ensure timely receipt by FHFA. Include the following information in the subject line of your submission: Comments/RIN 2590–AB52.

- **Hand Delivered/Courier:** The hand delivery address is: Clinton Jones, General Counsel, Attention: Comments/RIN 2590–AB52, Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. Deliver the package at the Seventh Street entrance Guard Desk, First Floor, on business days between 9 a.m. and 5 p.m.

- **U.S. Mail, United Parcel Service, Federal Express, or Other Mail Service:** The mailing address for comments is: Clinton Jones, General Counsel, Attention: Comments/RIN 2590–AB52, Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC

⁷ Executive Order 14219 (February 19, 2025), section 2, at 90 FR 10583 (Feb. 25, 2025).

⁸ Executive Order 14192 (January 31, 2025), section 2, at 90 FR 9065 (Feb. 6, 2025).

⁹ Presidential Memorandum of January 20, 2025, at 90 FR 8245 (Jan. 28, 2025).

¹⁰ Executive Order 14173 (January 21, 2025), section 2, at 90 FR 8633 (Jan. 31, 2025).

¹¹ Executive Order 14151 (January 20, 2025), section 2(b)(i), at 90 FR 8339 (Jan. 29, 2025).

¹² Executive Order 14219 (February 19, 2025), section 1, at 90 FR 10583 (Feb. 25, 2025).

20219. Please note that all mail sent to FHFA via U.S. Mail is routed through a national irradiation facility, a process that may delay delivery by approximately two weeks.

FOR FURTHER INFORMATION CONTACT: For general questions, please contact MediaInquiries@FHFA.gov. For technical questions, please contact Lindsay Spadoni, Associate General Counsel, Office of General Counsel, (202) 649-3634, Lindsay.Spadoni@FHFA.gov. This is not a toll-free number. For TTY/TRS users with hearing and speech disabilities, dial 711 and ask to be connected to the contact number above.

SUPPLEMENTARY INFORMATION:

I. Request for Comments

FHFA invites comments on all aspects of the proposed rule and will take all comments into consideration before issuing a final rule. Comments, including any personally identifiable information such as name and contact information, will be posted to the electronic rulemaking docket on the FHFA public website at <https://www.fhfa.gov>, except as described below. Commenters should submit only information that the commenter wishes to make available publicly. FHFA will not redact personally identifiable information once it is submitted. Commenters who do not wish to be identified by their comments may submit their comments anonymously. FHFA may post only a single representative example of identical or substantially identical comments, and in such cases will generally identify the number of identical or substantially identical comments represented by the posted example. FHFA may, in its discretion, redact or refrain from posting all or any portion of any comment that contains content that is obscene, vulgar, profane, or threatens harm. All comments, including those that are redacted or not posted, will be retained in their original form in FHFA's internal rulemaking file and will be considered as required by all applicable laws. Commenters who would like FHFA to consider any portion of their comment exempt from disclosure on the basis that it contains trade secrets, or financial, confidential or proprietary data or information, should follow the procedures in section IV.D. of FHFA's *Policy on Communications with Outside Parties in Connection with FHFA Rulemakings*, see https://www.fhfa.gov/sites/default/files/documents/Ex-Parte-Communications-Public-Policy_3-5-19.pdf. FHFA cannot guarantee that such data or information will remain

confidential if disclosure is sought pursuant to an applicable statute or regulation. See 12 CFR 1202.8, 12 CFR 1214.2, and FHFA's *FOIA Reference Guide* at <https://www.fhfa.gov/about/foia-reference-guide> for additional information.

II. Purpose of Proposed Rule Repealing 12 CFR Part 1272

Pursuant to Executive Order (Executive Order or E.O.) 14219, FHFA reviewed its regulations for consistency with law and Administration policy.¹ FHFA also reviewed existing FHFA regulations with a goal of alleviating unnecessary regulatory burdens, and improving prudence and financial responsibility in the expenditure of funds, from both public and private sources. In furtherance of these goals and because FHFA has identified part 1272 as potentially disincentivizing innovation that could advance the Banks' mission without a sufficiently offsetting safety and soundness effect, FHFA proposes to repeal 12 CFR part 1272.

III. Agency Authority To Repeal 12 CFR Part 1272

The Federal Housing Enterprise Safety and Soundness Act of 1992 (Safety and Soundness Act) authorizes FHFA to exercise general regulatory authority over its regulated entities to ensure that the purposes of the Safety and Soundness Act, the Federal Home Loan Bank Act, and any other applicable law are carried out.² The Safety and Soundness Act also authorizes FHFA to issue, following notice and comment requirements under the Administrative Procedure Act (APA), any regulation necessary to carry out its duties with respect to the Banks and to ensure that the purposes of the Safety and Soundness Act, and the Federal Home Loan Bank Act are accomplished.³ FHFA's rulemaking authority extends to amendment or repeal of a regulation, including regulations that impose unnecessary regulatory burdens.⁴

IV. Regulatory Background

Part 1272 sets forth the requirements pertaining to the submission and approval of notices for a Bank to commence a new business activity (NBA). In 2000, the Federal Housing

Finance Board (Finance Board), a predecessor regulator of the Banks to FHFA, adopted a regulation implementing certain statutory amendments made by the Bank System Modernization Act of 1999 (Modernization Act).⁵ Because the statutory amendments had expanded the types of collateral the Banks may accept, the Finance Board established a prior review process through which the Finance Board could assess the risks to the Banks of accepting the new types of collateral. The Finance Board codified this review process at 12 CFR part 980 and titled it an NBA notice (NBAN) submission and review. Part 980 also required the Banks to obtain Finance Board approval prior to undertaking any other NBAs that presented risks the Banks had not previously managed.⁶

In 2010, FHFA re-designated 12 CFR part 980 as 12 CFR part 1272 of its regulations without modification.⁷ In December 2016, FHFA issued a final rule that reduced the scope of activities requiring submission of an NBAN, modified the submission requirements, and established new timelines for agency review and approval of such notices.⁸ This proposed rule, if finalized as proposed, would repeal the NBA rule codified at 12 CFR part 1272, consisting of §§ 1272.1 through 1272.7. Part 1272 would be reserved.

V. Grounds for Repeal

A. Standard of Review for Regulatory Repeal

The APA requires a reviewing court to set aside agency action that is, among other things, "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law" or "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right."⁹ Agency action subject to a court's review includes repeal of a regulation.¹⁰ FHFA's authority extends to amendment or repeal of a regulation.¹¹ FHFA proposes to repeal 12 CFR part 1272 to align with Administration policy by alleviating unnecessary regulatory burdens, and improving prudence and financial responsibility in the expenditure of funds, from both public and private sources. FHFA's

⁵ See 65 FR 44414 (July 18, 2000). The Bank System Modernization Act of 1999 is Title VI of the Gramm-Leach-Bliley Act, Public Law 106-102, 113 Stat. 1338 (Nov. 12, 1999).

⁶ See 65 FR 44414, 44420 (July 18, 2000).

⁷ 75 FR 76617, 76622 (Dec. 9, 2010).

⁸ 81 FR 91690, 91694 (Dec. 19, 2016).

⁹ See 5 U.S.C. 706(2)(A) and (C).

¹⁰ See 5 U.S.C. §§ 551(4), 701(b)(2).

¹¹ The APA defines "rule making" as the "agency process for formulating, amending, or repealing a rule." 5 U.S.C. 551(5).

¹ 90 FR 10583 (Feb. 25, 2025).

² 12 U.S.C. 4511(b).

³ 12 U.S.C. 4526(a) and (b) (requiring regulations to be issued after notice and opportunity for comment pursuant to 5 U.S.C. 553).

⁴ The APA defines "rule making" as the "agency process for formulating, amending, or repealing a rule." 5 U.S.C. 551(5).

rulemaking authority extends to amendment or repeal of a regulation.¹²

B. FHFA Alignment With Administration Policy

The Administration has made the reduction of regulatory burden, efficiency, and fiscal accountability clear priorities.¹³ On February 19, 2025, the President issued Executive Order 14219 under which federal agencies are required to review all regulations subject to their jurisdiction and repeal, as appropriate, regulations inconsistent with law or policy.¹⁴ Administration policy includes that federal agencies be “prudent and financially responsible in the expenditure of funds, from both public and private sources, and to alleviate unnecessary regulatory burdens.”¹⁵ Administrative priorities include lowering the cost of housing and expanding housing supply.¹⁶

Rescinding part 1272 would align with Administration policy by recognizing that part 1272 has had a minimal effect on the Banks’ deployment of new products and services to their members over the last decade. Very few of the new business activities in which the Banks are statutorily authorized to engage rise to the risk level that would trigger an NBAN submission. NBAN submissions are required only to the extent a new business activity entails material risks not previously managed by the Bank.¹⁷

In the last five years, the Banks have submitted only two NBANs, and in both cases FHFA determined the respective Bank to be capable of managing the risks presented by the proposed activity. In the past decade, FHFA has rejected no NBAN for unmanageable risk to the submitting Bank. While there are only two prior NBANs against which to measure costs of compliance, the Banks have raised the concern that compliance with part 1272 would be burdensome and would raise the cost of implementing NBAs. For these reasons, FHFA has determined that part 1272 has

potentially become irrelevant and counterproductive to the Banks’ mission.

C. Reduce Unnecessary Regulatory Burdens

FHFA has reviewed the NBA regulation and has concluded that it creates unnecessary burdens on the Banks. Part 1272 was first promulgated over 25 years ago for safety and soundness reasons because of changes introduced by the Modernization Act. NBA requirements in part 1272 helped their regulator ensure that the Banks could successfully accept these new types of collateral. Since the promulgation of part 1272, most of the Banks have developed significant experience managing the risks associated with collateral types introduced by the Modernization Act and other statutory changes, as well as with other types of Bank products. For these reasons, part 1272 is no longer necessary to protect against the risks for which it was originally intended.

FHFA, in its 2016 final rule amending part 1272, eliminated the need to file an NBAN prior to a Bank accepting new types of collateral, and revised the definition of “new business activity” so that it encompassed only a business activity “that entails material risks not previously managed by the Bank.”¹⁸ In doing so, FHFA acknowledged that the risks to the Banks that prompted the promulgation of part 1272 had been reduced and that the regulation should apply only to new material risks not previously managed by the Banks. The changes also were intended to reduce the regulatory burden on the Banks such that they would not be required to submit NBANs for products or services already deemed within their acceptable scope of risk.¹⁹

The Banks are subject to ongoing prudential supervision through FHFA’s examination function, which includes the development of NBAs. When FHFA updated part 1272 in 2016, it considered how its supervisory authority would mitigate any potential issues with NBAs and determined that FHFA will assess the risks associated with activities that do not present material risks as part of its regular supervisory process.²⁰ When developing a new product or service, Banks typically brief FHFA early in the NBA concept development process to ensure that Bank resources are not wasted developing an activity FHFA

might deem problematic.²¹ Any legal, policy, and supervisory issues relating to safety and soundness concerns are raised through this engagement during product development, ensuring that FHFA has an active role in overseeing the development of NBAs. If a Bank fails to engage FHFA early in the NBA development process, FHFA examination staff would become aware of such activity through examination activities and ongoing monitoring and would ensure that associated risks are appropriately mitigated. Thus, requiring submission of an NBAN in accordance with part 1272 functionally duplicates oversight performed during the NBA development process and ongoing supervision.

D. Reduce Costs and Enhance Efficiency

The Administration has made efficiency and fiscal accountability clear priorities.²² Rescinding part 1272 would align with these priorities by reducing costs for both the Banks and FHFA. For the reasons described above, NBAN preparation constitutes a regulatory cost to the Bank.

FHFA also expends staff resources when reviewing NBANs in accordance with part 1272.²³ Part 1272 requires a prescriptive, uniform review process for all qualifying NBANs, regardless of their complexity. As a result, FHFA staff are sometimes required to engage in a duplicative paperwork review to ensure compliance with the regulation. This review process is time consuming, and typically adds little value to the NBA development process as most of the substantive work has already been completed prior to the formal NBAN submission.

When a Bank begins work on an NBA that would trigger an NBAN submission, it typically involves FHFA in the development process long before formally submitting an NBAN pursuant to part 1272. Most NBAs that involve a material new risk to a Bank also require substantial resources to develop. As the Banks are responsible to their members to efficiently allocate resources, by involving FHFA early in the process of developing a new product or business activity the Bank ensures that it will not waste resources on developing a product FHFA would later determine to

¹² 81 FR 91690 (Dec. 19, 2016).

¹³ See e.g., E.O. 14222 “Implementing the President’s ‘Department of Government Efficiency’ Cost Efficiency Initiative” (February 26, 2025); E.O. 14219 “Ensuring Lawful Governance and Implementing the President’s ‘Department of Government Efficiency’ Deregulatory Initiative” (February 19, 2025); and E.O. 14192 “Unleashing Prosperity Through Deregulation” (January 31, 2025).

¹⁴ E.O. 14219 (February 19, 2025), section 2, at 90 FR 10583 (Feb. 25, 2025).

¹⁵ E.O. 14192 (January 31, 2025), section 2, at 90 FR 9065 (Feb. 6, 2025).

¹⁶ Presidential Memorandum, “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis” (January 20, 2025), at 90 FR 8245 (January 28, 2025).

¹⁷ 12 CFR 1272.1.

¹⁸ 81 FR 91690, 91692 (Dec. 19, 2016).

¹⁹ For example, offering products previously approved for other Banks or products that are similar in risk, although not necessarily in structure, to those already offered by the Bank.

²⁰ 81 FR 91690, 91693 (Dec. 19, 2016).

²¹ 12 U.S.C. 4511(b)(2); 12 U.S.C. 4513(a)(1)(B)(i).

²² See e.g., E.O. 14222 “Implementing the President’s ‘Department of Government Efficiency’ Cost Efficiency Initiative” (February 26, 2025); E.O. 14219 “Ensuring Lawful Governance and Implementing the President’s ‘Department of Government Efficiency’ Deregulatory Initiative” (February 19, 2025); and E.O. 14192 “Unleashing Prosperity Through Deregulation” (January 31, 2025).

²³ 12 CFR 1272.4.

be unsafe, unsound, or unauthorized under the Bank Act. Thus, the Banks have a compelling economic incentive to include FHFA when developing any NBA, rendering part 1272 redundant.

If part 1272 is rescinded, FHFA expects the Banks to continue to create new activities that further their missions. FHFA requests comment on whether the repeal of the regulation will impact the Banks and specifically on what economic costs or benefits repeal would entail for the Banks. FHFA also requests comment on whether the repeal of part 1272 could lead to the Banks creating innovative programs addressing housing and community development issues, as well as any considerations for how the repeal could impact the safety and soundness of the Banks.

VI. Considerations of Differences Between the Banks and the Enterprises

Section 1313(f) of the Safety and Soundness Act requires the Director of FHFA, when promulgating regulations relating to the Banks, to consider the differences between the Banks and the Enterprises (Fannie Mae and Freddie Mac) as they relate to: the Banks' cooperative ownership structure; the mission of providing liquidity to members; the affordable housing and community development mission; their capital structure; and their joint and several liability on consolidated obligations.²⁴ The Director also may consider any other differences that are deemed appropriate. In preparing this proposed rule, the Director considered the differences between the Banks and the Enterprises as they relate to the above factors, and determined that the rule is appropriate.

VII. Regulatory Impacts

A. Paperwork Reduction Act

The proposed rule to repeal part 1272 does not contain any information collection requirements that would require the approval of the Office of Management and Budget (OMB) under the Paperwork Reduction Act.²⁵ Therefore, FHFA has not submitted any information to OMB for review.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act²⁶ (RFA) requires that a regulation that has a significant economic impact on a substantial number of small entities, small businesses, or small organizations must include an initial regulatory flexibility analysis describing the regulation's impact on small entities.

Such an analysis need not be undertaken if the agency has certified that the regulation will not have a significant economic impact on a substantial number of small entities.²⁷ FHFA has considered the impact of the proposed rule under the RFA. FHFA certifies that the proposed rule, if adopted as a final rule, would not have a significant economic impact on a substantial number of small entities because the proposed rule applies only to the Banks and OF, which are not small entities for purposes of the RFA.

C. Executive Order 12866, Regulatory Planning and Review

Executive Order 14215 (Independent Agency Accountability) amends Executive Order 12866 (Regulatory Planning and Review) to include in its definition of "agency," those agencies under 44 U.S.C. 3502(1) including any "independent regulatory agency." Accordingly, pursuant to Executive Order 12866 as amended, FHFA must determine whether its regulatory action proposing repeal is "significant" and subject to review by the Office of Information and Regulatory Affairs (OIRA). Executive Order 12866 section 3(f) defines a "significant regulatory action" as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. FHFA has determined the proposed rule not to be a "significant regulatory action" for purposes of Executive Order 12866. OIRA has concurred in this determination, and therefore, the proposed rule is not subject to review under Executive Order 12866.

D. Executive Order 13563, Improving Regulation and Regulatory Review

Executive Order 13563 directs agencies to analyze regulations that are "outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in

accordance with what has been learned." Executive Order 13563 also directs that, where relevant, feasible, and consistent with regulatory objectives, and to the extent permitted by law, agencies are to identify and consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public. FHFA has developed this proposed rule in a manner consistent with these requirements.

E. Executive Order 14192: Unleashing Prosperity Through Deregulation

Executive Order 14192 requires that an agency, unless prohibited by law, identify at least 10 existing regulations to be repealed when the agency publicly proposes for notice and comment or otherwise promulgates a new regulation with total costs greater than zero. Executive Order 14192 further requires that new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least ten prior regulations. This proposed rule is expected to be an Executive Order 14192 deregulatory action.

VIII. Providing Accountability Through Transparency Act of 2023

The Providing Accountability Through Transparency Act of 2023 (5 U.S.C. 553(b)(4)) requires that a notice of proposed rulemaking include the internet address of a summary of not more than 100 words in length of a proposed rule, in plain language, that shall be posted on the internet website under section 206(d) of the E-Government Act of 2002 (44 U.S.C. 3501 note) (commonly known as *Regulations.gov*). FHFA's proposal and the required summary can be found at <https://www.regulations.gov>.

List of Subjects in 12 CFR Part 1272

Federal home loan banks, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, under the authority of 12 U.S.C. 4511, 4513, and 4526, FHFA proposes to remove and reserve 12 CFR part 1272.

PART 1272—[REMOVED AND RESERVED]

- 1. Remove and reserve part 1272, consisting of §§ 1272.1 through 1272.7.

Clinton Jones,
General Counsel, Federal Housing Finance Agency.

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²⁴ 12 U.S.C. 4513(f).

²⁵ 44 U.S.C. 3501 *et seq.*

²⁶ 5 U.S.C. 601 *et seq.*

²⁷ See 5 U.S.C. 605(b).