whether they should be incorporated into the final rule.

VI. Communications by Outside Parties to the Commissioners or Their Advisors

Written communications and summaries or transcripts of oral communications respecting the merits of this proceeding, from any outside party to any Commissioner or Commissioner's advisor, will be placed on the public record. *See* 16 CFR 1.26(b)(5).

VII. Proposed Rule Language

List of Subjects in 16 CFR Part 323

Labeling, U.S. origin.

For the reasons stated in the preamble, the Federal Trade Commission proposes to add part 323 to subchapter C, title 16 CFR as set forth below:

PART 323—MADE IN USA LABELING

Sec.
323.1 Definitions.
323.2 Prohibited acts.
323.3 Applicability to mail order advertising.
323.4 Enforcement.
323.5 Relation to Federal and State laws.

Authority: 15 U.S.C. 45a.

§ 323.1 Definitions.

As used in this part:

(a) The term *Made in the United States* means any unqualified representation, express or implied, that a product or service, or a specified component thereof, is of U.S. origin, including, but not limited to, a representation that such product or service is ''made,'' ''manufactured,'' ''built,'' ''produced,'' ''created,'' or ''crafted'' in the United States or in America, or any other unqualified U.S.-origin claim.

(b) The terms *mail order catalog* and *mail order promotional material* mean any materials, used in the direct sale or direct offering for sale of any product or service, that are disseminated in print or by electronic means, and that solicit the purchase of such product or service by mail, telephone, electronic mail, or some other method without examining the actual product purchased.

§ 323.2 Prohibited acts.

In connection with promoting or offering for sale any good or service, in or affecting commerce, as ''commerce'' is defined in the Federal Trade Commission Act, it is an unfair or deceptive act or practice within the meaning of section 5 of that Act to label any product as Made in the United States unless the final assembly or processing of the product occurs in the United States, all significant processing that goes into the product occurs in the United States, and all or virtually all ingredients or components of the product are made and sourced in the United States.

§ 323.3 Applicability to mail order advertising.

To the extent that any mail order catalog or mail order promotional material includes a seal, mark, tag, or stamp labeling a product Made in the United States, such label must comply with § 323.2 of this part.

§ 323.4 Enforcement.

Any violation of this part shall be treated as a violation of a rule under section 18 of the Federal Trade Commission Act, 15 U.S.C. 57a, regarding unfair or deceptive acts or practices.

§ 323.5 Relation to Federal and State laws.

(a) *In general.* This part shall not be construed as superseding, altering, or affecting any other federal statute or regulation relating to country-of-origin labeling requirements. In addition, this part shall not be construed as superseding, altering, or affecting any other State statute, regulation, order, or interpretation relating to country-of-origin labeling requirements, except to the extent that such statute, regulation, order, or interpretation is inconsistent with the provisions of this part, and then only to the extent of the inconsistency.

(b) *Greater protection under State law.* For purposes of this section, a State statute, regulation, order, or interpretation is not inconsistent with the provisions of this part if the protection such statute, regulation, order, or interpretation affords any consumer is greater than the protection provided under this part, as determined by the Commission on its own motion or upon the petition of any interested party.

By direction of the Commission,

April J. Tabor,

Secretary.

[FR Doc. 2020–13902 Filed 7–15–20; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 401

[Docket No. FR 6122–P–01]

RIN 2577–AJ48

Rent Adjustments in the Mark-to-Market Program

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: Under the Mark-to-Market program, HUD preserves the affordability of eligible multifamily housing projects by modifying above-market rents while restructuring project debt to an amount supportable by the modified rents. This proposed rule would revise the Mark-to-Market program regulations to clarify that all annual rent adjustments for projects subject to a restructuring plan are by application of an operating cost adjustment factor (OCAF) established by HUD. The current regulations contain a provision authorizing HUD to approve a request for a budget-based rent adjustment in lieu of an OCAF. However, this provision is both contrary to the governing statutory framework and inconsistent with Mark-to-Market renewal contracts, which allow only OCAF rent adjustments. The proposed rule would conform the regulations to the governing statutory provision, the terms of Mark-to-Market renewal contracts, and the programmatic practice of adjusting rents annually only by OCAF.

DATES: *Comment Due Date:* September 14, 2020.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule. Copies of all comments submitted are available for inspection and downloading at *www.regulations.gov.* To receive consideration as public comments, comments must be submitted through one of two methods, specified below. All submissions must refer to the above docket number and title.

1. Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at *www.regulations.gov.* HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the

public. Comments submitted electronically through the *www.regulations.gov* website can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

2. Submission of Comments by Mail. Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW, Room 10276, Washington, DC 20410–0500.

FOR FURTHER INFORMATION CONTACT: Thomas R. Davis, Director, Office of Recapitalization, Office of Multifamily Housing Programs, Department of Housing and Urban Development, 451 Seventh Street SW, Room 6106, Washington, DC 20410; telephone number 202–402–7549. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. History

The Multifamily Assisted Housing Reform and Affordability Act of 1997 (Title V of Pub. L. 105–65, approved October 27, 1997 and codified at 42 U.S.C. 1437f note) (MAHRA) authorizes the Mark-to-Market program, which is designed to preserve low-income rental housing affordability while reducing the long-term costs of federal rental assistance. Under the program, multifamily housing projects with above-market rents that are subject to an expiring contract under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) (Section 8) undergo both a restructuring of the project's HUD-insured or HUD-held debt and an initial renewal of its Section 8 contract so that a new first loan is serviceable based on modified rents.

The renewal of the Section 8 contract is governed by section 515 of MAHRA. Under section 515(a), HUD is required to offer and an owner is required to accept an initial renewal of the project's Section 8 contract if the renewal is in accordance with the terms and conditions specified in a mortgage restructuring and rental assistance sufficiency plan meeting the requirements of section 514 of MAHRA (Restructuring Plan). Under such a Restructuring Plan, the renewal rents are based on either comparable market rents, as required under section 514(g)(1) of MAHRA, or a budget, as permitted in limited circumstances under section 514(g)(2). In either case, the rents are adjusted annually by an OCAF, as required under section 514(e)(2). At the conclusion of the debt-restructuring process, HUD issues an initial renewal contract (Mark-to-Market Renewal Contract) for a maximum 20-year term reflecting the renewal rents and requiring annual OCAF rent adjustments, and the owner executes a minimum 30-year use agreement, as required under section 514(e)(6). As long as the use agreement remains in place, subsequent renewals are governed by section 515(b) of MAHRA.

HUD initially implemented MAHRA through an interim rule published on September 11, 1998, at 63 FR 48926 (Interim Rule), both for projects that are subject to a Restructuring Plan (24 CFR part 401) and those that are not (24 CFR part 402). Consistent with section 514(e)(2) of MAHRA, the Interim Rule required that all projects subject to a Restructuring Plan receive annual OCAF rent adjustments (63 FR 48948). It also implemented section 524 of MAHRA, as it existed then, which authorized HUD to renew expiring Section 8 contracts for projects that were not undergoing debt-restructuring but was silent on rent adjustments. The Interim Rule reflected an administrative determination that rents for contracts renewed under section 524 would be adjusted by an OCAF but could be ''redetermined using a budget-based rent adjustment from time-to-time at the discretion of HUD'' (63 FR 48954).

HUD issued the final rule implementing MAHRA on March 22, 2000, at 65 FR 15485 (Final Rule). Approximately five months earlier, however, section 524 had undergone an extensive amendment (section 531(a) of Pub. L. 106–74, approved October 20, 1999) that expanded and refined the renewal terms for projects not subject to a Restructuring Plan. As amended, section 524 of MAHRA requires HUD to renew a project's expiring Section 8 contract at the request of the owner under one of various owner-selected options, provided that the project is eligible and the Secretary has determined that a Restructuring Plan is not necessary. The options in section 524(a) require that renewal rents not exceed market, while section 524(b)(1), which applies to a limited universe of projects identified in section 524(b)(2), prescribes a renewal rent formula unconstrained by market. Section 524(c)(1) requires annual OCAF rent adjustments but authorizes HUD to approve a budget-based rent adjustment in lieu of an OCAF. Section 524(c)(1) is explicitly limited, however, to contracts initially renewed under section 524(a), (b)(1), or (e)(2) of MAHRA. Relying on section 524(c)(1), HUD included a provision in the Final Rule (§ 401.412(b)) that had not appeared in the Interim Rule purporting to allow HUD to approve an owner's request for a budget-based rent adjustment in lieu of an OCAF for projects renewed under section 515(a) of MAHRA subject to a Restructuring Plan.

To implement section 524(c)(1) of MAHRA, which HUD then thought to have relevance for projects subject to a Restructuring Plan, the Final Rule states with respect to § 401.412, ''We . . . added a new paragraph (b) explaining the availability of budget-based adjustments upon request of the owner, subject to the approval of the Secretary, *as provided in Pub. L. 106–74*'' (emphasis added). Although the amended section 524 has no application to projects that are subject to a Restructuring Plan, HUD at that time viewed section 524 as the *subsequent* renewal authority for projects subject to a Restructuring Plan and therefore believed that a discretionary budget-based rent adjustment would have been available during the term of any subsequent renewal under section 524(a), (b)(1), or (e)(2) of MAHRA. In this regard, the preamble to the Final Rule states, ''A Restructuring Plan will provide for adjustments using OCAF under this section, but this section will not prevent HUD from offering [subsequent] renewal with rent levels higher than those resulting from OCAF rent adjustments, *if legally authorized*'' (emphasis added) (65 FR 15461). The preamble to the Final Rule further states, ''We added language . . . under which HUD . . . must offer to renew section 8 contracts as provided in a Restructuring Plan, subject to . . . the renewal authority available at the time of each contract expiration. *Section 524 of MAHRA (as amended by Pub. L. 106–74) will be the [subsequent] renewal authority*'' (emphasis added) (65 FR 15483).

After publication of the Final Rule, however, HUD determined that for the life of the minimum 30-year use agreement required under section 514(e)(6) of MAHRA, the subsequent renewal authority for projects subject to a Restructuring Plan is section 515(b) of MAHRA, not section 524, and that only after the use agreement expires and the owner requests and is granted a subsequent renewal contract under section 524(a), (b)(1), or (e)(2) of MAHRA would a discretionary budget-based rent adjustment be available in lieu of an OCAF under section 524(c)(1). This determination is reflected in Mark-to-Market Renewal Contracts, which were finalized in the year following

publication of the Final Rule and which provide for annual rent adjustments by an OCAF without any provision authorizing a budget-based rent adjustment in lieu of an OCAF. Moreover, Mark-to-Market Renewal Contracts explicitly state that no rent adjustments other than an OCAF are allowed. Consistent with these determinations, HUD's policy has been not to approve a request for a budget-based rent adjustment while a project is subject to a Restructuring Plan despite the apparent authority to do so under § 401.412(b) of the Final Rule.

Like section 515(a) of MAHRA, which it implements, § 401.554 of the Final Rule states that HUD will ''offer to renew or extend'' a Section 8 contract, as provided in a project's Restructuring Plan. Because the programmatic practice is to offer to renew rather than to extend, HUD is proposing to revise this language accordingly. In addition, HUD is proposing to remove a parenthetical phrase in § 401.554 suggesting that there may be more than one renewal authority for projects subject to a Restructuring Plan.

II. Justification for Change

HUD is proposing this regulatory change to clarify the Mark-to-Market regulatory scheme by aligning the text of § 401.412 with section 514(e)(2) of MAHRA, the terms of Mark-to-Market Renewal Contracts regarding rent adjustments, and the programmatic practice of adjusting rents annually only by an OCAF. HUD believes that removing paragraph (b) would eliminate the misperception that a budget-based rent adjustment is available for projects that are subject to a Restructuring Plan. In addition, HUD believes that removing language in § 401.554 stating that HUD will offer to ''extend'' Section 8 contracts, and other language that refers to multiple renewal authorities, would clarify these provisions.

III. Summary of Proposed Rule

HUD is proposing to remove § 401.412(b), which provides that HUD may approve a request for a budget-based rent adjustment for projects that are subject to a Restructuring Plan.

In addition, HUD is proposing to revise § 401.554 to remove the statement that HUD will ''extend'' Section 8 contracts. In keeping with the explanation above, HUD is also proposing to remove a parenthetical reference in § 401.554 to multiple renewal authorities for contracts subject to a Restructuring Plan.

IV. Findings and Certifications

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule 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. This proposed rule would codify existing statutory interpretations of the authorities granted for the Mark-to-Market program. It does not create compliance costs, nor does it alter the underlying operation of the Mark-to-Market program. Therefore, the undersigned certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities.

Nevertheless, HUD is sensitive to the fact that the uniform application of requirements on entities of differing sizes may place a disproportionate burden on small entities. HUD, therefore, is soliciting alternatives for compliance from small entities as to how these small entities might comply in a way less burdensome to them.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection displays a currently valid Office of Management and Budget (OMB) control number. This proposed rule does not change any information collection requirements.

Executive Order 12612, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on state and local governments and is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the executive order. This proposed rule would not have federalism implications and would not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

Environmental Impact

This proposed rule governs statutorily required establishment and review of rent schedules and related administrative and fiscal requirements and procedures which do not constitute a development decision that affects the physical condition of specific project areas or building sites. Accordingly, under 24 CFR 50.19(c)(6), this proposed rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4; approved March 22, 1995) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments, and on the private sector. This proposed rule does not impose any Federal mandates on any state, local, or tribal government, or on the private sector, within the meaning of the UMRA.

List of Subjects for 24 CFR Part 401

Grant programs—housing and community development, Loan programs—housing and community development, Low and moderate income housing, Mortgage insurance, Mortgages, Rent subsidies, Reporting and recordkeeping requirements.

Accordingly, for the reasons described in the preamble, HUD proposes to amend 24 CFR part 401 as follows:

PART 401—MULTIFAMILY HOUSING MORTGAGE AND HOUSING ASSISTANCE RESTRUCTURING PROGRAM (MARK-TO-MARKET)

■ 1. The authority for part 401 continues to read as follows:

Authority: 12 U.S.C. 1715z–1 and 1735f–19(b); 42 U.S.C. 1437(c)(8), 1437f(t), 1437f note, and 3535(d).

■ 2. Revise § 401.412 to read as follows:

§ 401.412 Adjustment of rents based on operating cost adjustment factor (OCAF).

(a) *OCAF.* The Restructuring Plan must provide for annual adjustment of the restructured rents for project-based assistance by an OCAF determined by HUD.

(b) *Application of OCAF.* HUD will apply the OCAF to the previous year's contract rent less the portion of that rent paid for debt service. This paragraph applies to renewals of contracts that receive restructured rents under either section 514(g)(1) or (2) of MAHRA.

■ 3. Revise § 401.554 to read as follows:

§ 401.554 Contract renewal and administration.

HUD will offer to renew section 8 contracts as provided in each Restructuring Plan, subject to the availability of appropriations and subject to the renewal authority

available at the time of each contract expiration. The offer will be made by HUD directly or through a PAE that has contracted with HUD to be a contract administrator for such contracts. HUD will offer to any PAE that is qualified to be the section 8 contract administrator the opportunity to serve as the section 8 contract administrator for a project restructured under a Restructuring Plan developed by the PAE under the Mark-to-Market Program. Qualifications will be determined under both statutory requirements and requirements issued by the appropriate office within HUD, depending on the type of section 8 assistance that is provided.

Brian D. Montgomery,

Deputy Secretary.

[FR Doc. 2020–14436 Filed 7–15–20; 8:45 am]

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 56

[Docket ID: DOD–2016–OS–0115]

RIN 0790–AJ04

Nondiscrimination on the Basis of Disability in Programs or Activities Assisted or Conducted by the DoD and in Equal Access to Information and Communication Technology Used by DoD, and Procedures for Resolving Complaints

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness, DoD.

ACTION: Proposed rule.

SUMMARY: The Department of Defense (DoD) is proposing to amend its regulations prohibiting unlawful discrimination on the basis of disability in programs or activities receiving Federal financial assistance from, or conducted by, DoD. These revisions update and clarify the obligations that section 504 of the Rehabilitation Act imposes on recipients of Federal financial assistance and DoD Components, in order to incorporate current statutory provisions, requirements from judicial decisions, and comparable provisions implementing title II of the Americans with Disabilities Act (ADA). The regulation is further revised to implement section 508 of the Rehabilitation Act, as applicable to the DoD Components, in order to provide policy concerning accessibility of DoD information and communication technology. Additionally, the regulation provides the procedures pursuant to sections 504 or 508 of the Rehabilitation Act.

DATES: Comments must be received by September 14, 2020.

ADDRESSES: You may submit comments, identified by docket number and/or Regulatory Information Number (RIN) number and title, by any of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* DoD cannot receive written comments at this time due to the COVID–19 pandemic. Comments should be sent electronically to the docket listed above.

Instructions: All submissions received must include the agency name and docket number or RIN for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Randy Cooper, 703–571–9327.

SUPPLEMENTARY INFORMATION:

I. Background

This Notice of Proposed Rulemaking (''NPRM'') proposes to amend 32 CFR part 56, ''Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of Defense'' by updating the nondiscrimination obligations that section 504 imposes on recipients of Federal financial assistance and DoD Components; modifying this rule to include the obligations that section 508 imposes on DoD Components; and clarifying the complaint resolution procedures applicable to allegations of noncompliance.

Congress enacted section 504 to prohibit discrimination on the basis of disability in federally assisted and federally conducted programs or activities. Executive Order 11914, ''Nondiscrimination with Respect to the Handicapped in Federally Assisted Programs,'' authorized the then Department of Health, Education, and Welfare (HEW) to coordinate enforcement of section 504. This authority was later transferred to the Department of Health and Human Services. On November 2, 1980, this authority was transferred to the Attorney General by Executive Order 12250, ''Leadership and Coordination of Nondiscrimination Laws'' (45 FR 72995). On August 11, 1981, the Department of Justice (DOJ) promulgated a final rule, 28 CFR part 41, transferring the guidelines issued by HEW and designating them as part of the Attorney General's civil rights coordination regulations.

Consistent with the DOJ section 504 coordination regulation, on April 8, 1982, DoD promulgated 32 CFR part 56, implementing section 504 within the Department (47 FR 15124). Thirty-seven years later, there is a compelling need to clarify and update this regulation to ensure that DoD policies reflect current Federal law and policies regarding discrimination on the basis of disability.

Congress has amended certain provisions of the Rehabilitation Act of 1973, Public Law 93–112 (Sept. 26, 1973) (Rehabilitation Act), necessitating revisions to the Department's Section 504 federally conducted programs and activities regulation.[1] The Americans with Disabilities Act of 1990, Public Law 101–336 (July 26, 1990) (ADA), revised the Rehabilitation Act to include definitions of the terms ''drugs'' and ''illegal use of drugs,'' explaining that these terms were to be interpreted consistent with the principles of the Controlled Substances Act, 21 U.S.C. 801 *et seq.* See 29 U.S.C. 705(10). The ADA also amended the Rehabilitation Act to expressly exclude from coverage an individual who is currently engaging in the illegal use of drugs. See 29 U.S.C. 705(10), (20)(C). The Rehabilitation Act Amendments of 1992, Public Law 102–569 (Oct. 29, 1992) (the 1992 Amendments), adopted the use of ''person first'' language+ e by changing the term ''handicapped person'' to ''individual with a disability'' and provided that the standards applied under title I of the ADA shall apply to determinations of employment discrimination under section 504. More recently, the ADA Amendments Act of 2008 (ADA Amendments Act), Public Law 110–325 (Sept. 25, 2008), revised the meaning and interpretation of the definition of ''disability'' under section 504 to align them with the ADA. In addition, there have been significant Supreme Court decisions interpreting section 504 requirements relating to the principles of ''direct threat'' and reasonable accommodation. *See, e.g., Sch. Bd. of Nassau Cty.* v. *Arline,* 480

[1] See, *e.g.,* Public Law 99–506 (Oct. 21, 1986); Public Law 100–259 (Mar. 22, 1988); Public Law 100–630 (Nov. 7, 1988); Public Law 101–336 (July 26, 1990); Public Law 102–569 (Oct. 29, 1992); Public Law 103–382 (Oct. 20, 1994); Public Law 105–220 (Aug. 7, 1998); Public Law 107–110 (Jan. 8, 2002); Public Law 110–325 (Sept. 25, 2008); Public Law 113–128 (July 22, 2014).]