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Part II

Regulatory Information Service Center

Introduction to the Unified Agenda of Federal Regulatory and Deregulatory Actions
REGULATORY INFORMATION SERVICE CENTER

Introduction to the Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Regulatory Information Service Center.

ACTION: Introduction to the Unified Agenda of Federal Regulatory and Deregulatory Actions.

SUMMARY: The Regulatory Flexibility Act requires that agencies publish semiannual regulatory agendas in the Federal Register describing regulatory actions they are developing that may have a significant economic impact on a substantial number of small entities (5 U.S.C. 602). Executive Order 12866 “Regulatory Planning and Review,” signed September 30, 1993 (58 FR 51735), and Office of Management and Budget memorandum implementing section 4 of that Order establish minimum standards for agencies’ agendas, including specific types of information for each entry.

The Unified Agenda of Federal Regulatory and Deregulatory Actions (Unified Agenda) helps agencies fulfill these requirements. All Federal regulatory agencies have chosen to publish their regulatory agendas as part of the Unified Agenda.

Editions of the Unified Agenda prior to fall 2007 were printed in their entirety in the Federal Register. Beginning with the fall 2007 edition, the Internet is the basic means for conveying regulatory agenda information to the maximum extent legally permissible. The complete Unified Agenda for spring 2011, which contains the regulatory agendas for 58 Federal agencies, is available to the public at http://reginfo.gov.

The spring 2011 Unified Agenda publication appearing in the Federal Register consists of agency regulatory flexibility agendas, in accordance with the publication requirements of the Regulatory Flexibility Act. Agency regulatory flexibility agendas contain only those Agenda entries for rules that are likely to have a significant economic impact on a substantial number of small entities and entries that have been selected for periodic review under section 610 of the Regulatory Flexibility Act.

Beginning with the fall 2007 edition, the Internet is the basic means for conveying regulatory agenda information to the maximum extent legally permissible. The complete Unified Agenda for spring 2011, which contains the regulatory agendas for 58 Federal agencies, is available to the public at http://reginfo.gov.

These publication formats meet the publication mandates of the Regulatory Flexibility Act and Executive Order 12866, as well as move the Agenda process toward the goal of e-Government, at a substantially reduced printing cost compared with prior editions. The current format does not reduce the amount of information available to the public, but it does limit most of the content of the Agenda to online access. The complete online edition of the Unified Agenda includes regulatory agendas from 58 Federal agencies. Agencies of the United States Congress are not included.

The following agencies have no entries identified for inclusion in the printed regulatory flexibility agenda. The regulatory agendas of these agencies are available to the public at http://reginfo.gov:

- Department of Housing and Urban Development
- Department of Justice
- Department of State
- Department of Veterans Affairs
- Agency for International Development
- Architectural and Transportation Barriers Compliance Board
- Commission on Civil Rights
- Committee for Purchase From People Who Are Blind or Severely Disabled
- Corporation for National and Community Service
- Court Services and Offender Supervision Agency for the District of Columbia
- Equal Employment Opportunity Commission

For further information contact: For further information about specific regulatory actions, please refer to the agency contact listed for each entry.

To provide comment on or to obtain further information about this publication, contact: John C. Thomas, Executive Director, Regulatory Information Service Center (MI), General Services Administration, One Constitution Square, 1275 First Street NE., 651A, Washington, DC 20417. You may also send comments to us by e-mail at: RISC@gsa.gov.

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Department of Commerce

Department of Defense

Department of Education

Department of Energy

Department of Health and Human Services

Department of Homeland Security

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Department of Transportation

Department of the Treasury

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Environmental Protection Agency

General Services Administration

Small Business Administration

Joint Authority

Department of Defense/General Services Administration/National Aeronautics and Space Administration (Federal Acquisition Regulation)

Independent Regulatory Agencies

Consumer Product Safety Commission

Federal Communications Commission

Federal Deposit Insurance Corporation

Federal Reserve System

Nuclear Regulatory Commission

Securities and Exchange Commission

Introduction to the Unified Agenda of Federal Regulatory and Deregulatory Actions

I. What Is the Unified Agenda?

The Unified Agenda provides information about regulations that the Government is considering or reviewing. The Unified Agenda has appeared in the Federal Register twice each year since 1983 and has been available online since 1995. To further the objective of using modern technology to deliver better service to the American people for lower cost,

beginning with the fall 2007 edition, the Internet is the basic means for conveying regulatory agenda information to the maximum extent legally permissible. The complete Unified Agenda is available to the public at http://reginfo.gov. The online Unified Agenda offers flexible search tools and will soon offer access to the entire historic Unified Agenda database.

The spring 2011 Unified Agenda publication appearing in the Federal Register consists of agency regulatory flexibility agendas, in accordance with the publication requirements of the Regulatory Flexibility Act. Agency regulatory flexibility agendas contain only those Agenda entries for rules that are likely to have a significant economic impact on a substantial number of small entities and entries that have been selected for periodic review under section 610 of the Regulatory Flexibility Act.
Federal Mediation and Conciliation Service
Financial Stability Oversight Council
Institute of Museum and Library Services
National Aeronautics and Space Administration
National Archives and Records Administration
National Endowment for the Humanities
National Science Foundation
Office of Government Ethics
Office of Management and Budget
Office of Personnel Management
Peace Corps
Pension Benefit Guaranty Corporation
Railroad Retirement Board
Selective Service System
Social Security Administration
Commodity Futures Trading Commission
Farm Credit Administration
Federal Energy Regulatory Commission
Federal Housing Finance Agency
Federal Maritime Commission
Federal Trade Commission
National Credit Union Administration
National Indian Gaming Commission
National Labor Relations Board
Postal Regulatory Commission
Surface Transportation Board

The Regulatory Information Service Center (the Center) compiles the Unified Agenda for the Office of Information and Regulatory Affairs (OIRA), part of the Office of Management and Budget. OIRA is responsible for overseeing the Federal Government's regulatory, paperwork, and information resource management activities, including implementation of Executive Order 12866. The Center also provides information about Federal regulatory activity to the President and his Executive Office, the Congress, agency managers, and the public.

The activities included in the Agenda are, in general, those that will have a regulatory action within the next 12 months. Agencies may choose to include activities that will have a longer timeframe than 12 months. Agency agendas also show actions or reviews completed or withdrawn since the last Unified Agenda. Executive Order 12866 does not require agencies to include regulations concerning military or foreign affairs functions or regulations related to agency organization, management, or personnel matters.

Agencies prepared entries for this publication to give the public notice of their plans to review, propose, and issue regulations. They have tried to predict their activities over the next 12 months as accurately as possible, but dates and schedules are subject to change. Agencies may withdraw some of the regulations now under development, and they may issue or propose other regulations not included in their agendas. Agency actions in the rulemaking process may occur before or after the dates they have listed. The Unified Agenda does not create a legal obligation on agencies to adhere to schedules in this publication or to confine their regulatory activities to those regulations that appear within it.

II. Why Is the Unified Agenda Published?

The Unified Agenda helps agencies comply with their obligations under the Regulatory Flexibility Act and various Executive orders and other statutes. The Regulatory Flexibility Act requires agencies to identify those rules that may have a significant economic impact on a substantial number of small entities (5 U.S.C. 602). Agencies meet that requirement by including the information in their submissions for the Unified Agenda. Agencies may also indicate those regulations that they are reviewing as part of their periodic review of existing rules under the Regulatory Flexibility Act (5 U.S.C. 610). Executive Order 13272 entitled “Proper Consideration of Small Entities in Agency Rulemaking,” signed August 13, 2002 (67 FR 53461), provides additional guidance on compliance with the Act.

Executive Order 12866

Executive Order 12866 entitled “Regulatory Planning and Review,” signed September 30, 1993 (58 FR 51735), requires covered agencies to prepare an agenda of all regulations under development or review. The Order also requires that certain agencies prepare annually a regulatory plan of their “most important significant regulatory actions,” which appears as part of the fall Unified Agenda. Executive Order 13497, signed January 30, 2009 (74 FR 6113), revoked the amendments to Executive Order 12866 that were contained in Executive Order 13258 and Executive Order 13422.

Executive Order 13132

Executive Order 13132 entitled “Federalism,” signed August 4, 1999 (64 FR 43255), directs agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have “federalism implications” as defined in the Order. Under the Order, an agency that is proposing a regulation with federalism implications, which either preempt State law or impose nonstatutory unfunded substantial direct compliance costs on State and local governments, must consult with State and local officials early in the process of developing the regulation. In addition, the agency must provide to the Director of the Office of Management and Budget a federalism summary impact statement for such a regulation, which consists of a description of the extent of the agency’s prior consultation with State and local officials, a summary of their concerns and the agency’s position supporting the need to issue the regulation, and a statement of the extent to which those concerns have been met. As part of this effort, agencies include in their submissions for the Unified Agenda information on whether their regulatory actions may have an effect on the various levels of government and whether those actions have federalism implications.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, title II) requires agencies to prepare written assessments of the costs and benefits of significant regulatory actions “that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more . . . in any 1 year . . . .” The requirement does not apply to independent regulatory agencies, nor does it apply to certain subject areas excluded by section 4 of the Act. Affected agencies identify in the Unified Agenda those regulatory actions they believe are subject to title II of the Act.

Executive Order 13211

Executive Order 13211 entitled “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” signed May 18, 2001 (66 FR 28355), directs agencies to provide, to the extent possible, information regarding the adverse effects that agency actions may have on the supply, distribution, and use of energy. Under the Order, the agency must prepare and submit a Statement of Energy Effects to the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, for “those matters identified as significant energy actions.” As part of this effort, agencies may optionally include in their submissions for the Unified Agenda information on whether they have prepared or plan to prepare a Statement of Energy Effects for their regulatory actions.
Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (Pub. L. 104–121, title II) established a procedure for congressional review of rules (5 U.S.C. 801 et seq.), which defers, unless exempted, the effective date of a “major” rule for at least 60 days from the publication of the final rule in the Federal Register. The Act specifies that a rule is “major” if it has resulted, or is likely to result, in an annual effect on the economy of $100 million or more or meets other criteria specified in that Act. The Act provides that the Administrator of OIRA will make the final determination as to whether a rule is major.

III. How Is the Unified Agenda Organized?

Agency regulatory flexibility agendas are printed in a single daily edition of the Federal Register. A regulatory flexibility agenda is printed for each agency whose agenda includes entries for rules which are likely to have a significant economic impact on a substantial number of small entities or rules that have been selected for periodic review under section 610 of the Regulatory Flexibility Act. Each printed agenda appears as a separate part. The parts are organized alphabetically in four groups: Cabinet departments; other executive agencies; the Federal Acquisition Regulation, a joint authority; and independent regulatory agencies. Agencies may in turn be divided into subagencies. Each agency’s part of the Agenda contains a preamble providing information specific to that agency. Each printed agency agenda has a table of contents listing the agency’s printed entries that follow.

The online, complete Unified Agenda contains the preambles of all participating agencies. Unlike the printed edition, the online Agenda has no fixed ordering. In the online Agenda, users can select the particular agencies whose agendas they want to see. Users have broad flexibility to specify the characteristics of the entries of interest to them by choosing the desired responses to individual data fields. To see a listing of all of an agency’s entries, a user can select the agency without specifying any particular characteristics of entries.

Each entry in the Agenda is associated with one of five rulemaking stages. The rulemaking stages are:

1. Prerule Stage—actions agencies will undertake to determine whether or how to initiate rulemaking. Such actions occur prior to a Notice of Proposed Rulemaking (NPRM) and may include Advance Notices of Proposed Rulemaking (ANPRMs) and reviews of existing regulations.

2. Proposed Rule Stage—actions for which agencies plan to publish a Notice of Proposed Rulemaking as the next step in their rulemaking process or for which the closing date of the NPRM Comment Period is the next step.

3. Final Rule Stage—actions for which agencies plan to publish a final rule or an interim final rule or to take other final action as the next step.

4. Long-Term Actions—items under development but for which the agency does not expect to have a regulatory action within the 12 months after publication of this edition of the Unified Agenda. Some of the entries in this section may contain abbreviated information.

5. Completed Actions—actions or reviews the agency has completed or withdrawn since publishing its last agenda. This section also includes items the agency began and completed between issues of the Agenda.

A bullet (●) preceding the title of an entry indicates that the entry is appearing in the Unified Agenda for the first time.

In the printed edition, all entries are numbered sequentially from the beginning to the end of the publication. The sequence number preceding the title of each entry identifies the location of the entry in this edition. The sequence number is used as the reference in the printed table of contents. Sequence numbers are not used in the online Unified Agenda because the unique Regulation Identifier Number (RIN) is able to provide this cross-reference capability.

Editions of the Unified Agenda prior to fall 2007 contained several indexes, which identified entries with various characteristics. These included regulatory actions for which agencies believe that the Regulatory Flexibility Act may require a Regulatory Flexibility Analysis, actions selected for periodic review under section 610(c) of the Regulatory Flexibility Act, and actions that may have federalism implications as defined in Executive Order 13132 or other effects on levels of government. These indexes are no longer compiled, because users of the online Unified Agenda have the flexibility to search for entries with any combination of desired characteristics. The online edition retains the Unified Agenda’s subject index based on the Federal Register Thesaurus of Indexing Terms. In addition, online users have the option of searching Agenda text fields for words or phrases.

IV. What Information Appears for Each Entry?

All entries in the online Unified Agenda contain uniform data elements including, at a minimum, the following information:

Title of the Regulation—a brief description of the subject of the regulation. In the printed edition, the notation “Section 610 Review” following the title indicates that the agency has selected the rule for its periodic review of existing rules under the Regulatory Flexibility Act (5 U.S.C. 610(c)). Some agencies have indicated completions of section 610 reviews or rulemaking actions resulting from completed section 610 reviews. In the online edition, these notations appear in a separate field.

Priority—an indication of the significance of the regulation. Agencies assign each entry to one of the following five categories of significance.

1. Economically Significant

As defined in Executive Order 12866, a rulemaking action that will have an annual effect on the economy of $100 million or more or will 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.

The definition of an “economically significant” rule is similar but not identical to the definition of a “major” rule under 5 U.S.C. 801 (Pub. L. 104–121). (See below.)

2. Other Significant

A rulemaking that is not Economically Significant but is considered Significant by the agency. This category includes rules that the agency anticipates will be reviewed under Executive Order 12866 or rules that are a priority of the agency head. These rules may or may not be included in the agency’s regulatory plan.

3. Substantive, Nonsignificant

A rulemaking that has substantive impacts but is neither Significant, nor Routine and Frequent, nor Informational/Administrative/Other.

4. Routine and Frequent

A rulemaking that is a specific case of a multiple recurring application of a regulatory program in the Code of Federal Regulations and that does not alter the body of the regulation.

5. Informational/Administrative/Other

A rulemaking that is primarily informational or pertains to agency matters not central to accomplishing the...
agency’s regulatory mandate but that the agency places in the Unified Agenda to inform the public of the activity.

Major—whether the rule is “major” under 5 U.S.C. 801 (Pub. L. 104–121) because it has resulted or is likely to result in an annual effect on the economy of $100 million or more or meets other criteria specified in that Act. The Act provides that the Administrator of the Office of Information and Regulatory Affairs will make the final determination as to whether a rule is major.

Unfunded Mandates—whether the rule is covered by section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). The Act requires that, before issuing an NPRM likely to result in a mandate that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector of more than $100 million in 1 year, agencies, other than independent regulatory agencies, shall prepare a written statement containing an assessment of the anticipated costs and benefits of the Federal mandate.

Legal Authority—the section(s) of the Code of Federal Regulations that will be affected by the action.

Legal Deadline—whether the action is subject to a statutory or judicial deadline, the date of that deadline, and whether the deadline pertains to an NPRM, a Final Action, or some other action.

Abstract—a brief description of the problem the regulation will address; the need for a Federal solution; to the extent available, alternatives that the agency is considering to address the problem; and potential costs and benefits of the action.

Table—dates and citations (if available) for all past steps and a projected date for at least the next step for the regulatory action. A date displayed in the form 03/00/11 means the agency is predicting the month and year the action will take place but not the day it will occur. In some instances, agencies may indicate what the next action will be, but the date of that action is “To Be Determined.” “Next Action Undetermined” indicates the agency does not know what action it will take next.

Regulatory Flexibility Analysis Required—whether an analysis is required by the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) because the rulemaking action is likely to have a significant economic impact on a substantial number of small entities as defined by the Act.

Small Entities Affected—the types of small entities (businesses, governmental jurisdictions, or organizations) on which the rulemaking action is likely to have an impact as defined by the Regulatory Flexibility Act. Some agencies have chosen to indicate likely effects on small entities even though they believe that a Regulatory Flexibility Analysis will not be required.

Government Levels Affected—whether the action is expected to affect levels of government and, if so, whether the governments are State, local, tribal, or Federal.

International Impacts—whether the regulation is expected to have international trade and investment effects, or otherwise may be of interest to the Nation’s international trading partners.

Federalism—whether the action has “federalism implications” as defined in Executive Order 13132. This term refers to actions “that have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.”

Independent regulatory agencies are not required to supply this information.

Included in the Regulatory Plan—whether the rulemaking was included in the agency’s current regulatory plan published in fall 2010.

Agency Contact—the name and phone number of at least one person in the agency who is knowledgeable about the rulemaking action. The agency may also provide the title, address, fax number, e-mail address, and TDD for each agency contact.

Some agencies have provided the following optional information:

RIN Information URL—the Internet address of a site that provides more information about the entry.

Public Comment URL—the Internet address of a site that will accept public comments on the entry. Alternatively, timely public comments may be submitted at the Governmentwide e-rulemaking site, http://www.regulations.gov.

Additional Information—any information an agency wishes to include that does not have a specific corresponding data element.

Compliance Cost to the Public—the estimated gross compliance cost of the action.

Affected Sectors—the industrial sectors that the action may most affect, either directly or indirectly. Affected sectors are identified by North American Industry Classification System (NAICS) codes.

Energy Effects—an indication of whether the agency has prepared or plans to prepare a Statement of Energy Effects for the action, as required by Executive Order 13211 “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” signed May 18, 2001 (66 FR 28353).

Related RINs—one or more past or current RIN(s) associated with activity related to this action, such as merged RINs, split RINs, new activity for previously completed RINs, or duplicate RINs.

Some agencies that participated in the fall 2010 edition of The Regulatory Plan have chosen to include the following information for those entries that appeared in the Plan:

Statement of Need—a description of the need for the regulatory action.

Summary of the Legal Basis—a description of the legal basis for the action, including whether any aspect of the action is required by statute or court order.

Alternatives—a description of the alternatives the agency has considered or will consider as required by section 4(c)(1)(B) of Executive Order 12866.

Anticipated Costs and Benefits—a description of preliminary estimates of the anticipated costs and benefits of the action.

Risks—a description of the magnitude of the risk the action addresses, the amount by which the agency expects the action to reduce this risk, and the relation of the risk and this risk reduction effort to other risks and risk reduction efforts within the agency’s jurisdiction.

V. Abbreviations

The following abbreviations appear throughout this publication:

ANPRM—An Advance Notice of Proposed Rulemaking is a preliminary notice, published in the Federal Register, announcing that an agency is considering a regulatory action. An agency may issue an ANPRM before it develops a detailed proposed rule. An ANPRM describes the general area that may be subject to regulation and usually asks for public comment on the issues and options being discussed. An ANPRM is issued only when an agency believes it needs to gather more information before proceeding to a notice of proposed rulemaking.

CFR—The Code of Federal Regulations is an annual codification of the general and permanent regulations published in the Federal Register by the
agencies of the Federal Government.
The Code is divided into 50 titles, each
title covering a broad area subject to
Federal regulation. The CFR is keyed to
and kept up to date by the daily issues
of the Federal Register.
EO—An Executive order is a directive
from the President to Executive
agencies, issued under constitutional or
statutory authority. Executive orders are
published in the Federal Register and in
title 3 of the Code of Federal
Regulations.
FR—The Federal Register is a daily
Federal Government publication that
provides a uniform system for
publishing Presidential documents, all
proposed and final regulations, notices
of meetings, and other official
documents issued by Federal agencies.
FY—The Federal fiscal year runs from
October 1 to September 30.
NPRM—A Notice of Proposed
Rulemaking is the document an agency
issues and publishes in the Federal
Register that describes and solicits
public comments on a proposed
regulatory action. Under the
Administrative Procedure Act (5 U.S.C.
553), an NPRM must include, at a
minimum:
• a statement of the time, place, and
nature of the public rulemaking
proceeding;
• a reference to the legal authority
under which the rule is proposed; and
• either the terms or substance of the
proposed rule or a description of the
subjects and issues involved.
PL (or Pub. L.)—A public law is a law
passed by Congress and signed by the
President or enacted over his veto. It has
general applicability, unlike a private
law that applies only to those persons
or entities specifically designated.
Public laws are numbered in sequence
throughout the 2-year life of each
Congress; for example, Pub. L. 110–4 is
the fourth public law of the 110th
Congress.
RFA—A Regulatory Flexibility
Analysis is a description and analysis of
the impact of a rule on small entities,
including small businesses, small
governmental jurisdictions, and certain
small not-for-profit organizations. The
Regulatory Flexibility Act (5 U.S.C. 601
et seq.) requires each agency to prepare
an initial RFA for public comment when
it is required to publish an NPRM and
to make available a final RFA when the
final rule is published, unless the
agency head certifies that the rule
would not have a significant economic
impact on a substantial number of small
entities.
RIN—The Regulation Identifier
Number is assigned by the Regulatory
Information Service Center to identify
each regulatory action listed in the
Unified Agenda, as directed by
Executive Order 12866 (section 4(b)).
Additionally, OMB has asked agencies
to include RINs in the headings of their
Rule and Proposed Rule documents
when publishing them in the Federal
Register, to make it easier for the public
and agency officials to track the
publication history of regulatory actions
during their development.
Seq. No.—The sequence number
identifies the location of an entry in the
printed edition of the Unified Agenda.
Note that a specific regulatory action
will have the same RIN throughout its
development but will generally have
different sequence numbers if it appears
in different printed editions of the
Unified Agenda. Sequence numbers are
not used in the online Unified Agenda.
U.S.C.—The United States Code is a
consolidation and codification of all
general and permanent laws of the
United States. The U.S.C. is divided into
50 titles, each title covering a broad area
of Federal law.
VI. How Can Users Get Copies of the
Agenda?
Copies of the Federal Register issue
containing the printed edition of the
Unified Agenda (agency regulatory
flexibility agendas) are available from
the Superintendent of Documents, U.S.
Government Printing Office, P.O. Box
371954, Pittsburgh, PA 15250–7954.
Telephone: (202) 512–1800 or 1–866–
512–1800 (toll-free).
Copies of individual agency materials
may be available directly from the
agency or may be found on the agency’s
website. Please contact the particular
agency for further information.
All editions of The Regulatory Plan
and the Unified Agenda of Federal
Regulatory and Deregulatory Actions
since fall 1995 are available in
electronic form at http://reginfo.gov,
along with flexible search tools. During
2011, searchable access to the entire
historic Unified Agenda database back
to 1983 will be added to the site.
In accordance with regulations for the
Federal Register, the Government
Printing Office’s GPO Access website
contains copies of the Agendas and
Regulatory Plans that have been printed
in the Federal Register. These
documents are available at http://
Dated: June 1, 2011.
John C. Thomas,
Director.
[FR Doc. 2011–15469 Filed 7–6–11; 8:45 am]
Part III

Department of Agriculture

Semiannual Regulatory Agenda