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Part II

Regulatory Information Service Center

Introduction to the Regulatory Plan and 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 memoranda 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 became the basic means for conveying regulatory agenda information to the maximum extent legally permissible. The complete 2012 Unified Agenda, which contains the regulatory agendas for 60 Federal agencies, is available to the public at *http://reginfo.gov*.

The 2012 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.

ADDRESSES: Regulatory Information Service Center (MVC), General Services Administration, One Constitution Square, 1275 First Street NE., 630, Washington, DC 20417.

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 (MVC), General Services Administration, One Constitution Square, 1275 First Street NE., 630, Washington, DC 20417, (202) 482–7340. You may also send comments to us by email at: *RISC@gsa.gov*.

SUPPLEMENTARY INFORMATION:

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** 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 became 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 access to the historic Unified Agenda database to 1995.

The 2012 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. Printed entries display only the fields required by the Regulatory Flexibility Act. Complete agenda information for those entries appears, in a uniform format, in the online Unified Agenda 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 online availability, at a substantially reduced printing cost. The current online format does not reduce the amount of information available to the public. The complete online edition of the Unified Agenda includes regulatory agendas from 60 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. An asterisk (*) indicates agencies that appear in *The Regulatory Plan.* 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
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 *
Export-Import Bank of the United States
Federal Mediation and Conciliation Service
Institute of Museum and Library Services
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
Social Security Administration *
Commodity Futures Trading Commission
Consumer Product Safety 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
Recovery Accountability and Transparency Board
Special Inspector General for Afghanistan Reconstruction
Surface Transportation Board

The Regulatory Information Service 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 officials, 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.

Regulatory Flexibility Act

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.

Executive Order 13563

Executive Order 13563 entitled ''Improving Regulation and Regulatory Review,'' signed January 18, 2011, supplements and reaffirms the principles, structures, and definitions governing contemporary regulatory review that were established in Executive Order 12866, which includes the general principles of regulation and public participation, and orders integration and innovation in coordination across agencies; flexible approaches where relevant, feasible, and consistent with regulatory approaches; scientific integrity in any scientific or technological information and processes used to support the agencies' regulatory actions; and retrospective analysis of existing regulations.

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 sub-agencies. 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.

Long-Term Actions are rulemakings reported during the publication cycle that are outside of the required 12-month reporting period for which the Agenda was intended. Completed Actions in the publication cycle are rulemakings that are ending their lifecycle either by Withdrawal or completion of the rulemaking process. Therefore, the Long-Term and Completed RINs do not represent the ongoing, forward-looking nature intended for reporting developing rulemakings in the Agenda pursuant to Executive Order 12866, section 4(b) and 4(c). To further differentiate these two stages of rulemaking in the Unified Agenda from active rulemakings, Long-Term and Completed Actions are reported separately from active rulemakings, which can be any of the first three stages of rulemaking listed above. A separate search function is provided on *http://reginfo.gov* to search for Completed and Long-Term Actions apart from each other and active RINs.

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 United States Code (U.S.C.) or Public Law (Pub. L.) or the Executive order (E.O.) that authorize(s) the regulatory action. Agencies may provide popular name references to laws in addition to these citations.

CFR Citation—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.

Timetable—the 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 12/00/12 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 2011.

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, email 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 28355).

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 2012 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.

Pulic Law (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. 112–4 is the fourth public law of the 112th 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 throughout 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 Web site. 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.

In accordance with regulations for the **Federal Register**, the Government Printing Office's GPO FDsys Web site contains copies of the Agendas and Regulatory Plans that have been printed in the **Federal Register**. These documents are available at *http://www.fdsys.gov*.

Dated: December 21, 2012.

John C. Thomas,

Executive Director.

Introduction to the 2012 Regulatory Plan

Executive Order 12866, issued in 1993, requires the production of a Unified Regulatory Agenda and Regulatory Plan. Executive Order 13563, issued in 2011, reaffirmed the requirements of Executive Order 12866.

Consistent with Executive Orders 12866 and 13563, we are providing the Unified Regulatory Agenda and the Regulatory Plan for public review. The Agenda and Plan are a preliminary statement of regulatory and deregulatory policies and priorities under consideration. The Agenda and Plan may include rules that are not issued in the following year and some that might never be issued. Indeed, at this point, executive agencies have finalized only 43 out of the 132 economically significant active rulemakings listed in the Fall 2011 agenda. Continuing last year's practice, OMB took several steps to clarify the purposes and uses of the Agenda and Plan, including focusing the list of ''active rulemakings'' on rules that have at least some possibility of issuance over the next year. OMB also worked with agencies to make it easier to understand which rules are truly active rulemakings rather than long-term actions or completed actions.

We emphasize that rules listed on the agenda, designed among other things ''to involve the public and its State, local, and tribal officials in regulatory planning,'' must still undergo significant internal and external scrutiny before they are issued. No regulatory action can be made effective until it has gone through legally required processes, which generally include public review and comment. Any proposed or final action must also satisfy the requirements of relevant statutes, Executive Orders, and Presidential Memoranda. Those requirements, public comments, and new information may or may not lead an agency to go forward with an action that is currently under contemplation and that is included here. For example, the directives of Executive Order 13563, emphasizing the importance of careful consideration of costs and benefits, may lead an agency to decline to proceed with a previously contemplated regulatory action.

Whether a regulation is listed on the Agenda as ''economically significant'' within the meaning of Executive Order 12866 (generally, having an annual effect on the economy of $100 million or more) is not an adequate measure of whether it imposes high costs on the private sector. Economically significant actions may impose small costs or even no costs. For example, regulations may count as economically significant not because they impose significant costs, but because they confer large benefits or remove significant burdens. Moreover, many regulations count as economically significant not because they impose significant regulatory costs on the private sector, but because they involve

transfer payments as required or authorized by law. As an example, the Department of Health and Human Services issues regulations on an annual basis, pursuant to statute, to govern how Medicare payments are increased each year. These regulations effectively authorize transfers of billions of dollars to hospitals and other health care providers each year.

The number of economically significant actions from Executive agencies listed as ''active rulemakings''—128—is lower than the corresponding figure for the last two editions of the Agenda, which contained 132 and 145 such rules, respectively. It is notable that the number of such rules has not grown even taking account of rules implementing the Affordable Care Act (Public Laws 111–148 and 111–152) and the Wall Street Reform and Consumer Protection Act (Public Law 111–203). Moreover, it is worth noting that a number of the rulemakings stay on the agenda from year to year; compared to the last Agenda, for example, this agenda adds only 12 new active economically significant non-recurring rules from Executive Agencies.[1] Also, the estimated net benefits of regulation have been remarkably high in this Administration; in total, net benefits over the first three fiscal years of this Administration were $91 billion.

With these notes and qualifications, the Regulatory Plan provides a list of important regulatory actions that are now under contemplation for issuance in proposed or final form during the upcoming fiscal year. In contrast, the Unified Agenda is a more inclusive list, including numerous ministerial actions and routine rulemakings, as well as long-term initiatives that agencies do not plan to complete in the coming year.

OMB hopes that the public examination of the Regulatory Plan and the Unified Agenda will help ensure, in the words of Executive Order 13563, a regulatory system that protects ''public health, welfare, safety, and our environment while promoting economic growth, innovation, competitiveness, and job creation.''

Executive Order 13563 explicitly points to the need for predictability and for certainty, as well as for use of the least burdensome tools for achieving regulatory ends. It indicates that agencies ''must take into account benefits and costs, both quantitative and qualitative.'' It explicitly draws attention to the need to measure and to improve ''the actual results of regulatory requirements''—a clear reference to the importance of retrospective evaluation.

Executive Order 13563 reaffirms the principles, structures, and definitions in Executive Order 12866, which has long governed regulatory review. In addition, it endorses, and quotes, a number of provisions of Executive Order 12866 that specifically emphasize the importance of considering costs—including the requirement that to the extent permitted by law, agencies should not proceed in the absence of a reasoned determination that the benefits justify the costs. Importantly, Executive Order 13563 directs agencies ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' This direction reflects a strong emphasis on quantitative analysis as a means of improving regulatory choices and increasing transparency.

Among other things, Executive Order 13563 sets out five sets of requirements to guide regulatory decision making:

• *Public participation.* Agencies are directed to promote public participation, in part by making supporting documents available on Regulations.gov in order to promote transparency and public comment. Executive Order 13563 also directs agencies, where feasible and appropriate, to engage the public, including affected stakeholders, before rulemaking is initiated.

• *Integration and innovation.* Agencies are directed to attempt to reduce ''redundant, inconsistent, or overlapping'' requirements, in part by working with one another to simplify and harmonize rules. This important provision is designed to reduce confusion, redundancy, and excessive cost. An important goal of simplification and harmonization is to promote rather than to hamper innovation, which is a foundation of both growth and job creation. Different offices within the same agency might work together to harmonize their rules; different agencies might work together to achieve the same objective. Such steps can also promote predictability and certainty.

• *Flexible approaches.* Agencies are directed to identify and consider flexible approaches to regulatory problems, including warnings, appropriate default rules, and disclosure requirements. Such approaches may ''reduce burdens and maintain flexibility and freedom of choice for the public.'' In certain settings, they may be far preferable to mandates and bans, precisely because they maintain freedom of choice and reduce costs. The reference to ''appropriate default rules'' signals the possibility that important social goals can be obtained through simplification—as, for example, in the form of automatic enrollment, direct certification, or reduced paperwork burdens.

• *Science.* Agencies are directed to promote scientific integrity, and in a way that ensures a clear separation between judgments of science and judgments of policy.

• *Retrospective analysis of existing rules.* Agencies are directed to produce preliminary plans to engage in retrospective analysis of existing significant regulations to determine whether they should be modified, streamlined, expanded, or repealed. Executive Order 13610, *Identifying and Reducing Regulatory Burdens,* issued in 2012, institutionalizes the ''look back'' mechanism set out in Executive Order 13563, by requiring agencies to report to OMB and the public twice each year (January and July) on the status of their retrospective review efforts, to ''describe progress, anticipated accomplishments, and proposed timelines for relevant actions.'' (See below for additional details on Executive Order 13610.)

Executive Order 13563 addresses both the ''flow'' of new regulations that are under development and the ''stock'' of existing regulations that are already in place. With respect to agencies' review of existing regulations, the Executive Order calls for careful reassessment, based on empirical analysis. It is understood that the prospective analysis required by Executive Order 13563 may depend on a degree of speculation and that the actual costs and benefits of a regulation may be lower or higher than what was anticipated when the rule was originally developed. It is also understood that circumstances may change in a way that requires reconsideration of regulatory requirements. After retrospective analysis has been undertaken, agencies will be in a position to reevaluate existing rules and to streamline, modify, or eliminate those that do not make sense in their current form.

In August 2011, over two dozen agencies released final plans to remove what the President called unjustified rules and ''absurd and unnecessary paperwork requirements that waste time and money.'' Over the next five years, billions of dollars in savings are anticipated from just a few initiatives

[1] Out of the last Agenda's 132 economically significant active rulemakings from Executive Agencies, agencies finalized 24 non-recurring rules as well as 19 rules that recur annually (and so appear in both the last Agenda and the current Agenda). Eight economically significant rules listed as long-term rulemakings in the last Agenda became active rulemakings in this Agenda, and 12 new active non-recurring rules were added to this Agenda—for a total of 128 economically significant active rulemakings from Executive Agencies in this Agenda.

from the Department of Transportation, the Department of Labor, the Department of Health and Human Services, and the Environmental Protection Agency. And all in all, the plans' initiatives will save tens of millions of hours in annual paperwork burdens on individuals, businesses, and state and local governments.

The plans offer more than 500 proposals. Many of the proposals focus on small business. Some of the proposed initiatives represent a fundamental rethinking of how things have long been done—as, for example, with numerous efforts to move from paper to electronic reporting. For both private and public sectors, those efforts can save money.

Many of the reforms will have a significant impact. Recent plan updates include the following examples:

• The Treasury Department, along with the Department of Homeland Security's Customs and Border Protection, issued a final rule in August 2012 eliminating the mailing of paper ''courtesy'' notices of liquidation, which provide informal, advanced notice of the liquidation date to the importers of record whose entry summaries are electronically filed. This effort to proceed only electronically streamlines the notification process and reduces printing and mailing costs.

• The Department of Transportation would allow combined drug and alcohol testing for operators conducting commercial air tours. This rulemaking would allow certificate holders to implement one drug and alcohol testing program for what had been considered to this point two separate employing entities. The intent is to decrease operating costs by eliminating duplicate programs while ensuring no loss in safety.

• The Federal Acquisition Regulation (FAR) will be amended to implement policy guidance provided by Office of Management and Budget (OMB) in Memorandum M–12–16, dated July 11, 2012, Providing Prompt Payment to Small Business Subcontractors, to address the acceleration of payments to small business subcontractors.

The regulatory look back is not a one-time exercise. Regular reporting about recent progress and coming initiatives is required. The goal is to change the regulatory culture to ensure that rules on the books are reevaluated and are effective, cost-justified, and based on the best available science. By creating regulatory review teams at agencies, we will continue to examine what is working and what is not, and to eliminate unjustified and outdated regulations.

In addition to looking back at existing regulations, we are also focused on reducing unjustified reporting and paperwork burdens. In a June 22, 2012 Memorandum, ''Reducing Reporting and Paperwork Burdens,'' OIRA asked executive departments and agencies to implement Executive Order 13610, *Identifying and Reducing Regulatory Burdens,* by taking continuing steps to reassess regulatory requirements and, where appropriate, to streamline, improve, or eliminate those requirements. Agencies were asked to prioritize ''initiatives that will produce significant quantifiable monetary savings *or significant quantifiable reductions in paperwork burdens''* (emphasis added). Agencies were also asked to ''give special consideration to initiatives that would reduce unjustified regulatory burdens or simplify or harmonize regulatory requirements imposed on small businesses.'' In addition, Executive Order 13610 requires agencies to focus on ''cumulative burdens'' and to ''give priority to reforms that would make significant progress in reducing those burdens.'' Fundamentally, looking retrospectively to reduce existing burdens, while looking forward to ensure that future regulations are well-justified, will promote the nation's economic growth while continuing to protect the health and safety of the American people.

Agencies prioritized these reviews, including opportunities for measurable reductions in paperwork burdens, and are pursuing plans that include the following:

• The Department of Veterans Affairs (VA) is working to consolidate the application and renewal process for health benefits by eliminating the collection of financial information that is already collected by the Internal Revenue Service (IRS) and Social Security Administration (SSA). In addition to the re-use of data, the VA expects to improve the application by making it more adaptive to data provided by respondents and the information needed to make a determination for benefits. VA expects veterans to save thousands of hours and the Federal government to save millions of dollars from this improved process.

• The Federal Emergency Management Agency (FEMA) is progressing toward the implementation of an integrated agency-wide e-Grants online application that will be available to the public online. The system will simplify submission of grant program applications across FEMA by creating online forms. Fully integrating and automating these systems will improve efficiency and the effectiveness of FEMA operations to better serve the needs of internal and external stakeholders. Grantees are expected to save over 500,000 hours in paperwork burden per year.

OMB would also like to highlight Executive Order 13609, ''Promoting International Regulatory Cooperation,'' which was issued by President Obama in May 2012. The Executive Order emphasizes the importance of international regulatory cooperation as a key tool for eliminating unnecessary differences in regulation between the United States and its major trading partners which, in turn, supports economic growth, job creation, innovation, trade and investment, while also protecting public health, safety, and welfare. Among other things, the Executive Order provides that agencies that are required to submit a Regulatory Plan must ''include in that plan a summary of its international regulatory cooperation activities that are reasonably anticipated to lead to significant regulations, with an explanation of how these activities advance the purposes of Executive Order 13563'' and Executive Order 13609. Further, the Executive Order requires agencies to ''ensure that significant regulations that the agency identifies as having significant international impacts are designated as such'' in the Agenda. Additionally, as part of the regulatory lookback initiative, Executive Order 13609 requires agencies to ''consider reforms to existing significant regulations that address unnecessary differences in regulatory requirements between the United States and its major trading partners * * * when stakeholders provide adequate information to the agency establishing that the differences are unnecessary.''

OMB believes the implementation of Executive Order 13609 and 13610 will further strengthen the emphasis that Executive Order 13563 has placed on careful consideration of costs and benefits, public participation, integration and innovation, flexible approaches, and science. These requirements are meant to produce a regulatory system that draws on recent learning, that is driven by evidence, and that is suited to the distinctive circumstances of the twenty-first century.

DEPARTMENT OF AGRICULTURE

Sequence No.	Title	Regulation Identifier No.	Rulemaking Stage
1	National Organic Program, Origin of Livestock, NOP–11–0009	0581–AD08	Proposed Rule Stage.
2	National Organic Program, Streamlining Enforcement Related Actions	0581–AD09	Proposed Rule Stage.
3	Plant Pest Regulations; Update of General Provisions	0579–AC98	Proposed Rule Stage.
4	Importation of Live Dogs	0579–AD23	Final Rule Stage.
5	Animal Disease Traceability	0579–AD24	Final Rule Stage.
6	Animal Welfare; Retail Pet Stores	0579–AD57	Final Rule Stage.
7	Child Nutrition Program Integrity	0584–AE08	Proposed Rule Stage.
8	National School Lunch and School Breakfast Programs: Nutrition Standards for All Foods Sold in School, as Required by the Healthy, Hunger-Free Kids Act of 2010.	0584–AE09	Proposed Rule Stage.
9	Child Nutrition Programs: Professional Standards for School Food Service and State Child Nutrition Program Directors as Required by the Healthy, Hunger-Free Kids Act of 2010.	0584–AE19	Proposed Rule Stage.
10	SNAP: Immediate Payment Suspension for Fraudulent Retailer Activity	0584–AE22	Proposed Rule Stage.
11	Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Revisions in the WIC Food Packages.	0584–AD77	Final Rule Stage.
12	Eligibility, Certification, and Employment and Training Provisions of the Food, Conservation, and Energy Act of 2008.	0584–AD87	Final Rule Stage.
13	Supplemental Nutrition Assistance Program: Nutrition Education and Obesity Prevention Grant.	0584–AE07	Final Rule Stage.
14	Egg Products Inspection Regulations	0583–AC58	Proposed Rule Stage.
15	Product Labeling: Use of the Voluntary Claim "Natural" on the Labeling of Meat and Poultry Products.	0583–AD30	Proposed Rule Stage.
16	Descriptive Designation for Needle or Blade Tenderized (Mechanically Tenderized) Beef Products.	0583–AD45	Proposed Rule Stage.
17	Proposed Rule: Records to be Kept by Official Establishments and Retail Stores That Grind or Chop Raw Beef Products.	0583–AD46	Proposed Rule Stage.
18	Prior Labeling Approval System: Generic Label Approval	0583–AC59	Final Rule Stage.
19	Modernization of Poultry Slaughter Inspection	0583–AD32	Final Rule Stage.
20	Electronic Export Application and Certification as a Reimbursable Service and Flexibility in the Requirements for Official Export Inspection Marks, Devices, and Certificates.	0583–AD41	Final Rule Stage.

DEPARTMENT OF DEFENSE

Sequence No.	Title	Regulation Identifier No.	Rulemaking Stage
21	Service Academies	0790–AI19	Final Rule Stage.
22	Sexual Assault Prevention and Response Program Procedures	0790–AI36	Final Rule Stage.
23	Operational Contract Support	0790–AI48	Final Rule Stage.
24	Voluntary Education Programs	0790–AI50	Final Rule Stage.
25	Defense Industrial Base (DIB) Cyber Security/Information Assurance (CS/IA) Activities.	0790–AI60	Final Rule Stage.
26	Mission Compatibility Evaluation Process	0790–AI69	Final Rule Stage.
27	TRICARE; Reimbursement of Sole Community Hospitals	0720–AB41	Final Rule Stage.
28	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); TRICARE Young Adult.	0720–AB48	Final Rule Stage.

DEPARTMENT OF EDUCATION

Sequence No.	Title	Regulation Identifier No.	Rulemaking Stage
29	Transitioning from the FFEL Program to the Direct Loan Program and Loan Rehabilitation under the FFEL, Direct Loan, and Perkins Loan Programs.	1840–AD12	Proposed Rule Stage.

DEPARTMENT OF ENERGY

Sequence No.	Title	Regulation Identifier No.	Rulemaking Stage
30	Energy Conservation Standards for Walk-In Coolers and Walk-In Freezers	1904–AB86	Proposed Rule Stage.
31	Energy Efficiency Standards for Battery Chargers and External Power Supplies	1904–AB57	Final Rule Stage.
32	Energy Efficiency Standards for Distribution Transformers	1904–AC04	Final Rule Stage.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Sequence No.	Title	Regulation Identifier No.	Rulemaking Stage
33	Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Food for Animals.	0910–AG10	Proposed Rule Stage.
34	Produce Safety Regulation	0910–AG35	Proposed Rule Stage.
35	Hazard Analysis and Risk-Based Preventive Controls	0910–AG36	Proposed Rule Stage.
36	Foreign Supplier Verification Program	0910–AG64	Proposed Rule Stage.
37	Accreditation of Third Parties To Conduct Food Safety Audits and for Other Related Purposes.	0910–AG66	Proposed Rule Stage.
38	Revision of Postmarketing Reporting Requirements Discontinuance or Interruption in Supply of Certain Products (Drug Shortages).	0910–AG88	Proposed Rule Stage.
39	Unique Device Identification	0910–AG31	Final Rule Stage.
40	Food Labeling: Nutrition Labeling for Food Sold in Vending Machines	0910–AG56	Final Rule Stage.
41	Food Labeling: Nutrition Labeling of Standard Menu Items in Restaurants and Similar Retail Food Establishments.	0910–AG57	Final Rule Stage.
42	Patient Protection and Affordable Care Act; Standards Related to Essential Health Benefits, Actuarial Value, and Accreditation (CMS–9980–F).	0938–AR03	Proposed Rule Stage.
43	Part II—Regulatory Provisions To Promote Program Efficiency, Transparency, and Burden Reduction (CMS–3267–P).	0938–AR49	Proposed Rule Stage.
44	Notice of Benefit and Payment Parameters (CMS–9964–P)	0938–AR51	Proposed Rule Stage.
45	Changes to the Hospital Inpatient and Long-Term Care Prospective Payment System for FY 2014 (CMS–1599–P).	0938–AR53	Proposed Rule Stage.
46	Changes to the Hospital Outpatient Prospective Payment System and Ambulatory Surgical Center Payment System for CY 2014 (CMS–1601–P).	0938–AR54	Proposed Rule Stage.
47	Revisions to Payment Policies Under the Physician Fee Schedule and Medicare Part B for CY 2014 (CMS–1600–P).	0938–AR56	Proposed Rule Stage.
48	Prospective Payment System for Federally Qualified Health Centers (FQHCs) (CMS–1443–P).	0938–AR62	Proposed Rule Stage.
49	Child Care and Development Fund Reforms to Support Child Development and Working Families.	0970–AC53	Proposed Rule Stage.

DEPARTMENT OF HOMELAND SECURITY

Sequence No.	Title	Regulation Identifier No.	Rulemaking Stage
50	Asylum and Withholding Definitions	1615–AA41	Proposed Rule Stage.
51	Exception to the Persecution Bar for Asylum, Refugee, and Temporary Protected Status, and Withholding of Removal.	1615–AB89	Proposed Rule Stage.
52	Employment Authorization for Certain H–4 Dependent Spouses	1615–AB92	Proposed Rule Stage.
53	Enhancing Opportunities for High-Skilled H–1B1 and E–3 Nonimmigrants and EB–1 Immigrants.	1615–AC00	Proposed Rule Stage.
54	New Classification for Victims of Severe Forms of Trafficking in Persons; Eligibility for T Nonimmigrant Status.	1615–AA59	Final Rule Stage.
55	Adjustment of Status to Lawful Permanent Resident for Aliens in T and U Nonimmigrant Status.	1615–AA60	Final Rule Stage.
56	New Classification for Victims of Criminal Activity; Eligibility for the U Nonimmigrant Status.	1615–AA67	Final Rule Stage.
57	Provisional Unlawful Presence Waivers of Inadmissibility for Certain Immediate Relatives.	1615–AB99	Final Rule Stage.
58	Transportation Worker Identification Credential (TWIC); Card Reader Requirements.	1625–AB21	Proposed Rule Stage.
59	Implementation of the 1995 Amendments to the International Convention on Standards of Training, Certification, and Watchkeeping (STCW) for Seafarers, 1978.	1625–AA16	Final Rule Stage.
60	Vessel Requirements for Notices of Arrival and Departure, and Automatic Identification System.	1625–AA99	Final Rule Stage.
61	Offshore Supply Vessels of at Least 6000 GT ITC	1625–AB62	Final Rule Stage.
62	Changes to the Visa Waiver Program To Implement the Electronic System for Travel Authorization (ESTA) Program.	1651–AA72	Final Rule Stage.
63	Security Training for Surface Mode Employees	1652–AA55	Proposed Rule Stage.
64	Standardized Vetting, Adjudication, and Redress Services	1652–AA61	Proposed Rule Stage.
65	Passenger Screening Using Advanced Imaging Technology	1652–AA67	Proposed Rule Stage.
66	Aircraft Repair Station Security	1652–AA38	Final Rule Stage.
67	Adjustments to Limitations on Designated School Official Assignment and Study by F–2 and M–2 Nonimmigrants.	1653–AA63	Proposed Rule Stage.
68	Standards To Prevent, Detect and Respond to Sexual Abuse and Assault in Confinement Facilities.	1653–AA65	Proposed Rule Stage.

DEPARTMENT OF JUSTICE

Sequence No.	Title	Regulation Identifier No.	Rulemaking Stage
69	Implementation of the ADA Amendments Act of 2008 (Title II and Title III of the ADA).	1190–AA59	Proposed Rule Stage.
70	Implementation of the ADA Amendments Act of 2008 (Section 504 of the Rehabilitation Act of 1973).	1190–AA60	Proposed Rule Stage.
71	Nondiscrimination on the Basis of Disability; Movie Captioning and Video Description.	1190–AA63	Proposed Rule Stage.
72	Nondiscrimination on the Basis of Disability: Accessibility of Web Information and Services of State and Local Governments.	1190–AA65	Proposed Rule Stage.
73	Nondiscrimination on the Basis of Disability; Accessibility of Web Information and Services of Public Accommodations.	1190–AA61	Long-Term Actions.

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Sequence No.	Title	Regulation Identifier No.	Rulemaking Stage
74	Americans With Disabilities Act (ADA) Accessibility Guidelines for Passenger Vessels.	3014–AA11	Proposed Rule Stage.
75	Telecommunications Act Accessibility Guidelines; Electronic and Information Technology Accessibility Standards.	3014–AA37	Proposed Rule Stage.
76	Accessibility Standards for Medical Diagnostic Equipment	3014–AA40	Final Rule Stage.

ENVIRONMENTAL PROTECTION AGENCY

Sequence No.	Title	Regulation Identifier No.	Rulemaking Stage
77	Hydraulic Fracturing Chemicals; Chemical Information Reporting Under TSCA Section 8(a) and Health and Safety Data Reporting Under TSCA Section 8(d).	2070–AJ93	Prerule Stage.
78	Review of the National Ambient Air Quality Standards for Ozone	2060–AP38	Proposed Rule Stage.
79	Petroleum Refinery Sector Risk and Technology Review and NSPS	2060–AQ75	Proposed Rule Stage.
80	Control of Air Pollution From Motor Vehicles: Tier 3 Motor Vehicle Emission and Fuel Standards.	2060–AQ86	Proposed Rule Stage.
81	Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements.	2060–AR34	Proposed Rule Stage.
82	Petroleum Refinery Sector Amendment for Flares	2060–AR69	Proposed Rule Stage.
83	NPDES Electronic Reporting Rule	2020–AA47	Proposed Rule Stage.
84	Formaldehyde; Third-Party Certification Framework for the Formaldehyde Standards for Composite Wood Products.	2070–AJ44	Proposed Rule Stage.
85	Formaldehyde Emissions Standards for Composite Wood Products	2070–AJ92	Proposed Rule Stage.
86	Revisions to the National Oil and Hazardous Substances Pollution Contingency Plan; Subpart J Product Schedule Listing Requirements.	2050–AE87	Proposed Rule Stage.
87	Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category.	2040–AF14	Proposed Rule Stage.
88	National Primary Drinking Water Regulations for Lead and Copper: Regulatory Revisions.	2040–AF15	Proposed Rule Stage.
89	Clean Water Protection Rule	2040–AF30	Proposed Rule Stage.
90	Greenhouse Gas New Source Performance Standard for Electric Generating Units for New Sources.	2060–AQ91	Final Rule Stage.
91	Hazardous Waste Management Systems: Identification and Listing of Hazardous Waste: Carbon Dioxide (CO2) Streams in Geological Sequestration Activities.	2050–AG60	Final Rule Stage.
92	Rulemaking on the Definition of Solid Waste	2050–AG62	Final Rule Stage.
93	Criteria and Standards for Cooling Water Intake Structures	2040–AE95	Final Rule Stage.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Sequence No.	Title	Regulation Identifier No.	Rulemaking Stage
94	Revisions to Procedures for Complaints or Charges of Employment Discrimination Based on Disability Subject to the Americans With Disabilities Act and Section 504 of the Rehabilitation Act of 1973.	3046–AA91	Proposed Rule Stage.
95	Revisions to Procedures for Complaints/Charges of Employment Discrimination Based on Disability Filed Against Employers Holding Government Contracts or Subcontracts.	3046–AA92	Proposed Rule Stage.
96	Revisions to Procedures for Complaints of Employment Discrimination Filed Against Recipients of Federal Financial Assistance.	3046–AA93	Proposed Rule Stage.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION—Continued

Sequence No.	Title	Regulation Identifier No.	Rulemaking Stage
97	Revisions to the Federal Sector's Affirmative Employment Obligations of Individuals with Disabilities Under Section 501 of the Rehabilitation Act of 1973, as Amended.	3046–AA94	Proposed Rule Stage.

SMALL BUSINESS ADMINISTRATION

Sequence No.	Title	Regulation Identifier No.	Rulemaking Stage
98	504 and 7(a) Regulatory Enhancements	3245–AG04	Proposed Rule Stage.
99	Small Business Jobs Act: Small Business Mentor-Protégé Programs	3245–AG24	Proposed Rule Stage.
100	Small Business Technology Transfer (STTR) Policy Directive	3245–AF45	Final Rule Stage.
101	Small Business Innovation Research (SBIR) Program Policy Directive	3245–AF84	Final Rule Stage.
102	Acquisition Process: Task and Delivery Order Contracts, Bundling, Consolidation	3245–AG20	Final Rule Stage.

SOCIAL SECURITY ADMINISTRATION

Sequence No.	Title	Regulation Identifier No.	Rulemaking Stage
103	Revised Medical Criteria for Evaluating Neurological Impairments (806P)	0960–AF35	Proposed Rule Stage.
104	Revised Medical Criteria for Evaluating Respiratory System Disorders (859P)	0960–AF58	Proposed Rule Stage.
105	Revised Medical Criteria for Evaluating Hematological Disorders (974P)	0960–AF88	Proposed Rule Stage.
106	Revised Medical Criteria for Evaluating Genitourinary Disorders (3565P)	0960–AH03	Proposed Rule Stage.
107	Hearings by Video Teleconferencing (VTC) (3728P)	0960–AH37	Proposed Rule Stage.
108	Revised Medical Criteria for Evaluating Mental Disorders (886F)	0960–AF69	Final Rule Stage.
109	Revised Medical Criteria for Evaluating Congenital Disorders That Affect Multiple Body Systems (3566F).	0960–AH04	Final Rule Stage.
110	Amendments to Regulations Regarding Withdrawals of Applications and Voluntary Suspension of Benefits (3573F).	0960–AH07	Final Rule Stage.
111	Revised Medical Criteria for Evaluating Visual Disorders (3696F)	0960–AH28	Final Rule Stage.
112	Amendments to the Rules on Determining Hearing Appearances and to the Rules on Objecting to the Time and Place of the Hearing (3401F).	0960–AH40	Final Rule Stage.

NUCLEAR REGULATORY COMMISSION

Sequence No.	Title	Regulation Identifier No.	Rulemaking Stage
113	Medical Use of Byproduct Material—Amendments/Medical Event Definition [NRC–2008–0071].	3150–AI26	Proposed Rule Stage.
114	Fitness-for-Duty (HHS Requirements) [NRC–2009–0225]	3150–AI67	Proposed Rule Stage.
115	Disposal of Unique Waste Streams [NRC–2011–0012]	3150–AI92	Proposed Rule Stage.
116	Station Blackout Mitigation [NRC–2011–0299]	3150–AJ08	Proposed Rule Stage.
117	Revision of Fee Schedules: Fee Recovery for FY 2013 [NRC–2012–0211]	3150–AJ19	Proposed Rule Stage.
118	Physical Protection of Byproduct Material [NRC–2008–0120]	3150–AI12	Final Rule Stage.
119	Environmental Effect of Renewing the Operating License of a Nuclear Power Plant [NRC–2008–0608].	3150–AI42	Final Rule Stage.
120	Domestic Licensing of Source Material—Amendments/Integrated Safety Analysis [NRC–2009–0079].	3150–AI50	Final Rule Stage.
121	List of Approved Spent Fuel Storage Casks—Transnuclear, Inc., Standardized NUHOMS□ System, Revision 11 [NRC–2012–0020].	3150–AJ10	Final Rule Stage.
122	List of Approved Spent Fuel Storage Casks—Holtec International, HI–STORM 100, Revision 9 [NRC–2012–0052].	3150–AJ12	Final Rule Stage.

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DEPARTMENT OF AGRICULTURE (USDA)

Statement of Regulatory Priorities

In FY 2013, USDA's focus will continue to be on programs that create/save jobs, particularly in rural America, while identifying and taking action on those programs that could be modified, streamlined, and simplified; or reporting burdens reduced, particularly with the public's access to USDA programs. The 2008 Farm Bill covering major farm, trade, conservation, rural development, nutrition assistance and other programs expired at the end of fiscal year 2012 and is expected to be reauthorized in 2013. It is anticipated that a number of high priority regulations will be developed during 2013 to implement this legislation should it be enacted. USDA's regulatory efforts in the coming year will achieve the Department's goals identified in the Department's Strategic Plan for 2010–2015.

• *Assist rural communities to create prosperity so they are self-sustaining, re-populating, and economically thriving.* USDA is the leading advocate for rural America. The Department supports rural communities and enhances quality of life for rural residents by improving their economic opportunities, community infrastructure, environmental health, and the sustainability of agricultural production. The common goal is to help create thriving rural communities with good jobs where people want to live and raise families, and where children have economic opportunities and a bright future.

• *Ensure that all of America's children have access to safe, nutritious, and balanced meals.* A plentiful supply of safe and nutritious food is essential to the well-being of every family and the healthy development of every child in America. USDA provides nutrition assistance to children and low-income people who need it; and works to improve the healthy eating habits of all Americans, especially children. In addition, the Department safeguards the quality and wholesomeness of meat, poultry, and egg products; and addresses and prevents loss or damage from pests and disease outbreaks.

• *Ensure our national forests and private working lands are conserved, restored, and made more resilient to climate change, while enhancing our water resources.* America's prosperity is inextricably linked to the health of our lands and natural resources. Forests, farms, ranches, and grasslands offer enormous environmental benefits as a source of clean air, clean and abundant water, and wildlife habitat. These lands generate economic value by supporting the vital agriculture and forestry sectors, attracting tourism and recreational visitors, sustaining green jobs, and producing ecosystem services, food, fiber, timber and non-timber products. They are also of immense social importance, enhancing rural quality of life, sustaining scenic and culturally important landscapes, and providing opportunities to engage in outdoor activity and reconnect with the land.

• *Help America promote agricultural production and biotechnology exports as America works to increase food security.* A productive agricultural sector is critical to increasing global food security. For many crops, a substantial portion of domestic production is bound for overseas markets. USDA helps American farmers and ranchers use efficient, sustainable production, biotechnology, and other emergent technologies to enhance food security around the world and find export markets for their products.

Important regulatory activities supporting the accomplishment of these goals in 2013 will include the following:

• *Improving Access to Nutrition Assistance and Dietary Behaviors.* As changes are made to the nutrition assistance programs, USDA will work to ensure access to program benefits, improve program integrity, improve diets and healthy eating, and promote physical activity consistent with the national effort to reduce obesity. In support of these activities in 2013, the Food and Nutrition Service (FNS) plans to publish the proposed rule regarding the nutrition standards for foods sold in schools outside of the reimbursable meal programs; finalize a rule updating the WIC food packages, and establish permanent rules for the Fresh Fruit and Vegetable Program. FNS will continue to work to implement rules that minimize participant and vendor fraud in its nutrition assistance programs.

• *Strengthening Food Safety Inspection.* USDA will continue to develop science-based regulations that improve the safety of meat, poultry, and processed egg products in the least burdensome and most cost-effective manner. Regulations will be revised to address emerging food safety challenges, streamlined to remove excessively prescriptive regulations, and updated to be made consistent with hazard analysis and critical control point principles. In 2013, the Food Safety and Inspection Service (FSIS) plans to finalize regulations to establish new systems for poultry slaughter inspection, which would save money for establishments and taxpayers while improving food safety. Among other actions, USDA will provide export certificates through the use of technology, and define conditions under which the ''natural'' claim may be used on meat and poultry labeling. To assist small entities to comply with food safety requirements, FSIS will continue to collaborate with other USDA agencies and State partners in its small business outreach program.

• *Forestry and Conservation.* USDA plans to finalize regulations that would streamline the Natural Resources Conservation Service's (NRCS) financial assistance programs, which would make program participation easier for producers. USDA will update its EQIP participation requirements to allow limited resource producers with incomplete irrigation histories to participate in the program. Additionally, USDA will allow NRCS' State Conservationists to remove undue burdens on producers that have acted in good faith on incorrect program information provided by NRCS. USDA will also publish proposed Agency guidance for implementation of the Forest Service's 2012 Planning Rule. This guidance will provide the detailed monitoring, assessing, and documenting requirements that National Forests require to begin revising their land management plans under the 2012 Planning Rule (currently 70 of the 120 Forest Service's Land Management Plans are expired and in need of revision).

• *Making Marketing and Regulatory Programs More Effective.* USDA will continue to protect the health and value of U.S. agricultural and natural resources. USDA plans to continue work on implementing a national animal disease traceability system and anticipates revising the permitting of plant pests and biological control organisms. A national, effective animal disease traceability system will enhance our ability to respond to animal disease detections. Revising the plant pests and biological control organisms' regulations on permitting would facilitate the movement of regulated organisms and articles in a manner that also protects U.S. agriculture, and address gaps in the current regulations. For the Animal Welfare Act (AWA), USDA plans to finalize specific standards for the humane care of dogs imported for resale and the definition of a retail pet store. USDA will support the organic sector by updating the National List of Allowed and Prohibited Substances as advised by the National Organic Standards Board, streamlining organic regulatory enforcement actions, developing organic pet food standards, and proposing that all existing and replacement dairy animals from which milk or milk products are intended to be sold as organic must be managed organically from the last third of gestation.

• *Promoting Biobased Products.* USDA will continue to promote sustainable economic opportunities to create jobs in rural communities through the purchase and use of biobased products through the BioPreferred® program. USDA will continue to designate groups of biobased products to receive procurement preference from Federal agencies and contractors. BioPreferred® has made serious efforts to minimize burdens on small business by providing a standard mechanism for product testing, an online application process, and individual assistance for small manufacturers when needed. The Federal preferred procurement and the certified label parts of the program are voluntary; both are designed to assist

biobased businesses in securing additional sales.

Retrospective Review of Existing Regulations

Pursuant to section 6 of Executive Order 13563 ''Improving Regulation and Regulatory Review'' (Jan. 18, 2011), the following Regulatory Identifier Numbers (RINs) have been identified as associated with retrospective review and analysis in the Department's final retrospective review of regulations plan. Some of these entries on this list may be completed actions, which do not appear in The Regulatory Plan. However, more information can be found about these completed rulemakings in past publications of the Unified Agenda on Reginfo.gov in the Completed Actions section for that agency. These rulemakings can also be found on Regulations.gov. The final agency plan can be found at *http://www.usda.gov/wps/portal/usda/usdahome?navid=USDA_OPEN.*

RIN	Title	Significantly Reduce Burdens on Small Businesses
0583–AC59	Prior Labeling Approval System: Generic Label Approval	Yes.
0583–AD41	Electronic Export Application and Certification Fee	Yes.
0583–AD39	Electronic Import Inspection and Certification of Imported Products and Foreign Establishments	Yes.
0583–AD32	Modernization of Poultry Slaughter Inspection	Yes.
0570–AA76	Rural Energy America Program	Yes.
0575–AC91	Community Facilities Loan and Grants	Yes.
0596–AD01	National Environmental Policy Act Efficiencies	Yes.
0570–AA85	Business and Industry Loan Guaranteed Program	Yes.

Subsequent to EO 13563, and consistent with its goals as well as the importance of public participation, President Obama issued EO 13610 on Identifying and Reducing Regulatory Burdens in May 2012. EO 13610 directs agencies, in part, to give priority consideration to those initiatives that will produce costs savings or significant reductions in paperwork burdens. Accordingly, reducing the regulatory burden on the American people and our trading partners is a priority for USDA and we will continually work to improve the effectiveness of our existing regulations. As a result of our ongoing regulatory review and burden reduction efforts, USDA will make regulatory changes in 2013, including the following:

• *Increase Use of Generic Approval and Regulations Consolidation.* FSIS is finalizing a rule that will expand the circumstances in which the labels of meat and poultry products will be deemed to be generically approved by FSIS. The rule will reduce regulatory burden and generate taxpayer savings of $2.9 million over 10 years.

• *Implement Electronic Export Application for Meat and Poultry Products.* FSIS is finalizing a rule to provide exporters a fee-based option for transmitting U.S. certifications to foreign importers and governments electronically. Automating the export application and certification process will facilitate the export of U.S. meat, poultry, and egg products by streamlining the processes that are used while ensuring that foreign regulatory requirements are met.

• *Simplify FSA NEPA Compliance.* FSA will revise its regulations that implement the National Environmental Policy Act (NEPA) to update, improve, and clarify requirements. It will also remove obsolete provisions. Annual cost savings to FSA as a result of this rule could be $345,000 from conducting 314 fewer environmental assessments per year, while retaining strong environmental protection.

• *Streamline Forest Service NEPA Compliance.* The Forest Service (FS), in cooperation with the Council on Environmental Quality (CEQ), is promulgating rulemaking to establish three new Categorical Exclusions for simple restoration activities. These Categorical Exclusions will improve and streamline the NEPA process, and reduce the paperwork burden, as it applies to FS projects without reducing environmental protection.

• *Rural Energy for America Program (REAP).* Under REAP, Rural Development provides guaranteed loans and grants to support the purchase, construction, or retrofitting of a renewable energy system. This rulemaking will streamline the process for grants, lessening the burden to the customer. It will also make the guaranteed loan portion of the rule consistent with other programs RD manages. The rulemaking is expected to reduce the information collection burden.

• *Reduced Duplication in Farm Programs.* The Farm and Foreign Agricultural Services (FFAS) mission area will reduce the paperwork burden on program participants by consolidating the information collections required to participate in farm programs administered by FSA and the Federal crop insurance program administered by the Risk Management Agency (RMA). As a result, producers will be able to spend less time reporting information to USDA. Additionally, FSA and RMA will be better able to share information, thus improving operational efficiency. FFAS will evaluate methods to simplify and standardize, to the extent practical, acreage reporting processes, program dates, and data definitions across the various USDA programs and agencies. FFAS expects to allow producers to use information from their farm-management and precision agriculture systems for reporting production, planted and harvested acreage, and other key information needed to participate in USDA programs. FFAS will also streamline the collection of producer information by FSA and RMA with the agricultural production information collected by the National Agricultural Statistics Service. These process changes will allow for program data that is common across agencies to be collected once and utilized or redistributed to agency programs in which the producer chooses to participate. Full implementation of the Acreage and Crop Reporting Streamlining Initiative (ACRSI) is planned for 2013. When specific changes are identified, FSA and RMA will make any required conforming changes in their respective regulations.

• *Increased Use of Electronic Forms.* Increasingly, USDA is providing electronic alternatives to its traditionally paper-based customer transactions. As a result, customers increasingly have the option to electronically file forms and other documentation online, allowing them to choose when and where to conduct business with USDA. For example, Rural Development continues to review its regulations to determine which application procedures for Business

Programs, Community Facilities Programs, Energy Programs, and Water and Environmental Programs, can be streamlined and its requirements synchronized. RD is approaching the exercise from the perspective of the people it serves, by communicating with stakeholders on two common areas of regulation that can provide the basis of reform. The first area provides support for entrepreneurship and business innovation. This initiative would provide for the streamlining and reformulating of the Business & Industry Loan Guarantee Program and the Intermediary Relending Program; the first such overhauls in over 20 years. The second area would provide for streamlining programs being made available to municipalities, Indian tribes, and non-profit organizations, specifically Water and Waste Disposal; Community Facilities; and Rural Business Enterprise Grants plus programs such as Electric and Telecommunications loans that provide basic community needs. This regulatory reform initiative has the potential to significantly reduce the burden to respondents (lenders and borrowers). To the extent practicable, each reform initiative will consist of a common application and uniform documentation requirements making it easier for constituent groups to apply for multiple programs. In addition, there will be associated regulations for each program that will contain program specific information.

Promoting International Regulatory Cooperation Under EO 13609

President Obama issued EO 13609 on promoting international regulatory cooperation in May 2012. The EO charges the Regulatory Working Group, an interagency working group chaired by the Administrator of Office of Information and Regulatory Affairs (OIRA), with examining appropriate strategies and best practices for international regulatory cooperation. The EO also directs agencies to identify factors that should be taken into account when evaluating the effectiveness of regulatory approaches used by trading partners with whom the U.S. is engaged in regulatory cooperation. At this time, USDA is identifying international regulatory cooperation activities that are reasonably anticipated to lead to significant regulations, while working closely with the Administration to refine the guidelines implementing the EO. Apart from international regulatory cooperation, the Department has continued to identify regulations with international impacts, as it has done in the past. Such regulations are those that are expected to have international trade and investment effects, or otherwise may be of interest to our international trading partners. For example, FSIS is working with Canada's Treasury Board and Canadian Food Inspection Agency to facilitate the movement of meat, poultry, and egg products between the U.S. and Canada while still ensuring food safety. The effort may lead to a future proposed rule to revise FSIS's regulations regarding the importation of these products.

Major Regulatory Priorities

This following represents summary information on prospective priority regulations as called for in EO's 12866 and 13563:

Food and Nutrition Service

Mission: FNS increases food security and reduces hunger in partnership with cooperating organizations by providing children and low-income people access to food, a healthful diet, and nutrition education in a manner that supports American agriculture and inspires public confidence.

Priorities: In addition to responding to provisions of legislation authorizing and modifying Federal nutrition assistance programs, FNS's 2013 regulatory plan supports USDA's Strategic Goal to ''ensure that all of America's children have access to safe, nutritious and balanced meals,'' and its two related objectives:

• Increase Access to Nutritious Food. This objective represents FNS's efforts to improve nutrition by providing access to program benefits (food consumed at home, school meals, commodities) and distributing State administrative funds to support program operations. To advance this objective, FNS plans to publish a final rule from the 2008 Farm Bill addressing SNAP eligibility, certification, and employment and training issues. This rule also responds to the principles outlined in EO 13563 and responds to EO 13610 by eliminating the requirement for face-to-face interviews in the SNAP certification process, eliminating substantial burdens for SNAP clients and providing additional flexibility to State agencies that administer the program.

• Improve Program Integrity. FNS also plans to publish a number of rules to increase the efficiency and reduce the burden of program operations. Program integrity provisions will continue to be strengthened in the SNAP and Child Nutrition programs to ensure Federal taxpayer dollars are spent effectively.

• Promote Healthy Diet and Physical Activity Behaviors. This objective represents FNS's efforts to ensure that program benefits meet appropriate standards to effectively improve nutrition for program participants, to improve the diets of its clients through nutrition education, and to support the national effort to reduce obesity by promoting healthy eating and physical activity. In support of this objective, FNS plans to publish a proposed rule implementing Healthy, Hunger-Free Kids Act provisions setting nutrition standards for all foods sold in school, establishing professional standards for school food service and State child nutrition program directors, and establishing requirements for the SNAP Nutrition Education and Obesity Prevention Grant Program; and finalizing a rule updating food packages in WIC. FNS' goal is by 2015 to reduce child obesity from 16.9 percent to 15.5 percent, to double the proportion of adults consuming five or more servings of fruits and vegetables daily, and to increase breastfeeding rates.

Food Safety and Inspection Service

Mission: FSIS is responsible for ensuring that meat, poultry, and egg products in interstate and foreign commerce are wholesome, not adulterated, and properly marked, labeled, and packaged.

Priorities: FSIS is committed to developing and issuing science-based regulations intended to ensure that meat, poultry, and egg products are wholesome and not adulterated or misbranded. FSIS regulatory actions support the objective to protect public health by ensuring that food is safe under USDA's goal to ensure access to safe food. To reduce the number of foodborne illnesses and increase program efficiencies, FSIS will continue to review its existing authorities and regulations to ensure that it can address emerging food safety challenges, to streamline excessively prescriptive regulations, and to revise or remove regulations that are inconsistent with the FSIS' hazard analysis and critical control point (HACCP) regulations. FSIS is also working with the Food and Drug Administration (FDA) to improve coordination and increase the effectiveness of inspection activities. FSIS's priority initiatives are as follows:

• Poultry Slaughter Modernization. FSIS plans to issue a final rule to implement a new inspection system for young poultry slaughter establishments that would facilitate public health-based inspection. The rule would allow for more effective inspection of carcasses and allocation of agency resources, as well as encourage industry to more readily use new technology. It would

save money for businesses and taxpayers while improving food safety.

• ''Natural'' Claim. FSIS will propose to amend the meat and poultry products regulations to define the conditions under which the voluntary claim ''natural'' may be used on meat and poultry product labeling. Requests for a ''natural'' label approval would need to include documentation to demonstrate that the products meet the criteria to bear the claim. A codified ''natural'' claim definition will reduce uncertainty about which products qualify for the label and will increase consumer confidence in the claim.

• Public Health Information System. To support its food safety inspection activities, FSIS is continuing to implement the Public Health Information System (PHIS), a user-friendly and Web-based system that automates many of the Agency's business processes. PHIS also enables greater exchange of information between FSIS and other Federal agencies, such as U.S. Customs and Border Protection, involved in tracking cross-border movement of import and export shipments of meat, poultry, and processed egg products. To facilitate the implementation of some PHIS components, FSIS has proposed to provide for electronic export application and certification processes and will propose similar import processes as alternatives to current paper-based systems.

Retrospective Review of Regulations. FSIS will continue to review its regulations to determine how to improve information collection procedures and the quality and sufficiency of data available to support regulatory decision making, and how to decrease the recordkeeping burden on the industry.

In addition to the planned amendments to provide for electronic import and export application and certification, mentioned above, and in response to comments received on the request for information preparatory to the Department's regulatory review plan, FSIS is developing a final rule that will reduce regulatory burden by expanding the circumstances in which the labels of meat and poultry products will be deemed to be generically approved by FSIS.

• FSIS Small Business Implications. The great majority of businesses regulated by FSIS are small businesses. FSIS conducts a small business outreach program that provides critical training, access to food safety experts, and information resources, such as compliance guidance and questions and answers on various topics, in forms that are uniform, easily comprehended, and consistent. FSIS collaborates in this effort with other USDA agencies and cooperating State partners. For example, FSIS makes plant owners and operators aware of loan programs, available through USDA's Rural Business and Cooperative programs, to help them in upgrading their facilities. FSIS employees will meet with small and very small plant operators to learn more about their specific needs and explore how FSIS can tailor regulations to better meet the needs of small and very small establishments, while maintaining the highest level of food safety.

Animal and Plant Health Inspection Service

Mission: The Animal and Plant Health Inspection Service (APHIS) is a multi-faceted Agency with a broad mission area that includes protecting and promoting U.S. agricultural health, regulating genetically engineered organisms, administering the AWA and carrying out wildlife damage management activities.

Priorities: With regard to plant and animal health, APHIS is committed to developing and issuing science-based regulations intended to protect the health and value of American agricultural and natural resources. APHIS conducts programs to prevent the introduction of exotic pests and diseases into the United States and conducts surveillance, monitoring, control, and eradication programs for pests and diseases in this country. These activities enhance agricultural productivity and competitiveness and contribute to the national economy and the public health. APHIS also conducts programs to ensure the humane handling, care, treatment, and transportation of animals under the AWA. APHIS priority issues are as follows:

• Animal Disease Traceability. APHIS is continuing work to implement a robust national animal disease traceability system. This rulemaking would amend the regulations to establish minimum national official identification and documentation requirements for the traceability of livestock moving interstate. Continuing this work is expected to improve our ability to trace livestock in the event that disease is found.

• Bovine Spongiform Encephalopathy (BSE). APHIS is continuing work to revise its regulations concerning BSE to provide a more comprehensive and universally applicable framework for the importation of certain animals and products. APHIS believes that this work will continue to guard against the introduction of BSE into the United States.

• Update of Plant Pest Regulations. APHIS proposes to regulate the movement of not only plant pests, but also biological control organisms and associated articles. APHIS proposes risk-based criteria regarding the movement of biological control organisms, and proposes to establish regulations to allow the movement in interstate commerce of certain types of plant pests when appropriate. APHIS also proposes to revise regulations regarding the movement of soil and to establish regulations governing the biocontainment facilities in which plant pests, biological control organisms, and associated articles are held. This proposal would also clarify the factors that would be considered when assessing the risks associated with the movement of certain organisms. Finally, this proposal is expected to facilitate the movement of regulated organisms and articles in a manner that protects U.S. agriculture and address gaps in the current regulations.

• Retail Pet Stores. APHIS is continuing work to revise the definition of retail pet store and related regulations to bring more pet animals sold at retail under the protection of the AWA.

Agricultural Marketing Service

Mission: The Agricultural Marketing Service (AMS) provides marketing services to producers, manufacturers, distributors, importers, exporters, and consumers of food products. AMS also manages the government's food purchases, supervises food quality grading, maintains food quality standards, supervises the Federal research and promotion programs, and oversees the country of origin labeling program as well as the National Organic Program (NOP).

Priorities: AMS priority items for next year include rulemaking that affects the organic industry. These are:

• National List of Allowed and Prohibited Substances (National List). The agency will continue to follow the requirements of the Organic Food Production Act of 1990 by publishing rules to amend the National List based upon recommendations of the National Organic Standards Board (NOSB) and publish a rule to address substances due to sunset from the National List in 2013.

• Streamline Enforcement Actions for NOP. AMS would propose a regulation streamlining enforcement actions, by shortening the process by which AMS may initiate formal administrative proceedings for proposed suspensions or revocations of accreditation or certification.

• Organic Pet Food Standards. AMS would propose standards for organic pet food following recommendations of the NOSB.

• Organic Dairy Animals. AMS would propose a rule on the replacement of dairy animals which is intended to level the playing field by instituting the same requirements across all organic dairy producers, regardless of how they transitioned to organic production.

Farm Service Agency

Mission: FSA's mission is to deliver timely, effective programs and services to America's farmers and ranchers to support them in sustaining our Nation's vibrant agricultural economy, as well as to provide first-rate support for domestic and international food aid efforts. FSA supports USDA's strategic goals by stabilizing farm income, providing credit to new or existing farmers and ranchers who are temporarily unable to obtain credit from commercial sources, and helping farm operations recover from the effects of disaster. FSA administers several conservation programs directed toward agricultural producers. The largest program is the Conservation Reserve Program, which protects up to 32 million acres of environmentally sensitive land.

Priorities: FSA is focused on providing the best possible service to producers while protecting the environment by updating and streamlining environmental compliance and further strengthening Farm Loan Programs. Changes in the loan programs will better assist small farmers and socially disadvantaged farmers and will make loan servicing more efficient. FSA is also strengthening its ability to help the Nation respond to national defense emergencies. FSA's priority initiatives are as follows:

• Microloan Programs. FSA will implement a Microloan Program, which will help small and family operations progress through their start-up years with needed resources, while building capacity, increasing equity, and eventually graduating to commercial credit. The Microloan Program will improve the FSA Operating Loan Program to better meet the needs of small farmers. In addition, FSA will develop and issue regulations to amend programs for farm operating loans, down payment loans, and emergency loans to include socially disadvantaged farmers, increase loan limits, loan size, funding targets, interest rates, and graduating borrowers to commercial credit. In addition, FSA will further streamline normal loan servicing activities and reduce burden on borrowers while still protecting the loan security.

• Environmental Compliance (National Environmental Policy Act). FSA will revise its regulations that implement the National Environmental Policy Act. The changes improve the efficiency, transparency, and consistency of NEPA implementation. Changes include aligning the regulations to NEPA regulations and guidance from the President's Council on Environmental Quality; providing a single set of regulations that reflect the agency's current structure; clarifying the types of actions that require an Environmental Assessment (EA); and adding to the list of actions that are categorically excluded from further environmental review because they have no significant effect on the human environment.

• Agriculture Priorities and Allocations Systems (APAS). USDA was directed to develop APAS as part of a suite of rules that are being modeled after the Defense Priorities and Allocations System (DPAS). Under APAS, USDA would secure food and agriculture-related resources as part of preparing for, and responding to, national defense emergencies by placing priorities on orders or by using resource allocation authority. APAS is authorized by the Defense Production Act Reauthorization Act of 2009 (DPA). The authorities under DPA have already been implemented by the Department of Commerce (DOC) via memoranda of understanding with other Departments. The suite of DPA rules relieves DOC from implementation responsibility for items outside their jurisdiction and places these responsibilities with the relevant Departments.

Forest Service

Mission: The mission of the Forest Service is to sustain the health, productivity, and diversity of the Nation's forests and rangelands to meet the needs of present and future generations. This includes protecting and managing National Forest System lands, providing technical and financial assistance to States, communities, and private forest landowners, plus developing and providing scientific and technical assistance, and the exchange of scientific information to support international forest and range conservation. Forest Service regulatory priorities support the accomplishment of the Department's goal to ensure our National forests are conserved, restored, and made more resilient to climate change, while enhancing our water resources.

Priorities: FS is committed to developing and issuing science-based regulations intended to ensure public participation in the management of our Nation's National Forest, while also moving forward the FS' ability to plan and conduct restoration projects on National Forest System lands. FS will continue to review its existing authorities and regulations to ensure that it can address emerging challenges, to streamline excessively burdensome business practices, and to revise or remove regulations that are inconsistent with the USDA's vision for restoring the health and function of the lands it is charged with managing. FS' priority initiatives are as follows:

• Land Management Planning Rule Policy. The Forest Service promulgated a new Land Management Planning rule in April 2012. This rule streamlined the Forest Service's paperwork requirements but expanded the public participation requirements for revising National Forest's Land Management Plans. Having promulgated the 2012 Planning Rule, the Agency is planning to publish for comment the follow-up internal guidance on how to implement the new planning rule. These directives, once finalized, will enable National Forests to begin revising their management plans under the new rule.

• Ecological Restoration Policy. This policy would recognize the adaptive capacity of ecosystems, and includes the role of natural disturbances and uncertainty related to climate and other environmental change. The need for ecological restoration of National Forest System (NFS) lands is widely recognized, and the Forest Service has conducted restoration-related activities across many programs for decades. ''Restoration'' is a common way of describing much of the agency's work and the concept is threaded throughout existing authorities, program directives, and collaborative efforts such as the National Fire Plan 10-Year Comprehensive Strategy and Implementation Plan and the Healthy Forests Restoration Act. However, the agency did not have a definition of restoration established in policy. That was identified as a barrier to collaborating with the public and partners to plan and accomplish restoration work.

Rural Development

Mission: Rural Development (RD) promotes a dynamic business environment in rural America that creates jobs, community infrastructure, and housing opportunities in partnership with the private sector and community-based organizations by

providing financial assistance and business planning services, and supporting projects that create or preserve quality jobs and/or promote a clean rural environment, while focusing on the development of single and multi-family housing and community infrastructure. RD financial resources are often leveraged with those of other public and private credit source lenders to meet business and credit needs in under-served areas. Recipients of these programs may include individuals, corporations, partnerships, cooperatives, public bodies, nonprofit corporations, Indian tribes, and private companies.

Priorities: RD regulatory priorities will facilitate sustainable renewable energy development and enhance the opportunities necessary for rural families to thrive economically. RD's rules will minimize program complexity and the related burden on the public while enhancing program delivery and RBS oversight.

• Business and Industry (B&I) Guaranteed Loan Program. RD will enhance current operations of the B&I program, streamline existing practices, and minimize program complexity and the related burden on the public.

• Rural Energy for America Program (REAP). REAP will be revised to ensure a larger number of applicants will be made available by issuing smaller grants. By doing so, funding will be distributed evenly across the applicant pool and encourage greater development of renewable energy.

• Broadband Loans. RD will finalize the interim rule that implemented provisions of the 2008 Farm Bill that made credit more accessible for broadband providers serving rural areas. The key provisions of the regulation include modifications to rural areas, financial coverage ratios, defining broadband speed and the publication of an annual notice.

Departmental Management

Mission: Departmental Management's mission is to provide management leadership to ensure that USDA administrative programs, policies, advice and counsel meet the needs of USDA programs, consistent with laws and mandates, and provide safe and efficient facilities and services to customers.

Priorities

• USDA Procurement Reform: Department Management would incorporate in all moderate to large USDA contracts a new clause requiring the contractor to certify compliance with three specific labor laws, and to notify the contracting officer if it becomes aware of a violation of one of these laws. This would mitigate the risk of potentially awarding contracts to non-responsible entities and ensure that compliance with labor laws is factored into contracting decisions.

• BioPreferred® Program: In support of the Department's goal to increase prosperity in rural areas, USDA's Departmental Management will finalize regulations to revise the BioPreferred® program guidelines to continue adding designated product categories to the preferred procurement program, including intermediates and feedstocks and finished products made of intermediates and feedstocks.

Aggregate Costs and Benefits

USDA will ensure that its regulations provide benefits that exceed costs, but are unable to provide an estimate of the aggregated impacts of its regulations. Problems with aggregation arise due to differing baselines, data gaps, and inconsistencies in methodology and the type of regulatory costs and benefits considered. Some benefits and costs associated with rules listed in the regulatory plan cannot currently be quantified as the rules are still being formulated. For 2013, USDA's focus will be to implement the changes to programs in such a way as to provide benefits while minimizing program complexity and regulatory burden for program participants.

USDA—AGRICULTURAL MARKETING SERVICE (AMS)

1. National Organic Program, Origin of Livestock, NOP–11–0009

Proposed Rule Stage

Priority: Other Significant.
Legal Authority: 7 U.S.C. 6501
CFR Citation: 7 CFR part 205.
Legal Deadline: None.
Abstract: The current regulations provide two tracks for replacing dairy animals which are tied to how dairy farmers transition to organic production. Farmers who transition an entire distinct herd must thereafter replace dairy animals with livestock that has been under organic management from the last third of gestation. Farmers who do not transition an entire distinct herd may perpetually obtain replacement animals that have been managed organically for 12 months prior to marketing milk or milk products as organic. The proposed action would eliminate the two track system and require that upon transition, all existing and replacement dairy animals from which milk or milk products are intended to be sold, labeled or represented as organic, must be managed organically from the last third of gestation.

Statement of Need: This action is being taken because of concerns raised by various parties, including the National Organic Standards Board (NOSB), about the dual tracks for dairy replacement animals. The organic community argues that the ''two track system'' encourages producers to sell their organic young stock and replace them with animals converted from conventional production. The organic community points out that with this continual state of transitioning, animals treated with and fed prohibited substances, prior to conversion, are constantly entering organic agriculture. Some producers have taken this route because it is cheaper and easier to convert or purchase converted animals than to raise organic young stock. As a result, this continual state of transition has discouraged development of a viable organic market for young dairy stock. The organic community has expressed that this is contrary to the intent of organic and the expectations of organic dairy product consumers. These concerns are ultimately rooted in a discrepancy between the regulatory intent and interpretation whereby some organic dairy producers are required to manage/obtain animals that have been raised organically since the last third of gestation, while other producers may continually obtain replacement animals from conventional production, which have been managed organically for 12 months. The proposed action would level the playing field by instituting the same requirements across all producers, regardless of their transition approach.

Summary of Legal Basis: The National Organic Program regulations stipulate the requirements for dairy replacement animals in section 205.236(a)(2) Origin of Livestock. In addition, in response to the final ruling in the 2005 case, Harvey v. Johanns, the USDA committed to rulemaking to address the concerns about dairy replacement animals.

Alternatives: The program considered initiating the rulemaking with an ANPR. It was determined that there is sufficient awareness of the expectations of the organic community to proceed with a proposed rule. As alternatives, we considered the status quo, however, this would continue the disparity between producers who can continually transition conventional dairy animals into organic production and producers who must source dairy animals that are organic from the last third of gestation. Based on the information available, this

disparity appears to create a barrier to the development of an organic heifer market. We also considered an action that would restrict the source of breeder stock and movement of breeder stock after they are brought onto an organic operation, however, this would minimize the flexibility of producers to purchase breeder stock from any source as specified under the Organic Foods Production Act.

Anticipated Cost and Benefits: Organic producers who routinely convert conventional dairy livestock to organic will either need to find a source to procure organic replacement animals, or begin to raise replacement animals within their operation. The costs associated with compliance have not been quantified, however, the comments to the proposed rule will provide a basis for those estimates. Organic operations that converted a whole-herd to organic status and do not convert conventional animals for replacements will be able to readily comply with the rule and may find new market opportunities for organic replacement dairy livestock.

Risks: Continuation of the two-track system jeopardizes the viability of the market for organic heifers. A potential risk associated with the rulemaking would be a temporary supply shortage of dairy replacement animals due to the increased demand.

Timetable:

Action	Date	FR Cite
NPRM	06/00/13	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: None.

Agency Contact: Melissa R Bailey, Director, Standards Division, Department of Agriculture, Agricultural Marketing Service, 14th & Independence Avenue SW., Rm. 2646–South Building, Washington, DC 20250, *Phone:* 202 720–3252, *Fax:* 202 205–7808, *Email: melissa.bailey@usda.gov.*

RIN: 0581–AD08

USDA—AMS

2. National Organic Program, Streamlining Enforcement Related Actions

Priority: Other Significant.

Legal Authority: 7 U.S.C. 6501

CFR Citation: 7 CFR part 205.

Legal Deadline: None.

Abstract: This rulemaking would amend sections of the NOP regulations which pertain to the adverse action appeals process. It would require the Agency to initiate formal administrative proceedings for proposed suspensions or revocations of accreditation or certification issued by the NOP. Under the current NOP regulations, a formal administrative proceeding is initiated following the decision of the Administrator to deny an appeal. This rulemaking would omit the step of appealing to the Administrator when NOP has initiated the adverse action. This action also would amend the NOP regulations to require appellants who want to further contest a decision of the Administrator to deny an appeal to request a hearing. Under the current regulations, the formal administrative proceeding is initiated by default upon issuance of the Administrator's denial.

Also, this rulemaking would add clarifying language concerning mediation and stipulations entered into by the NOP, as well as correct the address to which appeals are submitted.

Statement of Need: The March 2010 Office of Inspector General (OIG) audit of the NOP, raised issues related to the program's progress for imposing enforcement actions. One concern was that organic producers and handlers facing revocation or suspension of their certification are able to market their products as organic during what can be a lengthy appeals process. As a result, AMS expects to publish a proposed rule in FY2013 to revise language in section 205.681 of the NOP regulations, which pertains to adverse action appeals. It is expected that this rule will streamline the NOP appeals process such that appeals are reviewed and responded to in a more timely manner.

Summary of Legal Basis: The Organic Foods Production Act of 1990 (OFPA), 7 U.S.C. section 6501 *et seq.,* requires that the Secretary establish an expedited administrative appeals procedure for appealing an action of the Secretary or certifying agent (section 6520). The NOP regulations describe how appeals of proposed adverse action concerning certification and accreditation are initiated and further contested (sections 205.680, 205.681).

Alternatives: The program considered maintaining the status quo and hiring additional support for the NOP Appeals Team. This rulemaking was determined to be preferable because it will reduce redundancy in the appeals process, where an appellant can more quickly appeal the Administrator's decision to an Administrative Law Judge.

Anticipated Cost and Benefits: This action will affect certified operations and accredited certifying agents. The primary impact is expected to be expedited enforcement action, which may benefit the organic community through deterrence and increase consumer confidence in the organic label. It is not expected to have a significant cost burden upon affected entities beyond any monetary penalty or suspension or revocation of certification or accreditation, to which these entities are already subject to under current regulations.

RISKS: None have been identified.

Risks: None.

Timetable:

Action	Date	FR Cite
NPRM	06/00/13	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: None.

Agency Contact: Melissa R Bailey, Director, Standards Division, Department of Agriculture, Agricultural Marketing Service, 14th & Independence Avenue SW., Rm. 2646–South Building, Washington, DC 20250, *Phone:* 202 720–3252, *Fax:* 202 205–7808, *Email: melissa.bailey@usda.gov.*

RIN: 0581–AD09

USDA—ANIMAL AND PLANT HEALTH INSPECTION SERVICE (APHIS)

Proposed Rule Stage

3. Plant Pest Regulations; Update of General Provisions

Priority: Other Significant.

Legal Authority: 7 U.S.C. 450; 7 U.S.C. 2260; 7 U.S.C. 7701 to 7772; 7 U.S.C. 7781 to 7786; 7 U.S.C. 8301 to 8817; 19 U.S.C. 136; 21 U.S.C. 111; 21 U.S.C. 114a; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332

CFR Citation: 7 CFR parts 318 and 319; 7 CFR part 330; 7 CFR part 352.

Legal Deadline: None.

Abstract: We are proposing to revise our regulations regarding the movement of plant pests. We are proposing to regulate the movement of not only plant pests, but also biological control organisms and associated articles. We are proposing risk-based criteria regarding the movement of biological control organisms, and are proposing to establish regulations to allow the movement in interstate commerce of certain types of plant pests without restriction by granting exceptions from permitting requirements for those pests. We are also proposing to revise our regulations regarding the movement of soil and to establish regulations governing the biocontainment facilities in which plant pests, biological control organisms, and associated articles are held. This proposed rule replaces a previously published proposed rule,

which we are withdrawing as part of this document. This proposal would clarify the factors that would be considered when assessing the risks associated with the movement of certain organisms, facilitate the movement of regulated organisms and articles in a manner that also protects U.S. agriculture, and address gaps in the current regulations.

Statement of Need: APHIS is preparing a proposed rule to revise its regulations regarding the movement of plant pests. The revised regulations would address the importation and interstate movement of plant pests, biological control organisms, and associated articles, and the release into the environment of biological control organisms. The revision would also address the movement of soil and establish regulations governing the biocontainment facilities in which plant pests, biological control organisms, and associated articles are held. This proposal would clarify the factors that would be considered when assessing the risks associated with the movement of certain organisms, facilitate the movement of regulated organisms and articles in a manner that also protects U.S. agriculture, and address gaps in the current regulations.

Summary of Legal Basis: Under section 411(a) of the Plant Protection Act (PPA), no person shall import, enter, export, or move in interstate commerce any plant pest, unless the importation, entry, exportation, or movement is authorized under a general or specific permit and in accordance with such regulations as the Secretary of Agriculture may issue to prevent the introduction of plant pests into the United States or the dissemination of plant pests within the United States.

Under section 412 of the PPA, the Secretary may restrict the importation or movement in interstate commerce of biological control organisms by requiring the organisms to be accompanied by a permit authorizing such movement and by subjecting the organisms to quarantine conditions or other remedial measures deemed necessary to prevent the spread of plant pests or noxious weeds. That same section of the PPA also gives the Secretary explicit authority to regulate the movement of associated articles.

Alternatives: The alternatives we considered were taking no action at this time or implementing a comprehensive risk reduction plan. This latter alternative would be characterized as a broad risk mitigation strategy that could involve various options such as increased inspection, regulations specific to a certain organism or group of related organisms, or extensive biocontainment requirements.

We decided against the first alternative because leaving the regulations unchanged would not address the needs identified immediately above. We decided against the latter alternative, because available scientific information, personnel, and resources suggest that it would be impracticable at this time.

Anticipated Cost and Benefits: To be determined.

Risks: Unless we issue such a proposal, the regulations will not provide a clear protocol for obtaining permits that authorize the movement and environmental release of biological control organisms. This, in turn, could impede research to explore biological control options for various plant pests and noxious weeds known to exist within the United States, and could indirectly lead to the further dissemination of such pests and weeds.

Moreover, unless we revise the soil regulations, certain provisions in the regulations will not adequately address the risk to plants, plant parts, and plant products within the United States that such soil might present.

Timetable:

Action	Date	FR Cite
Notice of Intent To Prepare an Environmental Impact Statement.	10/20/09	74 FR 53673
Notice Comment Period End.	11/19/09	
NPRM	04/00/13	
NPRM Comment Period End.	06/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses, Organizations.

Government Levels Affected: Local, State, Tribal.

International Impacts: This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

Additional Information: Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov*.

Agency Contact: Shirley Wager-Page, Chief, Pest Permitting Branch, Plant Health Programs, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 131, Riverdale, MD 20737–1236, Phone: 301 851–2323.

RIN: 0579–AC98

USDA—APHIS

Final Rule Stage

4. Importation of Live Dogs

Priority: Other Significant.

Legal Authority: 7 U.S.C. 2148.

CFR Citation: 9 CFR parts 1 and 2.

Legal Deadline: None.

Abstract: We are amending the regulations to implement an amendment to the Animal Welfare Act (AWA). The Food, Conservation, and Energy Act of 2008 added a new section to the AWA to restrict the importation of certain live dogs. Consistent with this amendment, this rule prohibits the importation of dogs, with limited exceptions, from any part of the world into the continental United States or Hawaii for purposes of resale, research, or veterinary treatment, unless the dogs are in good health, have received all necessary vaccinations, and are at least 6 months of age. This action is necessary to implement the amendment to the AWA and will help to ensure the welfare of imported dogs.

Statement of Need: The Food, Conservation, and Energy Act of 2008 mandates that the Secretary of Agriculture promulgate regulations to implement and enforce new provisions of the Animal Welfare Act (AWA) regarding the importation of dogs for resale. In line with the changes to the AWA, APHIS intends to amend the regulations in 9 CFR parts 1 and 2 to regulate the importation of dogs for resale.

Summary of Legal Basis: The Food, Conservation, and Energy Act of 2008 (Pub. L. 110–246, signed into law on June 18, 2008) added a new section to the Animal Welfare Act (7 U.S.C. 2147) to restrict the importation of live dogs for resale. As amended, the AWA now prohibits the importation of dogs into the United States for resale unless the Secretary of Agriculture determines that the dogs are in good health, have received all necessary vaccinations, and are at least 6 months of age. Exceptions are provided for dogs imported for research purposes or veterinary treatment. An exception to the 6-month age requirement is also provided for dogs that are lawfully imported into Hawaii for resale purposes from the British Isles, Australia, Guam, or New Zealand in compliance with the applicable regulations of Hawaii, provided the dogs are vaccinated, are in good health, and are not transported out of Hawaii for resale purposes at less than 6 months of age.

Alternatives: To be identified.

Anticipated Cost and Benefits: To be determined.

Risks: Not applicable.

Timetable:

Action	Date	FR Cite
NPRM	09/01/11	76 FR 54392
NPRM Comment Period End.	10/31/11	
Final Rule	04/00/13	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: None.

Additional Information: Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov*.

Agency Contact: Gerald Rushin, Veterinary Medical Officer, Animal Care, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 84, Riverdale, MD 20737–1231, *Phone:* 301 851–3735.

RIN: 0579–AD23

USDA—APHIS

5. Animal Disease Traceability

Priority: Other Significant.

Legal Authority: 7 U.S.C. 8305

CFR Citation: 9 CFR part 86.

Legal Deadline: None.

Abstract: This rulemaking will amend the regulations to establish minimum national official identification and documentation requirements for the traceability of livestock moving interstate. The purpose of this rulemaking is to improve our ability to trace livestock in the event that disease is found.

Statement of Need: Preventing and controlling animal disease is the cornerstone of protecting American animal agriculture. While ranchers and farmers work hard to protect their animals and their livelihoods, there is never a guarantee that their animals will be spared from disease. To support their efforts, USDA has enacted regulations to prevent, control, and eradicate disease, and to increase foreign and domestic confidence in the safety of animals and animal products. Traceability helps give that reassurance. Traceability does not prevent disease, but knowing where diseased and at-risk animals are, where they have been, and when, is indispensable in emergency response and in ongoing disease programs. The primary objective of these proposed regulations is to improve our ability to trace livestock in the event that disease is found in a manner that continues to ensure the smooth flow of livestock in interstate commerce.

Summary of Legal Basis: Under the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*), the Secretary of Agriculture may prohibit or restrict the interstate movement of any animal to prevent the introduction or dissemination of any pest or disease of livestock, and may carry out operations and measures to detect, control, or eradicate any pest or disease of livestock. The Secretary may promulgate such regulations as may be necessary to carry out the Act.

Alternatives: As part of its ongoing efforts to safeguard animal health, APHIS initiated implementation of the National Animal Identification System (NAIS) in 2004. More recently, the Agency launched an effort to assess the level of acceptance of NAIS through meetings with the Secretary, listening sessions in 14 cities, and public comments. Although there was some support for NAIS, the vast majority of participants were highly critical of the program and of USDA's implementation efforts. The feedback revealed that NAIS has become a barrier to achieving meaningful animal disease traceability in the United States in partnership with America's producers.

The option we are proposing pertains strictly to interstate movement and gives States and tribes the flexibility to identify and implement the traceability approaches that work best for them.

Anticipated Cost and Benefits: A workable and effective animal traceability system would enhance animal health programs, leading to more secure market access and other societal gains. Traceability can reduce the cost of disease outbreaks, minimizing losses to producers and industries by enabling current and previous locations of potentially exposed animals to be readily identified. Trade benefits can include increased competitiveness in global markets generally, and when outbreaks do occur, the mitigation of export market losses through regionalization. Markets benefit through more efficient and timely epidemiological investigation of animal health issues.

Other societal benefits include improved animal welfare during natural disasters.

The main economic effect of the rule is expected to be on the beef and cattle industry. For other species such as horses and other equine species, poultry, sheep and goats, swine, and captive cervids, APHIS would largely maintain and build on the identification requirements of existing disease program regulations.

Costs of an animal traceability system would include those for tags and interstate certificates of veterinary inspection (ICVIs) or other movement documentation, for animals moved interstate. Incremental costs incurred are expected to vary depending upon a number of factors, including whether an enterprise does or does not already use eartags to identify individual cattle. For many operators, costs of official animal identification and ICVIs would be similar, respectively, to costs associated with current animal identification practices and the in-shipment documentation currently required by individual States. To the extent that official animal identification and ICVIs would simply replace current requirements, the incremental costs of the rule for private enterprises would be minimal.

Risks: This rulemaking is being undertaken to address the animal health risks posed by gaps in the existing regulations concerning identification of livestock being moved interstate. The current lack of a comprehensive animal traceability program is impairing our ability to trace animals that may be infected with disease.

Timetable:

Action	Date	FR Cite
NPRM	08/11/11	76 FR 50082
NPRM Comment Period End.	11/09/11	
Final Rule	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: State, Tribal.

Federalism: This action may have federalism implications as defined in EO 13132.

Additional Information: Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov*.

Agency Contact: Neil Hammerschmidt, Program Manager, Animal Disease Traceability, VS, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 46, Riverdale, MD 20737–1231, *Phone:* 301 851–3539.

RIN: 0579–AD24

USDA—APHIS

6. Animal Welfare; Retail Pet Stores

Priority: Other Significant.

Legal Authority: 7 U.S.C. 2131 to 2159

CFR Citation: 9 CFR parts 1 and 2.

Legal Deadline: None.

Abstract: This rulemaking will revise the definition of retail pet store and related regulations to bring more pet

animals sold at retail under the protection of the Animal Welfare Act (AWA). Retail pet stores are not required to be licensed and inspected under the AWA. This rulemaking is necessary to ensure that animals sold at retail are monitored for their health and humane treatment.

Statement of Need: ''Retail pet stores'' are not required to obtain a license under the Animal Welfare Act (AWA) or comply with the AWA regulations and standards. Currently, anyone selling, at retail, the following animals for use as pets are considered retail pet stores: Dogs, cats, rabbits, guinea pigs, hamsters, gerbils, rats, mice, gophers, chinchilla, domestic ferrets, domestic farm animals, birds, and cold-blooded species. This rulemaking would rescind the ''retail pet store'' status of anyone selling, at retail for use as pets, those types of animals to buyers who do not physically enter his or her place of business or residence in order to personally observe the animals available for sale prior to purchase and/or to take custody of the animals after purchase. Unless otherwise exempt under the regulations, these entities would be required to obtain a license from APHIS and would become subject to the AWA regulations and standards.

Summary of Legal Basis: Under the Animal Welfare Act (AWA or the Act, 7 U.S.C. 2131 *et seq.*), the Secretary of Agriculture is authorized to promulgate standards and other requirements governing the humane handling, care, treatment, and transportation of certain animals by dealers, research facilities, exhibitors, operators of auction sales, and carriers and intermediate handlers. The Secretary has delegated responsibility for administering the AWA to the Administrator of APHIS.

Alternatives: We recognize that retailers who sell some animals to walk-in customers and some animals remotely may be subject to a certain degree of oversight by the customers who enter their place of business or residence. As a result, we considered establishing a regulatory threshold based on the percentage of such a retailer's remote sales. A second alternative we considered in preparing the proposed rule was to add an exception from licensing for retailers that are subject to oversight by State or local agencies or by breed and registry organizations that enforce standards of welfare comparable to those standards established under the AWA. A third alternative we considered during the development of the proposed rule was to amend the definition of retail pet store so that only high-volume breeders would be subject to the AWA regulations and standards. We determined, however, that the proposed action would be preferable to these alternatives.

Anticipated Cost and Benefits: Although we have attempted to estimate the impact of the proposed rule, we did not initially have enough information to fully assess it, particularly information on the number of entities that may be affected or breadth of operational changes that may result. In the proposed rule, we encouraged public comment on the number of entities that may be affected and the degree to which operations would be altered to comply with the rule. We believe that the benefits of the rule—primarily enhanced animal welfare—would justify the costs. The rule would help ensure that animals sold at retail, but lacking public oversight receive humane handling, care and treatment in keeping with the requirements of the AWA. It would also address the competitive disadvantage of retail breeders who adhere to the AWA regulations, when compared to those retailers who do not operate their facilities according to AWA standards and may therefore bear lower costs. These benefits are not quantified.

Risks: Not applicable.

Timetable:

Action	Date	FR Cite
NPRM	05/16/12	77 FR 28799
NPRM Comment Period End.	07/16/12	
NPRM Comment Period Extended.	07/16/12	77 FR 41716
NPRM Comment Period End.	08/15/12	
Final Rule	02/00/13	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: None.

Additional Information: Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov*.

Agency Contact: Gerald Rushin, Veterinary Medical Officer, Animal Care, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 84, Riverdale, MD 20737–1231, *Phone:* 301 851–3735.

RIN: 0579–AD57

USDA—FOOD AND NUTRITION SERVICE (FNS)

Proposed Rule Stage

7. Child Nutrition Program Integrity

Priority: Other Significant.

Unfunded Mandates: Undetermined.

Legal Authority: Pub. L. 111–296

CFR Citation: Not Yet Determined.

Legal Deadline: None.

Abstract: This rule proposes to codify three provisions of the Healthy, Hunger-Free Kids Act of 2010 (the Act). Section 303 of the Act requires the Secretary to establish criteria for imposing fines against schools, school food authorities, or State agencies that fail to correct severe mismanagement of the program, fail to correct repeat violations of program requirements, or disregard a program requirement of which they had been informed. Section 322 of the Act requires the Secretary to establish procedures for the termination and disqualification of organizations participating in the Summer Food Service Program (SFSP). Section 362 of the Act requires that any school, institution, service institution, facility, or individual that has been terminated from any program authorized under the Richard B. Russell National School Lunch Act or the Child Nutrition Act of 1966, and appears on either the SFSP or the Child and Adult Care Food Program's (CACFP's) disqualified list, may not be approved to participate in or administer any other programs authorized under those two Acts.

Statement of Need: There are currently no regulations imposing fines on schools, school food authorities or State agencies for program violations and mismanagement. This rule will (1) establish criteria for imposing fines against schools, school food authorities or State agencies that fail to correct severe mismanagement of the program or repeated violations of program requirements; (2) establish procedures for the termination and disqualification of organizations participating in the Summer Food Service Program (SFSP); and (3) require that any school, institutions, or individual that has been terminated from any Federal Child Nutrition Program and appears on either the SFSP or the Child and Adult Care Food Program's (CACFP's) disqualified list may not be approved to participate in or administer any other Child Nutrition Program.

Summary of Legal Basis: This rule codifies Sections 303, 322, and 362 of the Healthy, Hunger-Free Kids Act of 2010 (Pub. L. 111–296).

Alternatives: None identified; this rule implements statutory requirements.

Anticipated Cost and Benefits: This rule is expected to help promote program integrity in all of the child nutrition programs. FNS anticipates that these provisions will have no significant costs and no major increase in regulatory burden to States.

Risks: None identified.
Timetable:

Action	Date	FR Cite
NPRM	04/00/13	
NPRM Comment Period End.	06/00/13	

Regulatory Flexibility Analysis Required: Undetermined.
Government Levels Affected: Undetermined.
Federalism: Undetermined.
Agency Contact: James F Herbert, Regulatory Review Specialist, Department of Agriculture, Food and Nutrition Service, 10th Floor, 3101 Park Center Drive, Alexandria, VA 22302, *Phone:* 703 305–2572, *Email: james.herbert@fns.usda.gov.*
RIN: 0584–AE08

USDA—FNS

8. National School Lunch and School Breakfast Programs: Nutrition Standards for All Foods Sold in School, as Required by the Healthy, Hunger-Free Kids Act of 2010

Priority: Economically Significant.
Unfunded Mandates: Undetermined.
Legal Authority: Pub. L. 111–296
CFR Citation: 7 CFR part 210; 7 CFR part 220.
Legal Deadline: None.
Abstract: This proposed rule would codify the two provisions of the Healthy, Hunger-Free Kids Act (Pub. L. 111–296; the Act) under 7 CFR parts 210 and 220.

Section 203 requires schools participating in the National School Lunch Program to make available to children free of charge, as nutritionally appropriate, potable water for consumption in the place where meals are served during meal service.

Section 208 requires the Secretary to promulgate proposed regulations to establish science-based nutrition standards for all foods sold in schools not later than December 13, 2011. The nutrition standards would apply to all food sold outside the school meal programs, on the school campus, and at any time during the school day.

Statement of Need: This proposed rule would codify the following provisions of the Healthy, Hunger-Free Kids Act (Pub. L. 111–296; the Act) as appropriate, under 7 CFR parts 210 and 220.

Section 203 requires schools participating in the National School Lunch Program to make available to children free of charge, as nutritionally appropriate, potable water for consumption in the place where meals are served during meal service.

Section 208 requires the Secretary to promulgate proposed regulations to establish science-based nutrition standards for all foods sold in schools not later than December 13, 2011. The nutrition standards would apply to all food sold outside the school meal programs, on the school campus, and at any time during the school day.

Summary of Legal Basis: There is no existing regulatory requirement to make water available where meals are served. Regulations at 7 CFR parts 210.11 direct State agencies and school food authorities to establish regulations necessary to control the sale of foods in competition with lunches served under the NSLP, and prohibit the sale of foods of minimal nutritional value in the food service areas during the lunch periods. The sale of other competitive foods may, at the discretion of the State agency and school food authority, be allowed in the food service area during the lunch period only if all income from the sale of such foods accrues to the benefit of the nonprofit school food service or the school or student organizations approved by the school. State agencies and school food authorities may impose additional restrictions on the sale of and income from all foods sold at any time throughout schools participating in the Program.

Alternatives: None.

Anticipated Cost and Benefits: Expected Costs Analysis and Budgetary Effects Statement: The Congressional Budget Office determined these provisions would incur no Federal costs.

Expected Benefits of the Proposed Action

The provisions in this proposed rulemaking would result in better nutrition for all school children.

Risks: None known.
Timetable:

Action	Date	FR Cite
NPRM	04/00/13	
NPRM Comment Period End.	06/00/13	

Regulatory Flexibility Analysis Required: Yes.
Small Entities Affected: Governmental Jurisdictions.
Government Levels Affected: Local, State.
Agency Contact: James F. Herbert, Regulatory Review Specialist, Department of Agriculture, Food and Nutrition Service, 10th Floor, 3101 Park Center Drive, Alexandria, VA 22302, *Phone:* 703 305–2572, *Email: james.herbert@fns.usda.gov.*
RIN: 0584–AE09

USDA—FNS

9. Child Nutrition Programs: Professional Standards for School Food Service and State Child Nutrition Program Directors as Required by the Healthy, Hunger-Free Kids Act of 2010

Priority: Other Significant.
Unfunded Mandates: Undetermined.
Legal Authority: Pub. L. 111–296
CFR Citation: 7 CFR part 210; 7 CFR part 220.
Legal Deadline: None.
Abstract: This proposed rule would codify section 306 of the Healthy, Hunger-Free Kids Act (Pub. L. 111–296; the Act) under 7 CFR parts 210 and 220 which requires the Secretary to establish a program of required education, training, and certification for all school food service directors responsible for the management of a school food authority; and criteria and standards for States to use in the selection of State agency directors with responsibility for the school lunch program and the school breakfast program.

Statement of Need: The Healthy, Hunger-Free Kids Act of 2010 requires USDA to establish a program of required education, training, and certification for all school food service directors responsible for the management of a school food authority, as well as criteria and standards for States to use in the selection of State agency directors with responsibility for the school lunch program and the school breakfast program. The Act also requires each State to provide at least annual training in administrative practices to local education agency and school food service personnel.

Summary of Legal Basis: This proposed rule would codify section 306 of the Healthy, Hunger-Free Kids Act of 2010 (Pub. L. 111–296).

Alternatives: Because this proposed rule is under development, alternatives are not yet articulated.

Anticipated Cost and Benefits: This rule is expected to establish consistent required education and professional standards for school food service and state agency directors; and education, training and certification of food service personnel. Consistent standards should help strengthen program integrity and quality. The Act provides a small amount ($5 million in the first year, $1 million annually thereafter) to establish and manage the training and certification programs. USDA

anticipates that the rule will have no significant cost and no major increase in regulatory burden to States.

Risks: None identified.

Timetable:

Action	Date	FR Cite
NPRM	03/00/13	
NPRM Comment Period End.	05/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Local, State.

Agency Contact: James F. Herbert, Regulatory Review Specialist, Department of Agriculture, Food and Nutrition Service, 10th Floor, 3101 Park Center Drive, Alexandria, VA 22302, *Phone:* 703 305–2572, *Email: james.herbert@fns.usda.gov.*

RIN: 0584–AE19

USDA—FNS

10. SNAP: Immediate Payment Suspension for Fraudulent Retailer Activity

Priority: Other Significant.

Unfunded Mandates: Undetermined.

Legal Authority: Pub. L. 111–246

CFR Citation: Not Yet Determined.

Legal Deadline: None.

Abstract: This rule proposes to implement part of section 4132 of the Food, Conservation and Energy Act of 2008 (Pub. L. 110–246) by authorizing the Food and Nutrition Service (FNS) to suspend the payment of redeemed program benefits to a suspected retail food store or wholesale food concern pending administrative action to disqualify the firm.

Statement of Need: Under current rules, some firms authorized to redeem SNAP benefits conduct substantial trafficking or other fraudulent SNAP activity in a short period of time, flee with the fraudulently-obtained funds, and ultimately appreciate large profits from this before USDA is able to complete a formal investigation. The ability to withhold some revenues from such violators would depreciate their profits and may discourage this illegal activity.

Summary of Legal Basis: This rule codifies part of section 4132 of the Food, Conservation and Energy Act of 2008 (Pub. L. 110–246).

Alternatives: Because this proposed rule is under development, alternatives are not yet articulated.

Anticipated Cost and Benefits: This rule will improve SNAP integrity by allowing USDA to take appropriate action against retailers who commit fraud. The Department does not anticipate that this provision will have a significant cost impact.

Risks: Suspension of funds for firms suspected of flagrant program violations runs a small risk that firms that are ultimately found not to have trafficked will temporarily lose the use of these funds. USDA anticipates that this provision will only affect a small subset of firms charged with trafficking, and that the small risk of inappropriate suspensions far outweighs the much larger risk of permitting a firm to profit from trafficking in SNAP benefits while a decision is made on its case.

Timetable:

Action	Date	FR Cite
NPRM	12/00/12	
NPRM Comment Period End.	02/00/13	
Final Action	07/00/13	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Undetermined.

Federalism: Undetermined.

Agency Contact: James F. Herbert, Regulatory Review Specialist, Department of Agriculture, Food and Nutrition Service, 10th Floor, 3101 Park Center Drive, Alexandria, VA 22302, *Phone:* 703 305–2572, *Email: james.herbert@fns.usda.gov.*

RIN: 0584–AE22

USDA—FNS

Final Rule Stage

11. Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Revisions in the WIC Food Packages

Priority: Other Significant. Major status under 5 U.S.C. 801 is undetermined.

Legal Authority: 42 U.S.C. 1786

CFR Citation: 7 CFR part 246.

Legal Deadline: None.

Abstract: This final rule will affirm and address comments from stakeholders on an interim final rule that went into effect October 1, 2009, governing WIC food packages to align them more closely with updated nutrition science.

Statement of Need: As the population served by WIC has grown and become more diverse over the past 20 years, the nutritional risks faced by participants have changed, and though nutrition science has advanced, the WIC supplemental food packages remained largely unchanged until FY 2010. This rule is needed to respond to comments and experience, and to implement recommended changes to the WIC food packages based on the current nutritional needs of WIC participants and advances in nutrition science.

Summary of Legal Basis: The Child Nutrition and WIC Reauthorization Act of 2004, enacted on June 30, 2004, requires the Department to issue a final rule within 18 months of receiving the Institute of Medicine's report on revisions to the WIC food packages. This report was published and released to the public on April 27, 2005.

Alternatives: FNS developed a regulatory impact analysis that addressed a variety of alternatives that were considered in the interim final rulemaking. The regulatory impact analysis was published as an appendix to the interim rule.

Anticipated Cost and Benefits: The regulatory impact analysis for this rule provided a reasonable estimate of the anticipated effects of the rule. This analysis estimated that the provisions of the rule would have a minimal impact on the costs of overall operations of the WIC Program over 5 years. The regulatory impact analysis was published as an appendix to the interim rule.

Risks: This rule applies to WIC State agencies with respect to their selection of foods to be included on their food lists. As a result, vendors will be indirectly affected and the food industry will realize increased sales of some foods and decreases in other foods, with an overall neutral effect on sales nationally. The rule may have an indirect economic affect on certain small businesses because they may have to carry a larger variety of certain foods to be eligible for authorization as a WIC vendor. With the high degree of State flexibility allowable under this final rule, small vendors will be impacted differently in each State depending upon how that State chooses to meet the new requirements. It is, therefore, not feasible to accurately estimate the rule's impact on small vendors. Since neither FNS nor the State agencies regulate food producers under the WIC Program, it is not known how many small entities within that industry may be indirectly affected by the rule. FNS has, however, modified the new food provision in an effort to mitigate the impact on small entities. This rule adds new food items, such as fruits and vegetables and whole grain breads, which may require some WIC vendors, particularly smaller stores, to expand the types and quantities of food items stocked in order

to maintain their WIC authorization. In addition, vendors also have to make available more than one food type from each WIC food category, except for the categories of peanut butter and eggs, which may be a change for some vendors. To mitigate the impact of the fruit and vegetable requirement, the rule allows canned, frozen, and dried fruits and vegetables to be substituted for fresh produce. Opportunities for training on and discussion of the revised WIC food packages will be offered to State agencies and other entities as necessary.

Timetable:

Action	Date	FR Cite
NPRM	08/07/06	71 FR 44784
NPRM Comment Period End.	11/06/06	
Interim Final Rule	12/06/07	72 FR 68966
Interim Final Rule Effective.	02/04/08	
Interim Final Rule Comment Period End.	02/01/10	
Final Action	04/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Businesses, Governmental Jurisdictions.

Government Levels Affected: Federal, Local, State, Tribal.

URL For More Information: www.fns.usda.gov/wic.

URL For Public Comments: www.fns.usda.gov/wic.

Agency Contact: James F. Herbert, Regulatory Review Specialist, Department of Agriculture, Food and Nutrition Service, 10th Floor, 3101 Park Center Drive, Alexandria, VA 22302, *Phone:* 703 305–2572, *Email: james.herbert@fns.usda.gov.*

RIN: 0584–AD77

USDA—FNS

12. Eligibility, Certification, and Employment and Training Provisions of the Food, Conservation, and Energy Act of 2008

Priority: Economically Significant. Major under 5 U.S.C. 801.

Legal Authority: Pub. L. 110–246; Pub. L. 104–121

CFR Citation: 7 CFR part 273.

Legal Deadline: None.

Abstract: This final rule amends the regulations governing the Supplemental Nutrition Assistance Program (SNAP) to implement provisions from the Food, Conservation, and Energy Act of 2008 (Pub. L. 110–246) (FCEA) concerning the eligibility and certification of SNAP applicants and participants and SNAP employment and training.

Statement of Need: This rule amends the regulations governing SNAP to implement provisions from the FCEA concerning the eligibility and certification of SNAP applicants and participants and SNAP employment and training. In addition, this rule revises the SNAP regulations throughout 7 CFR part 273 to change the program name from the Food Stamp Program to SNAP and to make other nomenclature changes as mandated by the FCEA. The statutory effective date of these provisions was October 1, 2008. FNS is also implementing two discretionary revisions to SNAP regulations to provide State agencies options that are currently available only through waivers. These provisions allow State agencies to average student work hours and to provide telephone interviews in lieu of face-to-face interviews. FNS anticipates that this rule will impact the associated paperwork burdens.

Summary of Legal Basis: Food, Conservation, and Energy Act of 2008 (Pub. L. 110–246).

Alternatives: Most aspects of the rule are non-discretionary and tied to explicit, specific requirements for SNAP in the FCEA. However, FNS did consider alternatives in implementing section 4103 of the FCEA, Elimination of Dependent Care Deduction Caps. FNS considered whether to limit deductible expenses to costs paid directly to the care provider or whether to permit households to deduct other expenses associated with dependent care in addition to the direct costs. FNS chose to allow households to deduct the cost of transportation to and from the dependent care provider and the cost of separately identified activity fees that are associated with dependent care. Section 4103 signaled an important shift in congressional recognition that dependent care costs constitute major expenses for working households. In addition, it was noted during the floor discussion in both houses of Congress prior to passage of the FCEA that some States already counted transportation costs as part of dependent care expenditures.

Anticipated Cost and Benefits: The estimated total SNAP costs to the Government of the FCEA provisions implemented in the rule are estimated to be $831 million in FY 2010 and $5.619 billion over the 5 years FY 2010 through FY 2014. These impacts are already incorporated into the President's budget baseline.

There are many potential societal benefits of this rule. Some provisions may make some households newly eligible for SNAP benefits. Other provisions may increase SNAP benefits for certain households. Certain provisions in the rule will reduce the administrative burden for households and State agencies.

Risks: The statutory changes and discretionary ones under consideration would streamline program operations. The changes are expected to reduce the risk of inefficient operations.

Timetable:

Action	Date	FR Cite
NPRM	05/04/11	76 FR 25414
NPRM Comment Period End.	07/05/11	
Final Rule	06/00/13	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: Local, State.

Agency Contact: James F. Herbert, Regulatory Review Specialist, Department of Agriculture, Food and Nutrition Service, 10th Floor, 3101 Park Center Drive, Alexandria, VA 22302, *Phone:* 703 305–2572, *Email: james.herbert@fns.usda.gov.*

RIN: 0584–AD87

USDA—FNS

13. Supplemental Nutrition Assistance Program: Nutrition Education and Obesity Prevention Grant

Priority: Economically Significant. Major under 5 U.S.C. 801.

Legal Authority: Pub. L. 111–296

CFR Citation: 7 CFR part 272.

Legal Deadline: Final, Statutory, January 1, 2012, Public Law 111–296.

A legal deadline of 01/01/2012 was placed on this action by Public Law 111–296.

Abstract: Section 241 of the Healthy, Hunger-Free Kids Act of 2010 amends the Food and Nutrition Act of 2008 to authorize grants to States for a nutrition education and obesity prevention program that promotes healthy food choices consistent with the most recent Dietary Guidelines for Americans.

Statement of Need: The Nutrition Education and Obesity Prevention Grant Program rule amends the Food and Nutrition Act of 2008 to replace the current nutrition education program under the Act with a program providing grants to States for the implementation of a nutrition education and obesity prevention program that promotes healthy food choices consistent with the most recent Dietary Guidelines for Americans. This rule will implement all requirements of the law. It makes

eligible for program participation: (1) Supplemental Nutrition Assistance Program (SNAP) participants; (2) participants in the school lunch or breakfast programs; and (3) individuals who reside in low-income communities or are low-income individuals. The rule continues commitment to serving low-income populations while focusing on the issue of obesity, a priority of this Administration. It ensures that interventions implemented as part of State nutrition education plans recognize the constrained resources of the eligible population.

The rule requires activities be science-based and outcome-driven and provides for accountability and transparency through State plans. It will require coordination and collaboration among Federal agencies and stakeholders, including the Centers for Disease Control and Prevention, the public health community, the academic and research communities, nutrition education practitioners, representatives of State and local governments, and community organizations that serve the low-income populations. The rule allows for 100 percent Federal funding, and States will not have to provide matching funds. The grant funding will be based on 2009 expenditures. For 3 years after enactment, States will receive grant funds based on their level of funds expended for the 2009 base year with funds indexed for inflation thereafter. The new funding structure is phased in over a 7-year period. From fiscal year 2014 forward, funds will be allocated based on a formula that considers participation.

Summary of Legal Basis: Section 241, Healthy, Hunger-Free Kids Act of 2010 (Pub. L. 111–296).

Alternatives: None.

Anticipated Cost and Benefits: Expected Costs Analysis and Budgetary Effects Statement: The action allows for 100 percent Federal funding which gives States more flexibility to target services where they can be most effective without the constraints of a State match. For 3 years after enactment, States will receive grant funds based on their level of funds expended for the 2009 base year with funds indexed for inflation thereafter. The new funding structure is phased in over a 7-year period. From fiscal year 2014 forward, funds will be allocated based on a formula that considers participation.

Expected Benefits of the Proposed Action: This regulatory action seeks to improve the effectiveness of the program and make it easier for the States to administer, while still allowing funding to grow. It allows for 100 percent Federal funding, which gives States more flexibility to target services where they can be most effective without the constraints of a State match. It allows grantees to adopt individual and group-based nutrition education, as well as community and public health approaches. It allows coordinated services to be provided to participants in all the Federal food assistance programs and to other low-income persons.

Risks: None known.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/00/13	
Interim Final Rule Comment Period End.	03/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: State.

Agency Contact: James F. Herbert, Regulatory Review Specialist, Department of Agriculture, Food and Nutrition Service, 10th Floor, 3101 Park Center Drive, Alexandria, VA 22302, *Phone:* 703 305–2572, *Email: james.herbert@fns.usda.gov*.

RIN: 0584–AE07

USDA—FOOD SAFETY AND INSPECTION SERVICE (FSIS)

Proposed Rule Stage

14. Egg Products Inspection Regulations

Priority: Economically Significant. Major under 5 U.S.C. 801.

Unfunded Mandates: Undetermined.

Legal Authority: 21 U.S.C. 1031 to 1056

CFR Citation: 9 CFR 590.570; 9 CFR 590.575; 9 CFR 590.146; 9 CFR 590.10; 9 CFR 590.411; 9 CFR 590.502; 9 CFR 590.504; 9 CFR 590.580; 9 CFR part 591; * * *

Legal Deadline: None.

Abstract: The Food Safety and Inspection Service (FSIS) is proposing to require egg products plants and establishments that pasteurize shell eggs to develop and implement Hazard Analysis and Critical Control Points (HACCP) systems and sanitation SOPs. FSIS is also proposing pathogen reduction performance standards that would be applicable to egg products and pasteurized shell eggs. FSIS is proposing to amend the Federal egg products inspection regulations by removing current requirements for prior approval by FSIS of egg products plant drawings, specifications, and equipment prior to their use in official plants.

Statement of Need: The actions being proposed are part of FSIS' regulatory reform effort to improve FSIS' shell egg products food safety regulations, better define the roles of Government and the regulated industry, encourage innovations that will improve food safety, remove unnecessary regulatory burdens on inspected egg products plants, and make the egg products regulations as consistent as possible with the Agency's meat and poultry products regulations. FSIS also is taking these actions in light of changing inspection priorities and recent findings of Salmonella in pasteurized egg products.

This proposal is directly related to FSIS' PR/HACCP initiative.

Summary of Legal Basis: 21 U.S.C. 1031 to 1056.

Alternatives: A team of FSIS economists and food technologists is conducting a cost-benefit analysis to evaluate the potential economic impacts of several alternatives on the public, egg products industry, and FSIS. These alternatives include: (1) Taking no regulatory action; (2) Requiring all inspected egg products plants to develop, adopt, and implement written sanitation SOPs and HACCP plans; and (3) Converting to a lethality-based pathogen reduction performance standard many of the current highly prescriptive egg products processing requirements. The team will consider the effects of the uniform; across-the-board standard for all egg products; a performance standard based on the relative risk of different classes of egg products; and a performance standard based on the relative risks to public health of different production processes.

Anticipated Cost and Benefits: FSIS is analyzing the potential costs of this proposed rulemaking to industry, FSIS, and other Federal agencies, State and local governments, small entities, and foreign countries. The expected costs to industry will depend on a number of factors. These costs include the required lethality, or level of pathogen reduction, and the cost of HACCP plan and sanitation SOP development, implementation, and associated employee training. The pathogen reduction costs will depend on the amount of reduction sought and on the classes of product, product formulations, or processes.

Relative enforcement costs to FSIS and Food and Drug Administration may change because the two Agencies share responsibility for inspection and oversight of the egg industry and a farm-to-table approach for shell egg and egg products food safety. Other Federal

agencies and local governments are not likely to be affected.

Egg product inspection systems of foreign countries wishing to export egg products to the U.S. must be equivalent to the U.S. system. FSIS will consult with these countries, as needed, if and when this proposal becomes effective.

This proposal is not likely to have a significant impact on small entities. The entities that would be directly affected by this proposal would be the approximately 80 federally inspected egg products plants, most of which are small businesses, according to the Small Business Administration criteria. If necessary, FSIS will develop compliance guides to assist these small firms in implementing the proposed requirements.

Potential benefits associated with this rulemaking include: Improvements in human health due to pathogen reduction; improved utilization of FSIS inspection program resources; and cost savings resulting from the flexibility of egg products plants in achieving a lethality-based pathogen reduction performance standard. Once specific alternatives are identified, economic analysis will identify the quantitative and qualitative benefits associated with each alternative.

Human health benefits from this rulemaking are likely to be small because of the low level of (chiefly post-processing) contamination of pasteurized egg products.

The preliminary anticipated annualized costs of the proposed action are approximately $7 million. The preliminary anticipated benefits of the proposed action are approximately $90 million per year.

Risks: FSIS believes that this regulatory action may result in a further reduction in the risks associated with egg products. The development of a lethality-based pathogen reduction performance standard for egg products, replacing command-and-control regulations, will remove unnecessary regulatory obstacles to, and provide incentives for, innovation to improve the safety of egg products.

To assess the potential risk-reduction impacts of this rulemaking on the public, an intra-Agency group of scientific and technical experts is conducting a risk management analysis. The group has been charged with identifying the lethality requirement sufficient to ensure the safety of egg products and the alternative methods for implementing the requirement. FSIS has developed new risk assessments for Salmonella Enteritidis in eggs and for Salmonella app. In liquid egg products to evaluate the risk associated with the regulatory alternatives.

Timetable:

Action	Date	FR Cite
NPRM	09/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Businesses.

Government Levels Affected: None.

Agency Contact: Victoria Levine, Program Analyst, Policy Issuances Division, Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW., Washington, DC 20250, *Phone:* 202 720–5627, *Fax:* 202 690–0486, *Email: victoria.levine@fsis.usda.gov*.

RIN: 0583–AC58

USDA—FSIS

15. Product Labeling: Use of the Voluntary Claim ''Natural'' on the Labeling of Meat and Poultry Products

Priority: Other Significant.

Legal Authority: 21 U.S.C. 601 *et seq.;* 21 U.S.C. 451 *et seq.*

CFR Citation: 9 CFR part 317; 9 CFR part 381.

Legal Deadline: None.

Abstract: The Food Safety and Inspection Service (FSIS) is proposing to amend the Federal meat and poultry products inspection regulations to define the conditions under which it will permit the voluntary claim ''natural'' to be used in the labeling of meat and poultry products. FSIS is also proposing that label approval requests for labels that contain ''natural'' claims include documentation to demonstrate that the products meet the criteria to bear a ''natural'' claim. FSIS is proposing to require that meat or poultry products meet these conditions to qualify for a ''natural'' claim to make the claim more meaningful to consumers.

Statement of Need: A codified ''natural'' claim definition will reduce uncertainty about which products qualify to be labeled as ''natural'' and will increase consumer confidence in the claim. A codified ''natural'' definition that clearly articulates the criteria that meat and poultry products must meet to qualify to be labeled as ''natural'' will make the Agency's approval of ''natural'' claims more transparent and will allow the Agency to review labels that contain ''natural'' claims in a more efficient and consistent manner. A codified ''natural'' definition will also make the claim more meaningful to consumers.

Summary of Legal Basis: 21 U.S.C. 601 *et seq.;* 21 U.S.C. 451 *et seq.*

Alternatives: The Agency has considered not proceeding with rulemaking and maintaining the existing policy guidance on ''natural'' claims and using that policy guidance to evaluate ''natural'' claims on a case-by-case basis. The Agency has also considered alternative definitions of ''natural'' and establishing separate codified definitions of ''natural,'' ''natural * * * minimally processed,'' and ''natural * * * minimally processed/all natural ingredients.''

Anticipated Cost and Benefits: FSIS anticipates that a clear and simple definition of ''natural'' will minimize cognitive costs to consumers. FSIS also anticipates benefits from a consistent USDA policy on ''natural'' claims. FSIS anticipates costs to establishments to change their labels or change their production practices.

Risks: None.

Timetable:

Action	Date	FR Cite
ANPRM	09/14/09	74 FR 46951
ANPRM Comment Period End.	11/13/09	
NPRM	09/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Businesses.

Government Levels Affected: None.

Agency Contact: Rosalyn Murphy-Jenkins, Director, Labeling and Program Delivery Division, Department of Agriculture, Food Safety and Inspection Service, Patriots Plaza 3, 8th Floor, Room 8–148, Stop 5273, 1400 Independence Avenue SW., Washington, DC 20250–5273, *Phone:* 301 504–0878, *Fax:* 301 504–0872, *Email: rosalyn.murphy-jenkins@fsis.usda.gov*.

RIN: 0583–AD30

USDA—FSIS

16. Descriptive Designation for Needle or Blade Tenderized (Mechanically Tenderized) Beef Products

Priority: Other Significant.

Legal Authority: 21 U.S.C. 453 and 21 U.S.C. 601

CFR Citation: 9 CFR 317.8; 9 CFR 381.129.

Legal Deadline: None.

Abstract: FSIS is proposing to require the use of the descriptive designation ''mechanically tenderized'' on the labels of raw or partially cooked needle or blade tenderized beef products, including beef products injected with

marinade or solution, unless such products are destined to be fully cooked at an official establishment. Beef products that have been needle or blade tenderized are referred to as ''mechanically tenderized'' products. FSIS is proposing that the product name for such beef products include the descriptive designation ''mechanically tenderized'' and accurate description of the beef component. FSIS is also proposing that the print for all words in the descriptive designation as the product name appear in the same style, color, and size and on a single-color contrasting background. In addition, FSIS is proposing to require that labels of raw and partially cooked needle or blade tenderized beef products destined for household consumers, hotels, restaurants, or similar institutions include validated cooking instructions that inform consumers that these products need to be cooked to a specified minimum internal temperature, and whether they need to be held at that minimum internal temperature for a specified time before consumption, i.e., dwell time or rest time, to ensure that they are thoroughly cooked.

Statement of Need: FSIS has concluded that without proper labeling, raw or partially cooked mechanically tenderized beef products could be mistakenly perceived by consumers to be whole, intact muscle cuts. The fact that a cut of beef has been needle or blade tenderized is a characterizing feature of the product and, as such, a material fact that is likely to affect consumers' purchase decisions and that should affect their preparation of the product. FSIS has also concluded that the addition of validated cooking instruction is required to ensure that potential pathogens throughout the product are destroyed. Without thorough cooking, pathogens that may have been introduced to the interior of the product during the tenderization process may remain in the product.

Summary of Legal Basis: 21 U.S.C. 601 to 695; 21 U.S.C. 451 to 470.

Alternatives: As an alternative to the proposed requirements, FSIS considered not proposing new requirements for needle or blade tenderized beef products. A second alternative was for the Agency to propose to amend the labeling regulations to include a new requirement for labeling all mechanically tenderized meat and poultry products.

Anticipated Cost and Benefits: Benefits:

Benefits are both qualitative and quantifiable. The proposed new labeling requirements will improve public awareness of product identities, meaning that it will provide truthful and accurate labeling of beef products to clearly differentiate the non-intact, mechanically tenderized beef products from intact products. Since needle or blade tenderized beef products are not readily distinguishable from non-tenderized beef products, the descriptive designation of ''mechanically tenderized'' on the labels of these products will inform the consumers of the true nature of the product when deciding whether to purchase the products. Additionally, the knowledge of knowing that these products are mechanically tenderized will help consumers, official establishments, and retail establishments become aware that they need to cook these products differently from intact products before they can be safely consumed.

Costs: FSIS estimated that 32,130 labels are for beef product. Assuming 10.5 percent of the 32,130 labels are for products that are mechanically tenderized, then 3,374 labels will be required to add ''mechanically tenderized'' to their labels in accordance with this proposed rule. If we include the labels that are for beef product that are mechanically tenderized and contain added solutions, then we would assume that an additional, 5,077 labels will be required to add ''mechanically tenderized'' to their labels. From the 2011 Model to Estimate Costs of Using Labeling as a Risk Reduction Strategy for Consumer Products Regulated by the Food and Drug Administration, a minor labeling change was defined as one in which only one color is affected and the label does not need to be redesigned. FSIS concluded that the change that is required by this propose rule is minor. The mid-point label design modification costs for a minor coordinated label change are an estimated $310 per label. In the case of a coordinated label change, only administrative and recordkeeping costs are attributed to the regulation, and all other costs are not. FSIS estimates the cost to be $1.05 million (3,374 labels × $310) for mechanically tenderized only. For all products that are mechanically tenderized and contain added solutions, the cost is estimated to be $2.6 million. Establishments would also incur minimal costs to validate the required cooking instructions for raw and partially cooked needle or blade tenderized beef products. These costs would be incurred to ensure that the cooking instructions are adequate to destroy any potential pathogens that may remain in the beef product after being tenderized.

Risks: In 2011, FSIS conducted a Comparative Risk Assessment for Intact and Non-intact Beef. The comparative risk assessment was conducted to determine the difference in risk between different types of steak products and to examine the effect of different cooking practices on reducing human illness. This comparative risk assessment informed this rule. The risk assessment looked at the comparative effects of cooking at 140, 150, 160, and 165 degrees Fahrenheit. In its risk assessment, FSIS estimated the annual E. coli O157:H7 illnesses prevented from achieving various internal temperatures. From the risk assessment it was estimated that between 191 and 239 illnesses would be prevented annually, if mechanically tenderized meat were cooked to 160 degrees. Using the FSIS average cost per case for E. coli O157:H7 of $3,281, the propose rule would save approximately $627,000 to $784,000.

Timetable:

Action	Date	FR Cite
NPRM	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

Agency Contact: Rosalyn Murphy-Jenkins, Director, Labeling and Program Delivery Division, Department of Agriculture, Food Safety and Inspection Service, Patriots Plaza 3, 8th Floor, Room 8–148, Stop 5273, 1400 Independence Avenue SW., Washington, DC 20250–5273, *Phone:* 301 504–0878, *Fax:* 301 504–0872, Email: *rosalyn.murphy-jenkins@fsis.usda.gov.*

RIN: 0583–AD45

USDA—FSIS

17. Proposed Rule: Records To Be Kept by Official Establishments and Retail Stores That Grind or Chop Raw Beef Products

Priority: Other Significant. Major status under 5 U.S.C. 801 is undetermined.

Legal Authority: 21 U.S.C. 601 *et seq.*

CFR Citation: 9 CFR part 320.

Legal Deadline: None.

Abstract: The Food Safety and Inspection Service (FSIS) is proposing to amend its recordkeeping regulations to specify that all official establishments and retail stores that grind or chop raw beef products for sale in commerce must

keep records that disclose the identity of the supplier of all source materials that they use in the preparation of each lot of raw ground or chopped product and identify the names of those source materials.

FSIS is aware of the other activities that occur at retail that may, ultimately, prove also to be of concern due to inadequate recordkeeping (e.g., fabrication of steaks and roasts from non-intact beef in which the non-intact beef is later associated with an outbreak; grinding and chopping pork or even poultry; or slicing ready-to-eat meat and poultry). While these issues have been considered during the development of this proposal, the Agency has decided to ask for comment on whether and how such additional issues should be addressed, but will not include them in the current rulemaking.

Statement of Need: Under the authority of the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*) and its implementing regulations, FSIS investigates complaints and reports of consumer foodborne illness possibly associated with FSIS-regulated meat products. Many such investigations into consumer foodborne illnesses involve those caused by the consumption of raw beef ground by official establishments or retail stores.

FSIS investigators and public health officials frequently use records kept by all levels of the food distribution chain, including the retail level, to identify and trace back product that is the source of the illness the suppliers that produced the source material for the product. The Agency, however, has often been thwarted in its effort to trace back ground beef products, some associated with consumer illness, to the suppliers that provided source materials for the products. In some situations, official establishments and retail stores have not kept records necessary to allow trace back and trace forward activities to occur. Without such necessary records, FSIS's ability to conduct timely and effective consumer foodborne illness investigations and other public health activities throughout the stream of commerce is also affected, thereby placing the consuming public at risk. Therefore, for FSIS to be able to conduce trace back and trace forward investigations, foodborne illnesses investigations, or to monitor product recalls, the records kept by official establishments and retail stores that grind raw beef products must disclose the identity of the supplier and the names of the sources of all materials that they use in the preparation of each lot of raw ground beef product.

Summary of Legal Basis: Under 21 U.S.C. 642, official establishments and retail stores that grind raw beef products for sale in commerce are persons, firms, or corporations that must keep such records as willfully and correctly disclose all transactions involved in their businesses subject to the Act. This is because they engage in the business of preparing products of an amenable species for use as human food and they engage in the business of buying of selling (as meat brokers, wholesalers or otherwise) in commerce products of carcasses of an amenable species. These businesses must also provide access to, and inspection of, these records by FSIS personnel.

Further, under 9 CFR 320.1(a), every person, firm, or corporation required by section 642 of the FMIA to keep records must keep those records that willfully and correctly disclose all transactions involved in his or its business subject to the Act. Records specifically required to be kept under section 320.1(b) include, but are not limited to, bills of sale; invoices; bills of lading; and receiving and shipping papers. With respect to each transaction, the records must provide the name or description of the livestock or article; the net weight of the livestock or article; the number of outside containers; the name and address of the buyer or seller of the livestock or animal; and the date and method of shipment, among other things.

Alternatives: FSIS considered two alternatives to the proposed requirements: the status quo and a voluntary recordkeeping program.

Anticipated Cost and Benefits: Costs occur because about 76,390 retail stores and official establishments will need to develop and maintain records, and make those records available for the Agency's review. Using the best available data, FSIS believes that industry labor costs of developing, recording, and maintaining records, and storage costs, would be approximately $20.5 million. Agency costs of approximately $15,000 would result from record reviews at official establishments and retail stores, as well as travel time to and from retail stores.

Annual benefits from this rule come from:

(1) Savings from more efficient recalls of $3.6 million.

(2) Estimated averted E. coli O157:H7 illnesses of $23.4 million.

Total benefits from this rule are estimated to be $27.0 million.

Non-monetized benefits under this rule include, for the raw ground beef processing industry: (1) An increase in consumers' confidence and greater acceptance of products because mandatory grinding logs will result in a more efficient traceability system, recalls of reduced volume, and reduced negative press; (2) smaller volume recalls will result in higher confidence and acceptability of products including the disposition of product once recovered; (3) improved productivity, which improves profit opportunities.

Avoiding loss of business reputation is an indirect benefit. By identifying and defining the responsible party, FSIS will be able to get to the suspect a lot quicker and execute a better targeted recall, meaning that a recall will involve a smaller amount of product. This lower volume per recall will decrease costs for the recalls and the disposition of product. In addition, the Agency expects consumers to benefit from improved traceability and, thus, a reduced incidence of E. coli O157:H7 in ground raw beef products due to the rapid removal of those products from commerce. The Agency believes that by having official meat establishments and retail stores that engage in the business of grinding raw beef products keep records, traceability of ground raw beef in the U.S. food supply will be greatly enhanced.

Risks: FSIS believes that a projected 30% of foodborne E. coli O157:H7 illnesses could possibly be averted if this rule was in place, dropping from a high of 23,732 to 16,612 (a decline of 7,120).

Timetable:

Action	Date	FR Cite
NPRM	02/00/13	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: None.

Agency Contact: Victoria Levine, Program Analyst, Policy Issuances Division, Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW, Washington, DC 20250, *Phone:* 202 720–5627, *Fax:* 202 690–0486, *Email:* *victoria.levine@fsis.usda.gov.*

RIN: 0583–AD46

USDA—FSIS

Final Rule Stage

18. Prior Labeling Approval System: Generic Label Approval

Priority: Other Significant.

Legal Authority: 21 U.S.C. 451 to 470; 21 U.S.C. 601 to 695

CFR Citation: 9 CFR part 317; 9 CFR part 327; 9 CFR part 381; 9 CFR part 412.

Legal Deadline: None.

Abstract: This rulemaking will continue an effort initiated several years ago by amending FSIS' regulations to expand the types of labeling that are generically approved. FSIS plans to propose that the submission of labeling for approval prior to use be limited to certain types of labeling, as specified in the regulations. In addition, FSIS plans to reorganize and amend the regulations by consolidating the nutrition labeling rules that currently are stated separately for meat and poultry products (in part 317, subpart B, and part 381, subpart Y, respectively) and by amending their provisions to set out clearly various circumstances under which these products are misbranded.

Statement of Need: Expanding the types of labeling that are generically approved would permit Agency personnel to focus their resources on evaluating only those claims or special statements that have health and safety or economic implications. This would essentially eliminate the time needed for FSIS personnel to evaluate labeling features and allocate more time for staff to work on other duties and responsibilities. A major advantage of this proposal is that it is consistent with FSIS' current regulatory approach, which separates industry and Agency responsibilities.

Summary of Legal Basis: 21 U.S.C. 457 and 607.

Alternatives: FSIS considered several options. The first was to expand the types of labeling that would be generically approved and consolidate into one part all of the labeling regulations applicable to products regulated under the FMIA and PPIA and the policies currently contained in FSIS Directive 7220.1, Revision 3. The second option FSIS considered was to consolidate only the meat and poultry regulations that are similar and to expand the types of generically approved labeling that can be applied by Federal and certified foreign establishments. The third option, and the one favored by FSIS, was to amend the prior labeling approval system in an incremental three-phase approach.

Anticipated Cost and Benefits: The final rule would permit the Agency to realize an estimated discounted cost savings of $2.9 million over 10 years. The final rule would be beneficial because it would streamline the generic labeling process, while imposing no additional cost burden on establishments. Consumers would benefit because industry would have the ability to introduce products into the marketplace more quickly.

Risks: None.

Timetable:

Action	Date	FR Cite
NPRM	12/05/11	76 FR 75809
NPRM Comment Period End.	03/05/12	
Final Action	03/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Businesses.

Government Levels Affected: None.

Agency Contact: Jeff Canavan, Labeling and Program Delivery Division, Department of Agriculture, Food Safety and Inspection Service, Patriots Plaza 3, 8th Floor, 8–146, Stop 5273, 1400 Independence Avenue SW, Washington, DC 20250–5273, *Phone:* 301 504–0878, *Fax:* 301 504–0872, *Email: jeff.canavan@fsis.usda.gov.*

RIN: 0583–AC59

USDA—FSIS

19. Modernization of Poultry Slaughter Inspection

Priority: Economically Significant. Major under 5 U.S.C. 801.

Legal Authority: 21 U.S.C. 451 *et seq.*

CFR Citation: 9 CFR 381.66; 9 CFR 381.67; 9 CFR 381.76; 9 CFR 381.83; 9 CFR 381.91; 9 CFR 381.94.

Legal Deadline: None.

Abstract: FSIS intends to provide a new inspection system for young poultry slaughter establishments that would facilitate public health-based inspection. This new system would be available initially only to young chicken and turkey slaughter establishments. Establishments that slaughter broilers, fryers, roasters, and Cornish game hens (as defined in 9 CFR 381.170) would be considered as ''young chicken establishments.'' FSIS also intends to revoke the provisions that allow young chicken slaughter establishments to operate under the current Streamlined Inspection System (SIS) or the New Line Speed (NELS) Inspection System, and to revoke the New Turkey Inspection System (NTIS). Young chicken and turkey slaughter establishments would be required to operate under the new inspection system or under Traditional Inspection. FSIS anticipates that this proposed rule would provide the framework for action to provide public health-based inspection in all establishments that slaughter amenable poultry species.

Under the new system, young chicken and turkey slaughter establishments would be required to sort chicken carcasses and to conduct other activities to ensure that carcasses are not adulterated before they enter the chilling tank.

Statement of Need: Because of the risk to the public health associated with pathogens on young chicken carcasses, FSIS intends to provide a new inspection system that would allow for more effective inspection of young chicken carcasses, would allow the Agency to more effectively allocate its resources and would encourage industry to more readily use new technology.

This final rule is the result of the Agency's 2011 regulatory review efforts conducted under Executive Order 13563 on Improving Regulation and Regulatory Review. It would likely result in more cost-effective dressing of young chickens that are ready to cook or ready for further processing. Similarly, it would likely result in more efficient and effective use of Agency resources.

Summary of Legal Basis: 21 U.S.C. 451 to 470.

Alternatives: FSIS considered the following options in developing this proposal:

(1) No action.

(2) Propose to implement HACCP-based Inspection Models Pilot in regulations.

(3) Propose to establish a mandatory, rather than a voluntary, new inspection system for young chicken slaughter establishments.

Anticipated Cost and Benefits: The proposed rule estimated that the expected annual costs to establishments would total $24.5 million. Expected annual total benefits were $285.5 million (with a range of $259.5 to $314.8 million). Expected annual net benefits were $261.0 million (with a range of $235.0 million to $290.3 million). These estimates will be updated in the final rule.

Risks: Salmonella and other pathogens are present on a substantial portion of poultry carcasses inspected by FSIS. Foodborne salmonella cause a large number of human illnesses that at times lead to hospitalization and even death. There is an apparent relationship between human illness and prevalence levels for salmonella in young chicken carcasses. FSIS believes that through better allocation of inspection resources and the use of performance standards, it would be able to better address the prevalence of salmonella and other pathogens in young chickens.

Timetable:

Action	Date	FR Cite
NPRM	01/27/12	77 FR 4408
NPRM Comment Period End.	05/29/12	77 FR 24873
Final Rule	04/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Businesses.

Government Levels Affected: None.

Agency Contact: Rachel Edelstein, Acting Assistant Administrator, Office of Policy and Program Development, Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW., 351–E JWB, Washington, DC 20250, *Phone:* 202 205–0495, *Fax:* 202 720–2025, *Email: rachel.edelstein@fsis.usda.gov.*

RIN: 0583–AD32

USDA—FSIS

20. Electronic Export Application and Certification as a Reimbursable Service and Flexibility in the Requirements for Official Export Inspection Marks, Devices, and Certificates

Priority: Other Significant.

Legal Authority: Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 to 695); Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 to 470); Egg Products Inspection Act (EPIA) (21 U.S.C. 1031 to 1056)

CFR Citation: 9 CFR 312.8; 9 CFR 322.1 and 322.2; 9 CFR 350.7; 9 CFR 362.5; 9 CFR 381.104 to 381.106; 9 CFR 590.407; 9 CFR 592.20 and 592.500.

Legal Deadline: None.

Abstract: The Food Safety and Inspection Service (FSIS) is amending the meat, poultry, and egg product inspection regulations to provide for an electronic export application and certification system. The electronic export application and certification system will be a component of the Agency's Public Health Information System (PHIS). The export component of PHIS will be available as an alternative to the paper-based application and certification process. FSIS will charge users for the use of the system. FSIS is establishing a formula for calculating the fee. FSIS is also providing establishments that export meat, poultry, and egg products with flexibility in the official export inspection marks, devices, and certificates. In addition, FSIS is amending the egg product export regulations to parallel the meat and poultry export regulations.

Statement of Need: These regulations will facilitate the electronic processing of export applications and certificates through the Public Health Information System (PHIS), a computerized, Web-based inspection information system. This rule will provide the electronic export system as a reimbursable certification service charged to the exporter.

Summary of Legal Basis: 21 U.S.C. 601 to 695; 21 U.S.C. 451 to 470; 21 U.S.C. 1031 to 1056; 7 U.S.C. 1622(h).

Alternatives: The electronic export applications and certification system is being proposed as a voluntary service; therefore, exporters have the option of continuing to use the current paper-based system. Therefore, no alternatives were considered.

Anticipated Cost and Benefits: FSIS is charging exporters an application fee for the electronic export system. Automating the export application and certification process will facilitate the exportation of U.S. meat, poultry, and egg products by streamlining and automating the processes that are in use while ensuring that foreign regulatory requirements are met. The cost to an exporter would depend on the number of electronic applications submitted. An exporter that submits only a few applications per year would not be likely to experience a significant economic impact. Under this rate, inspection personnel workload will be reduced through the elimination of the physical handling and processing of applications and certificates. When an electronic government-to-government system interface or data exchange is used, fraudulent transactions, such as false alterations and reproductions, will be significantly reduced, if not eliminated. The electronic export system is designed to ensure the authenticity, integrity, and confidentiality. Exporters will be provided with a more efficient and effective application and certification process. The egg product export regulations provide the same export requirements across all products regulated by FSIS and consistency in the export application and certification process. The total annual paperwork burden to the egg processing industry to fill out the paper-based export application is approximately $32,340 per year for a total of 924 hours a year. The average establishment burden would be 11 hours, and $385.00 per establishment.

Risks: None.

Timetable:

Action	Date	FR Cite
NPRM	01/23/12	77 FR 3159
NPRM Comment Period End.	03/23/12	
Final Action	04/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Businesses.

Government Levels Affected: None.

International Impacts: This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

Agency Contact: Dr. Ron Jones, Assistant Administrator, Office of International Affairs, Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW., Washington, DC 20250, *Phone:* 202 720–3473.

RIN: 0583–AD41

BILLING CODE 3410–90–P

DEPARTMENT OF COMMERCE (DOC)

Statement of Regulatory and Deregulatory Priorities

Established in 1903, the Department of Commerce (Commerce) is one of the oldest Cabinet-level agencies in the Federal Government. Commerce's mission is to create the conditions for economic growth and opportunity by promoting innovation, entrepreneurship, competitiveness, and environmental stewardship. Commerce has 12 operating units, which are responsible for managing a diverse portfolio of programs and services, ranging from trade promotion and economic development assistance to broadband and the National Weather Service.

Commerce touches Americans daily, in many ways—making possible the daily weather reports and survey research; facilitating technology that all of us use in the workplace and in the home each day; supporting the development, gathering, and transmission of information essential to competitive business; enabling the diversity of companies and goods found in America's and the world's marketplace; and supporting environmental and economic health for the communities in which Americans live.

Commerce has a clear and compelling vision for itself, for its role in the Federal Government, and for its roles supporting the American people, now and in the future. To achieve this vision, Commerce works in partnership with businesses, universities, communities, and workers to:

- Innovate by creating new ideas through cutting-edge science and technology from advances in nanotechnology, to ocean exploration, to broadband deployment, and by protecting American innovations through the patent and trademark system;
- Support entrepreneurship and commercialization by enabling community development and

strengthening minority businesses and small manufacturers;

- Maintain U.S. economic competitiveness in the global marketplace by promoting exports, ensuring a level playing field for U.S. businesses, and ensuring that technology transfer is consistent with our nation's economic and security interests;
- Provide effective management and stewardship of our nation's resources and assets to ensure sustainable economic opportunities; and
- Make informed policy decisions and enable better understanding of the economy by providing accurate economic and demographic data.

Commerce is a vital resource base, a tireless advocate, and Cabinet-level voice for job creation.

The Regulatory Plan tracks the most important regulations that implement these policy and program priorities, several of which involve regulation of the private sector by Commerce.

Responding to the Administration's Regulatory Philosophy and Principles

The vast majority of the Commerce's programs and activities do not involve regulation. Of Commerce's 12 primary operating units, only the National Oceanic and Atmospheric Administration (NOAA) will be planning actions that are considered the ''most important'' significant preregulatory or regulatory actions for FY 2012. During the next year, NOAA plans to publish four rulemaking actions that are designated as Regulatory Plan actions. The Bureau of Industry and Security (BIS) will also publish rulemaking actions designated as Regulatory Plan actions. Further information on these actions is provided below.

Commerce has a long-standing policy to prohibit the issuance of any regulation that discriminates on the basis of race, religion, gender, or any other suspect category and requires that all regulations be written so as to be understandable to those affected by them. The Secretary also requires that Commerce afford the public the maximum possible opportunity to participate in Departmental rulemakings, even where public participation is not required by law.

National Oceanic and Atmospheric Administration

NOAA establishes and administers Federal policy for the conservation and management of the Nation's oceanic, coastal, and atmospheric resources. It provides a variety of essential environmental and climate services vital to public safety and to the Nation's economy, such as weather forecasts, drought forecasts, and storm warnings. It is a source of objective information on the state of the environment. NOAA plays the lead role in achieving Commerce's goal of promoting stewardship by providing assessments of the global environment.

Recognizing that economic growth must go hand-in-hand with environmental stewardship, Commerce, through NOAA, conducts programs designed to provide a better understanding of the connections between environmental health, economics, and national security. Commerce's emphasis on ''sustainable fisheries'' is designed to boost long-term economic growth in a vital sector of the U.S. economy while conserving the resources in the public trust and minimizing any economic dislocation necessary to ensure long-term economic growth. Commerce is where business and environmental interests intersect, and the classic debate on the use of natural resources is transformed into a ''win-win'' situation for the environment and the economy.

Three of NOAA's major components, the National Marine Fisheries Service (NMFS), the National Ocean Service (NOS), and the National Environmental Satellite, Data, and Information Service (NESDIS), exercise regulatory authority.

NMFS oversees the management and conservation of the Nation's marine fisheries, protects threatened and endangered marine and anadromous species and marine mammals, and promotes economic development of the U.S. fishing industry. NOS assists the coastal States in their management of land and ocean resources in their coastal zones, including estuarine research reserves; manages the national marine sanctuaries; monitors marine pollution; and directs the national program for deep-seabed minerals and ocean thermal energy. NESDIS administers the civilian weather satellite program and licenses private organizations to operate commercial land-remote sensing satellite systems.

Commerce, through NOAA, has a unique role in promoting stewardship of the global environment through effective management of the Nation's marine and coastal resources and in monitoring and predicting changes in the Earth's environment, thus linking trade, development, and technology with environmental issues. NOAA has the primary Federal responsibility for providing sound scientific observations, assessments, and forecasts of environmental phenomena on which resource management, adaptation, and other societal decisions can be made.

In the environmental stewardship area, NOAA's goals include: rebuilding and maintaining strong U.S. fisheries by using market-based tools and ecosystem approaches to management; increasing the populations of depleted, threatened, or endangered species and marine mammals by implementing recovery plans that provide for their recovery while still allowing for economic and recreational opportunities; promoting healthy coastal ecosystems by ensuring that economic development is managed in ways that maintain biodiversity and long-term productivity for sustained use; and modernizing navigation and positioning services. In the environmental assessment and prediction area, goals include: understanding climate change science and impacts, and communicating that understanding to government and private sector stakeholders enabling them to adapt; continually improving the National Weather Service; implementing reliable seasonal and interannual climate forecasts to guide economic planning; providing science-based policy advice on options to deal with very long-term (decadal to centennial) changes in the environment; and advancing and improving short-term warning and forecast services for the entire environment.

Magnuson-Stevens Fishery Conservation and Management Act

Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) rulemakings concern the conservation and management of fishery resources in the U.S. Exclusive Economic Zone (generally 3–200 nautical miles). Among the several hundred rulemakings that NOAA plans to issue in FY 2012, a number of the preregulatory and regulatory actions will be significant. The exact number of such rulemakings is unknown, since they are usually initiated by the actions of eight regional Fishery Management Councils (FMCs) that are responsible for preparing fishery management plans (FMPs) and FMP amendments, and for drafting implementing regulations for each managed fishery. NOAA issues regulations to implement FMPs and FMP amendments. Once a rulemaking is triggered by an FMC, the Magnuson-Stevens Act places stringent deadlines upon NOAA by which it must exercise its rulemaking responsibilities. FMPs and FMP amendments for Atlantic highly migratory species, such as bluefin tuna, swordfish, and sharks, are

developed directly by NOAA, not by FMCs.

FMPs address a variety of issues including maximizing fishing opportunities on healthy stocks, rebuilding overfished stocks, and addressing gear conflicts. One of the problems that FMPs may address is preventing overcapitalization (preventing excess fishing capacity) of fisheries. This may be resolved by market-based systems such as catch shares, which permit shareholders to harvest a quantity of fish and which can be traded on the open market. Harvest limits based on the best available scientific information, whether as a total fishing limit for a species in a fishery or as a share assigned to each vessel participant, enable stressed stocks to rebuild. Other measures include staggering fishing seasons or limiting gear types to avoid gear conflicts on the fishing grounds and establishing seasonal and area closures to protect fishery stocks.

The FMCs provide a forum for public debate and, using the best scientific information available, make the judgments needed to determine optimum yield on a fishery-by-fishery basis. Optional management measures are examined and selected in accordance with the national standards set forth in the Magnuson-Stevens Act. This process, including the selection of the preferred management measures, constitutes the development, in simplified form, of an FMP. The FMP, together with draft implementing regulations and supporting documentation, is submitted to NMFS for review against the national standards set forth in the Magnuson-Stevens Act, in other provisions of the Act, and other applicable laws. The same process applies to amending an existing approved FMP.

Marine Mammal Protection Act

The Marine Mammal Protection Act of 1972 (MMPA) provides the authority for the conservation and management of marine mammals under U.S. jurisdiction. It expressly prohibits, with certain exceptions, the take of marine mammals. The MMPA allows NMFS to permit the collection of wild animals for scientific research or public display or to enhance the survival of a species or stock. NMFS initiates rulemakings under the MMPA to establish a management regime to reduce marine mammal mortalities and injuries as a result of interactions with fisheries. The MMPA also established the Marine Mammal Commission, which makes recommendations to the Secretaries of the Departments of Commerce and the Interior and other Federal officials on protecting and conserving marine mammals. The Act underwent significant changes in 1994 to allow for takings incidental to commercial fishing operations, to provide certain exemptions for subsistence and scientific uses, and to require the preparation of stock assessments for all marine mammal stocks in waters under U.S. jurisdiction.

Endangered Species Act

The Endangered Species Act of 1973 (ESA) provides for the conservation of species that are determined to be ''endangered'' or ''threatened,'' and the conservation of the ecosystems on which these species depend. The ESA authorizes both NMFS and the Fish and Wildlife Service (FWS) to jointly administer the provisions of the MMPA. NMFS manages marine and ''anadromous'' species, and FWS manages land and freshwater species. Together, NMFS and FWS work to protect critically imperiled species from extinction. Of the 1,310 listed species found in part or entirely in the United States and its waters, NMFS has jurisdiction over approximately 60 species. NMFS' rulemaking actions are focused on determining whether any species under its responsibility is an endangered or threatened species and whether those species must be added to the list of protected species. NMFS is also responsible for designating, reviewing, and revising critical habitat for any listed species. In addition, under the ESA's procedural framework, Federal agencies consult with NMFS on any proposed action authorized, funded, or carried out by that agency that may affect one of the listed species or designated critical habitat, or is likely to jeopardize proposed species or adversely modify proposed critical habitat that is under NMFS' jurisdiction.

NOAA's Regulatory Plan Actions

While most of the rulemakings undertaken by NOAA do not rise to the level necessary to be included in Commerce's regulatory plan, NMFS is undertaking three actions that rise to the level of ''most important'' of Commerce's significant regulatory actions and thus are included in this year's regulatory plan. The three actions implement provisions of the Magnuson-Stevens Fishery Conservation and Management Act, as reauthorized in 2006. The first action may be of particular interest to international trading partners as it concerns the Certification of Nations Whose Fishing Vessels Are Engaged in Illegal, Unreported, and Unregulated Fishing or Bycatch of Protected Living Marine Resources. A description of the four regulatory plan actions is provided below.

1. Amend the Definition of Illegal, Unreported, and Unregulated Fishing under the High Seas Driftnet Fishing Moratorium Protection Act to Include International Provisions of the Shark Conservation Act (0648–BA89): As required under the international provisions of the Shark Conservation Act, the rule would amend the identification and certification procedures under the High Seas Driftnet Fishing Moratorium Protection to include the identification of a foreign nation whose fishing vessels engaged during the preceding calendar year in fishing activities in areas beyond any national jurisdiction that target or incidentally catch sharks if that nation has not adopted a regulatory program to provide for the conservation of sharks that is comparable to that of the United States, taking into account different conditions. NMFS also intends to amend the regulatory definition of ''illegal, unreported, and unregulated (IUU) fishing'' for purposes of the identification and certification procedures under the Moratorium Protection Act.

2. Fishery Management Plan for Regulating Offshore Marine Aquaculture in the Gulf of Mexico (0648–AS65): In January, 2009, the Gulf of Mexico Fishery Management Council approved the Aquaculture Fishery Management Plan, which authorizes NMFS to issue permits to culture species managed by the Council (except shrimp and corals). This was the first time a regional Fishery Management Council approved a comprehensive regulatory program for offshore aquaculture in U.S. federal waters. On September 3, 2009, the Aquaculture Fishery Management Plan entered into effect. On June 9, 2011, NOAA released the final National Aquaculture Policy and announced that the Agency will move forward with the rulemaking to implement the Aquaculture Fishery Management Plan.

3. Critical Habitat for North Atlantic Right Whale (0648–AY54): In 1994, NMFS designated critical habitat for the northern right whale in the North Atlantic Ocean. This critical habitat designation includes portions of Cape Cod Bay and Stellwagen Bank, the Great South Channel, and waters adjacent to the coasts of Georgia and Florida. In 2008, we listed North Atlantic and North Pacific right whales as separate species under the ESA. This action will fulfill the ESA requirement of designating critical habitat following final listing determinations.

At this time, NOAA is unable to determine the aggregate cost of the identified Regulatory Plan actions as several of these actions are currently under development.

Bureau of Industry and Security

The Bureau of Industry and Security (BIS) advances U.S. national security, foreign policy, and economic objectives by maintaining and strengthening adaptable, efficient, and effective export control and treaty compliance systems as well as by administering programs to prioritize certain contracts to promote the national defense and to protect and enhance the defense industrial base.

In August 2009, the President directed a broad-based interagency review of the U.S. export control system with the goal of strengthening national security and the competitiveness of key U.S. manufacturing and technology sectors by focusing on the current threats and adapting to the changing economic and technological landscape. In August 2010, the President outlined an approach under which agencies that administer export controls will apply new criteria for determining what items need to be controlled and a common set of policies for determining when an export license is required. The control list criteria are to be based on transparent rules, which will reduce the uncertainty faced by our Allies, U.S. industry and its foreign customers, and will allow the government to erect higher walls around the most sensitive export items in order to enhance national security.

Under the President's approach, agencies will apply the criteria and revise the lists of munitions and dual-use items that are controlled for export so that they:

Are ''tiered'' to distinguish the types of items that should be subject to stricter or more permissive levels of control for different destinations, end-uses, and end-users;

Create a ''bright line'' between the two current control lists to clarify jurisdictional determinations and reduce government and industry uncertainty about whether particular items are subject to the control of the State Department or the Commerce Department; and

Are structurally aligned so that they potentially can be combined into a single list of controlled items. BIS' current regulatory plan action is designed to implement the initial phase of the President's directive.

Major Programs and Activities

BIS administers four sets of regulations. The Export Administration Regulations (EAR) regulate exports and reexports to protect national security, foreign policy, and short supply interests. The EAR also regulates participation of U.S. persons in certain boycotts administered by foreign governments. The National Defense Industrial Base Regulations provide for prioritization of certain contracts and allocations of resources to promote the national defense, require reporting of foreign government-imposed offsets in defense sales, and address the effect of imports on the defense industrial base. The Chemical Weapons Convention Regulations implement declaration, reporting, and on-site inspection requirements in the private sector necessary to meet United States treaty obligations under the Chemical Weapons Convention treaty. The Additional Protocol Regulations implement similar requirements with respect to an agreement between the United States and the International Atomic Energy Agency.

BIS also has an enforcement component with eight field offices in the United States. BIS export control officers are also stationed at several U.S. embassies and consulates abroad. BIS works with other U.S. Government agencies to promote coordinated U.S. Government efforts in export controls and other programs. BIS participates in U.S. Government efforts to strengthen multilateral export control regimes and to promote effective export controls through cooperation with other governments.

BIS' Regulatory Plan Actions

As the agency responsible for leading the administration and enforcement of U.S. export controls on dual-use and other items warranting controls but not under the provisions of export control regulations administered by other departments, BIS plays a central role in the Administration's efforts to fundamentally reform the export control system. Changing what we control, how we control it and how we enforce and manage our controls will help strengthen our national security by focusing our efforts on controlling the most critical products and technologies, and by enhancing the competitiveness of key U.S. manufacturing and technology sectors.

In FY 2011, BIS took several steps to implement the President's Export Control Reform Initiative (ECRI). BIS published a final rule (76 FR 35275, June 16, 2011) implementing a license exception that authorizes exports, reexports and transfers to destinations that do not pose a national security concern, provided certain safeguards against diversion to other destinations are taken. BIS also proposed several rules to control under the EAR items that the President has determined do not warrant control under the International Traffic in Arms Regulations (ITAR), administered by the Department of State rule (76 FR 41957), and its United States Munitions List (USML).

In FY 2012, BIS followed up on its FY 2011 successes with the ECRI and proposed rules that would move items currently controlled in nine categories of the USML to control under the Commerce Control List (CCL), administered by BIS. In addition, BIS proposed a rule to ease the implementation process for transitioning items and re-proposed a revised key definition from the July 15 Rule, ''specially designed,'' that had received extensive public comment. In FY 2013, after State Department notification to Congress of the transfer of items from the USML, BIS expects to be able to publish a final rule incorporating many of the proposed changes, and revisions based on public responses to the proposals.

Promoting International Regulatory Cooperation

As the President noted in Executive Order 13609, ''international regulatory cooperation, consistent with domestic law and prerogatives and U.S. trade policy, can be an important means of promoting'' public health, welfare, safety, and our environment as well as economic growth, innovation, competitiveness, and job creation. Accordingly, in EO 13609, the President requires each executive agency to include in its Regulatory Plan a summary of its international regulatory cooperation activities that are reasonably anticipated to lead to significant regulations.

The Department of Commerce engages with numerous international bodies in various forums to promote the Department's priorities and foster regulations that do not ''impair the ability of American business to export and compete internationally.'' EO 13609(a). For example, the United States Patent and Trademark Office is working with the European Patent Office to develop a new classification system for both offices' use. The Bureau of Industry and Security, along with the Department of State and Department of Defense, engages with other countries in the Wassenaar Arrangement, through which the international community develops a common list of items that should be subject to export controls because they are conventional arms or items that have

both military and civil uses. Other multilateral export control regimes include the Missile Technology Control Regime, the Nuclear Suppliers Group, and the Australia Group, which lists items controlled for chemical and biological weapon nonproliferation purposes. In addition, the National Oceanic and Atmospheric Administration works with other countries' regulatory bodies through regional fishery management organizations to develop fair and internationally-agreed-to fishery standards for the High Seas.

BIS is also engaged, in partnership with the Departments of State and Defense, in revising the regulatory framework for export control, through the President's Export Control Reform Initiative (ECRI). Through this effort, the United States government is moving certain items currently controlled by the United States Military List (USML) to the Commerce Control List (CCL) in BIS' Export Administration Regulations. The objective of ECRI is to improve interoperability of U.S. military forces with those of allied countries, strengthen the U.S. industrial base by, among other things, reducing incentives for foreign manufacturers to design out and avoid U.S.-origin content and services, and allow export control officials to focus government resources on transactions that pose greater concern. This effort may be accomplished by as early as 2013, when the final rules are published. Once fully implemented, the new export control framework also will benefit companies in the United States seeking to export items through more flexible and less burdensome export controls.

Some specific domestic regulatory actions that have resulted from the Department's international regulatory cooperation efforts include the rule on Identification and Certification of Fishing Vessels Engaged in Illegal, Unreported, or Unregulated Fishing or Bycatch of Protected Living Marine Resources (0648–AV51, 76 FR 2011); the Amendments to Implement the Shark Conservation Act and Revise the Definition of Illegal, Unreported, and Unregulated Fishing (0648–BA89); and the proposed rule to comply with the 2010 Shark Conservation Provisions and Other Regulations in the Atlantic Smoothhound Shark Fishery (0648–BB02).

Retrospective Review of Existing Regulations

Pursuant to section 6 of Executive Order 13563 ''Improving Regulation and Regulatory Review'' (Jan. 18, 2011), the following Regulatory Identifier Numbers (RINs) have been identified as associated with retrospective review and analysis in the Department's final retrospective review of regulations plan. Accordingly, the Agency is reviewing these rules to determine whether action under E.O. 13563 is appropriate. Some of these entries on this list may be completed actions, which do not appear in *The Regulatory Plan.* However, more information can be found about these completed rulemakings in past publications of the Unified Agenda on Reginfo.gov in the Completed Actions section for the Agency. These rulemakings can also be found on Regulations.gov. The final Agency retrospective analysis plan can be found at: *http://open.commerce.gov/sites/default/files/Commerce%20Plan%20for%20Retrospective%20Analysis%20of%20Existing%20Rules%20-%202011–08–22%20Final.pdf.*

RIN	Title	Expected To Significantly Reduce Burdens on Small Businesses?
0648–BC03	Regulatory Amendment 12 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region.	Yes.
0648–BB44	Regulatory Amendment 11 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region.	
0648–BB56	Amendment 18A to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region.	Yes.
0648–XC088	Temporarily Extending the Recreational Red Snapper Fishing Season in Federal Waters of the Gulf of Mexico.	
0648–BB72	Amendment 34 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico.	
0648–BB45	Western Pacific Pelagic Fisheries; Modification of American Samoa Large Vessel Prohibited Area.	
0648–BB49	Amend the Regulations that Implement the National Saltwater Angler Registry and State Exemption Program.	
0694–AF03	Export Control Reform Initiative: Strategic Trade Authorization License Exception.	
0694–AF17	Revision to the Export Administration Regulations: Control of Items the President Determines No Longer Warrant Control Under the United States Munitions List.	
0694–AF36	Revision to the Export Administration Regulations: Control of Aircraft and Related Items the President Determines No Longer Warrant Control Under the United States Munitions List.	
0694–AF41	Revisions to the Export Administration Regulations: Control of Gas Turbine Engines and Related Items the President Determines No Longer Warrant Control Under the United States Munitions List.	
0694–AF17	Revisions to the Export Administration Regulations: Control of Military Vehicles and Related Items the President Determines No Longer Warrant Control Under the United States Munitions List.	
0694–AF42	Revisions to the Export Administration Regulations: Control of Vessels of War and Related Articles the President Determines No Longer Warrant Control Under the United States Munitions List.	
0694–AF39	Revisions to the Export Administration Regulations: Control of Submersible Vessels, Oceanographic Equipment and Related Articles the President Determines No Longer Warrant Control Under the United States Munitions List.	
0694–AF17	Revisions to the Export Administration Regulations: Export Control Classification Number 0Y521 Series, Items Not Elsewhere Listed on the Commerce Control List (CCL).	
0694–AF53	Revisions to the Export Administration Regulations: Control of Energetic Materials and Related Articles the President Determines No Longer Warrant Control Under the United States Munitions List.	
0694–AF51	Revisions to the Export Administration Regulations: Auxiliary and Miscellaneous Items that No Longer Warrant Control Under the United States Munitions List and Items on the Wassenaar Arrangement Munitions List.	
0694–AF58	Revisions to the Export Administration Regulations: Control of Personal Protective Equipment, Shelters, and Related Items the President Determines No Longer Warrant Control Under the United States Munitions List.	

RIN	Title	Expected To Significantly Reduce Burdens on Small Businesses?
0694–AF54	Revisions to the Export Administration Regulations: Control of Military Training Equipment and Related Articles the President Determines No Longer Warrant Control Under the United States Munitions List.	
0694–AF66	''Specially Designed'' Definition.	
0694–AF68	Feasibility of Enumerating ''Specially Designed'' Components.	
0694–AF65	Proposed Revisions to the Export Administration Regulations: Implementation of Export Control Reform; Revisions to License Exceptions After Retrospective Regulatory Review.	
0694–AF47	Revisions to the Export Administration Regulations: Control of Firearms and Related Articles the President Determines No Longer Warrant Control Under the United States Munitions List.	
0694–AF48	Revisions to the Export Administration Regulations: Control of Guns and Armament and Related Articles the President Determines No Longer Warrant Control Under the United States Munitions List.	
0694–AF49	Revisions to the Export Administration Regulations: Control of Ammunition and Ordnance the President Determines No Longer Warrant Control Under the United States Munitions List.	
0694–AF64	Revisions to the Export Administration Regulations: Control of Military Electronic Equipment and Related Items the President Determines No Longer Warrant Control Under the United States Munitions List.	
0694–AF37	Revisions to the Export Administration Regulations (EAR) to Make the Commerce Control List (CCL) Clearer.	
0694–AF56	EAR Revision: Items Related to Launch Vehicles, Missiles, Rockets, and Military Explosive Devices That the President Determines No Longer Warrant Control Under the United States Munitions List.	
0694–AF60	Amendment to Licensing Requirements for Exports to Canada of Shotguns, Shotgun Shells and Optical Sighting Devices under the Export Administration Regulations.	Yes.
0651–AC54	Setting and Adjusting Patent Fees.	

BILLING CODE 3510–12–P

DEPARTMENT OF DEFENSE

Statement of Regulatory Priorities

Background

The Department of Defense (DoD) is the largest Federal department consisting of 3 Military departments (Army, Navy, and Air Force), 9 Unified Combatant Commands, 13 Defense Agencies, and 10 DoD Field Activities. It has 1,409,877 military personnel and 766,425 civilians assigned as of March 31, 2012, and over 200 large and medium installations in the continental United States, U. S. territories, and foreign countries. The overall size, composition, and dispersion of DoD, coupled with an innovative regulatory program, presents a challenge to the management of the Defense regulatory efforts under Executive Order (E.O.) 12866 ''Regulatory Planning and Review'' of September 30, 1993.

Because of its diversified nature, DoD is affected by the regulations issued by regulatory agencies such as the Departments of Energy, Health and Human Services, Housing and Urban Development, Labor, Transportation, and the Environmental Protection Agency. In order to develop the best possible regulations that embody the principles and objectives embedded in E.O. 12866, there must be coordination of proposed regulations among the regulatory agencies and the affected DoD components. Coordinating the proposed regulations in advance throughout an organization as large as DoD is a straightforward, yet formidable undertaking.

DoD occasionally issues regulations that have an effect on the public and can be significant as defined in E.O. 12866. In addition, some of DoD's regulations may affect other agencies. DoD, as an integral part of its program, not only receives coordinating actions from other agencies, but coordinates with the agencies that are affected by its regulations as well.

Overall Priorities

The Department needs to function at a reasonable cost, while ensuring that it does not impose ineffective and unnecessarily burdensome regulations on the public. The rulemaking process should be responsive, efficient, cost-effective, and both fair and perceived as fair. This is being done in DoD while reacting to the contradictory pressures of providing more services with fewer resources. The Department of Defense, as a matter of overall priority for its regulatory program, fully incorporates the provisions of the President's priorities and objectives under Executive Order (E.O.) 12866.

International Regulatory Cooperation

As the President noted in Executive Order 13609, ''international regulatory cooperation, consistent with domestic law and prerogatives and U.S. trade policy, can be an important means of promoting'' public health, welfare, safety, and our environment as well as economic growth, innovation, competitiveness, and job creation. Accordingly, in EO 13609, the President requires each executive agency to include in its Regulatory Plan a summary of its international regulatory cooperation activities that are reasonably anticipated to lead to significant regulations.

The Department of Defense, along with the Department of State and Department of Commerce, engages with other countries in the Wassenaar Arrangement, through which the international community develops a common list of items that should be subject to export controls.

Retrospective Review of Existing Regulations

Pursuant to section 6 of Executive Order 13563 ''Improving Regulation and Regulatory Review (January 18, 2011), the following Regulatory Identifier Numbers (RINs) have been identified as associated with retrospective review and analysis in the Department's final retrospective review of regulations plan. All are of particular interest to small businesses. Some of these entries on this list may be completed actions, which do not appear in The Regulatory Plan. However, more information can be found about these completed rulemakings in past publications of the Unified Agenda on Reginfo.gov in the Completed Actions section for that agency. These rulemakings can also be found on Regulations.gov. The final agency plans can be found at: *http://www.regulations.gov/exchange/topic/eo-13563*

RIN	Rule Title (*expected to significantly reduce burdens on small businesses)
0790–AI73	Withholding of Unclassified Technical Data From Public Disclosure.
0790–AI75	Presentation of DoD-Related Scientific and Technical Papers at Meetings.
0790–AI77	Provision of Early Intervention and Special Education Services to Eligible DoD Dependents.
0790–AI84	National Defense Science and Engineering Graduate (NDSEG) Fellowships.
0790–AI54	Defense Support of Civilian Law Enforcement Agencies.
0790–AI88	Shelter for the Homeless.
0710–AA66	Civil Monetary Penalty Inflation Adjustment Rule.
0710–AA60	Nationwide Permit Program Regulations*.
0703–AA91	Unofficial Use of the Seal, Emblem, Names, or Initials of the Marine Corps.
0703–AA92	Professional Conduct of Attorneys Practicing Under the Cognizance and Supervision of the Judge Advocate General.
0703–AA88	Professional Conduct of Attorneys Practicing Under the Cognizance and Supervision of the Judge Advocate General.

Pursuant to Executive Order 13563, DoD also plans to finalize the DFARS rule to delete text in DFARS part 219 that implemented 10 U.S.C. 2323 because 10 U.S.C. 2323 has expired.

Administration Priorities

1. Rulemakings That Are Expected To Have High Net Benefits Well in Excess of Costs

The Department plans to—

• Revise the DFARS to implement section 806 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2011, which requires the evaluation of offeror's supply chain risks for information technology purchases relating to national security systems. This rule enables agencies to exclude sources that are identified as having a supply chain risk.

• Revise the DFARS to use Commercial and Government Entity (CAGE) codes and NCAGE (if foreign) for awards greater than the micropurchase threshold to identify the immediate corporate parent. This rule will provide standardization across the Federal government to facilitate data collection and support anti-counterfeiting efforts by uniquely identifying vendors.

• Revise the DFARS to use Activity Address Codes as the unique identifier for contracting offices and other offices, as well as the use of standard procurement instrument identification numbers. This will provide for standardization across the Federal government to facilitate data tracking and collection.

2. Rulemakings That Promote Open Government and Use Disclosure as a Regulatory Tool

The Department plans to—

• Finalize the DFARS rule, which revises reporting requirements for Government-furnished property to include items uniquely and non-uniquely identified, which will permit enterprise-wide visibility thereby enhancing DoD's ability to reutilize items. The data will be available to users in the logistics, financial, and property accountability arenas.

3. Rulemakings That Streamline Regulations, Reduce Unjustified Burdens, and Minimize Burdens on Small Businesses

The Department plans to—

• Finalize the rule for DFARS coverage of patents, data, and copyrights, which significantly reduces the amount of regulatory text and the number of required clauses.

4. Rules to be modified, streamlined, expanded, or repealed to make the agency's regulatory program more effective or less burdensome in achieving the regulatory objectives.

• DFARS Case 2012–D022—Provides guidance relating to rights in technical data under contracts for production and sustainment of systems or subsystems.

• DFARS Case 2012–D008—Proposes a new convention for prescribing clauses with alternates to provide alternate clauses in full text. This will facilitate selection of alternate clauses using automated contract writing systems.

• DFARS Case 2011–D056—Provides a new approach to identifying required provisions and clauses for the acquisition of commercial items, by replacing the omnibus contract clause at DFARS 252.212–7001 with an amplified list in part 212 of required provisions and clauses. This supports simplified clause prescriptions and facilitates commercial item clause selections using automated contract writing systems.

• DFARS Case 2010–D001—Finalizes the rule for DFARS coverage of patents, data, and copyrights, which significantly reduces the amount of regulatory text and the number of required clauses.

Specific DoD Priorities

For this regulatory plan, there are six specific DoD priorities, all of which reflect the established regulatory principles. DoD has focused its regulatory resources on the most serious environmental, health, and safety risks. Perhaps most significant is that each of the priorities described below promulgates regulations to offset the resource impacts of Federal decisions on the public or to improve the quality of public life, such as those regulations concerning acquisition, security, energy projects, education, and health affairs.

1. Defense Procurement and Acquisition Policy

The Department of Defense continuously reviews the DFARS and continues to lead Government efforts to—

• Revise the DFARS to provide detailed guidance and instruction to DoD contracting officers for the use of DoD's performance based payments analysis tool when contemplating the use of performance based payments on new fixed-price type contracts.

• Revise the DFARS to implement a DoD Better Buying Power initiative by providing a proposal-adequacy checklist in a provision to ensure offerors take responsibility for providing thorough, accurate, and complete proposals.

• Revise the DFARS to implement a DoD Better Buying Power initiative by providing a forward-pricing-rate-agreement checklist in a provision to ensure offerors take responsibility for providing thorough, accurate, and complete proposals.

• Revise the DFARS to address standards and structures for the safeguarding of unclassified DoD information.

• Revise the DFARS to include contractor reporting and documentation requirements regarding contractor compliance with the DFARS business systems' criteria.

2. Logistics and Material Readiness, Department of Defense

The Department of Defense plans to finalize a rule on contractors supporting the military in contingency operations:

• *Final Rule:* Operational Contract Support. This rule incorporates the latest changes and lessons learned into policy and procedures for operational contract support (OCS), including OCS program management, contract support

integration, and the integration of DoD contractor personnel into contingency operations outside the United States. It was required to procedurally close gaps and ensure the correct planning, oversight and management of DoD contractors supporting contingency operations, by updating outdated policy. DoD published an interim final rule on December 29, 2011 (32 CFR part 158, 76 FR 81807–81825) with an effective date of December 29, 2011. The comment period ended February 27, 2012. DoD is preparing a final rule, which includes the responses to the public comments. The final rule is expected to be published the second quarter of FY 2013.

3. Installations and Environment, Department of Defense

The Department of Defense plans to finalize a rule regarding the process for evaluating the impact of certain types of structures on military operations and readiness:

• *Final Rule:* This rule implements policy, assigns responsibilities, and prescribes procedures for the establishment and operation of a process for evaluation of proposed projects submitted to the Secretary of Transportation under section 44718 of title 49, United States Code. The evaluation process is established for the purpose of identifying any adverse impact of proposed projects on military operations and readiness, minimizing or mitigating such adverse impacts, and determining if any such projects pose an unacceptable risk to the national security of the United States. The rule also includes procedures for the operation of a central DoD siting clearinghouse to facilitate both informal and formal reviews of proposed projects. This rule is required by section 358 of Public Law 111–383. An interim final rule was published on October 20, 2011 (76 FR 65112). DoD anticipates publishing a final rule in the second quarter of FY 2013.

4. Military Community and Family Policy, Department of Defense

The Department of Defense plans to finalize a rule to implement policy, assign responsibilities, and prescribe procedures for the operation of voluntary education programs within DoD:

• *Final Rule:* In this final rule, the Department of Defense (DoD) plans to implement policy, assigns responsibilities, and prescribes procedures for the operation of voluntary education programs within DoD. Several of the subject areas in this final rule include: Procedures for Service members participating in education programs; guidelines for establishing, maintaining, and operating voluntary education programs including, but not limited to, instructor-led courses offered on-installation and off-installation, as well as via distance learning; procedures for obtaining on-base voluntary education programs and services; minimum criteria for selecting institutions to deliver higher education programs and services on military installations; the establishment of a DoD Voluntary Education Partnership Memorandum of Understanding (MOU) between DoD and educational institutions receiving tuition assistance payments; and procedures for other education programs for Service members and their adult family members.

The new DoD MOU policy was scheduled to commence in early 2012; however, due to concerns received by DoD from several institutions of higher learning (IHLs) involving the language in the DoD Voluntary Education Partnership Memorandum of Understanding (MOU), commencement was put on-hold. DoD extended the deadline to work with the stakeholders (American Council on Education, IHLs, and key veteran and military service organizations) to address these concerns by clarifying the terminology contained in the DoD MOU. One change was informally coordinated with all key stakeholders (Congress, the White House, American Council on Education and select IHL) and now captures the agreed upon MOU policy. The new deadline to implement the policy requiring participating IHLs to sign the MOU is sixty days following the publication of the final rule in the **Federal Register**. A proposed rule was published on August 6, 2010 (75 FR 47504). DoD anticipates publishing a final rule in the second quarter of FY2013.

Earlier this year, the White House worked with an interagency group, including the Departments of Education, Veterans Affairs, Justice, and Defense, on the development of an Executive Order establishing the Principles of Excellence for educational institutions servicing Service members, Veterans, spouses, and other family members. The President signed Executive Order 13607 on April 27, 2012. Implementation of the protections stated in E.O. 13607 will require developing and coordinating an amendment to the rule, Voluntary Education Programs. The White House guidance states DoD will implement these new student protections by the start of academic year 2013–2014. DoD anticipates publishing a final rule the third quarter of FY 2013.

5. Health Affairs, Department of Defense

The Department of Defense is able to meet its dual mission of wartime readiness and peacetime health care by operating an extensive network of medical treatment facilities. This network includes DoD's own military treatment facilities supplemented by civilian health care providers, facilities, and services under contract to DoD through the TRICARE program. TRICARE is a major health care program designed to improve the management and integration of DoD's health care delivery system. The program's goal is to increase access to health care services, improve health care quality, and control health care costs.

The TRICARE Management Activity has published or plans to publish the following rules:

• *Final rule on TRICARE:* Reimbursement of Sole Community Hospitals and Adjustment to Reimbursement of Critical Access Hospitals. The rule implements the statutory provision in 10 United States Code 1079(j)(2) that TRICARE payment methods for institutional care shall be determined to the extent practicable in accordance with the same reimbursement rules as those that apply to payments to providers of services of the same type under Medicare. This rule implements a reimbursement methodology similar to that furnished to Medicare beneficiaries for services provided by sole community hospitals. It is projected that implementation of this rule will result in health care savings of $36.5 million per year with proposed phase-in period and an estimated initial startup cost of $200,000. Any ongoing administrative costs would be minimal and there do not appear to be any applicable risks to the public. The proposed rule was published July 5, 2011 (76 FR 39043). The comment period ended on September 6, 2011. DoD anticipates publishing a final rule in the second quarter of FY 2013.

• *Final rule on TRICARE:* TRICARE Young Adult. The purpose of this interim final rule is to establish the TRICARE Young Adult program implementing section 702 of the Ike Skelton NDAA for FY 2011 (Pub. L. 111–383) to provide medical coverage to unmarried children under the age of 26 who no longer meet the age requirements for TRICARE eligibility (age 21, or 23 if enrolled in a full-time course of study at an institution of higher learning approved by the Secretary of Defense) and who are not

eligible for medical coverage from an eligible employer-sponsored plan (as defined in section 5000A(f)(2) of the Internal Revenue Code of 1986). If qualified, they can purchase TRICARE Standard/Extra or TRICARE Prime benefits coverage. The particular TRICARE plan available depends on the military sponsor's eligibility and the availability of the TRICARE plan in the dependent's geographic location. It is projected that implementation of this rule will result in an estimated initial start-up cost of $3,000,000. Premiums are designed to cover the anticipated health care costs, as well as ongoing administrative costs. The interim final rule was published April 27, 2011 (76 FR 23479), with an immediate effective date. The comment period ended June 27, 2011. DoD anticipates publishing a final rule in the second quarter of FY 2013.

6. Sexual Assault Prevention and Response Office, Department of Defense

The Department of Defense plans to publish an interim final rule regarding Sexual Assault Prevention and Response (SAPR) Program Procedures:

• *Interim Final Rule:* Sexual Assault Prevention and Response (SAPR) Program Procedures. This part implements Department of Defense (DoD) policy and assigns responsibilities for the SAPR Program on prevention, response, and oversight to sexual assault. It is DoD policy to establish a culture free of sexual assault by providing an environment of prevention, education and training, response capability, victim support, reporting procedures, and accountability that enhances the safety and well being of all persons covered by the regulation. DoD anticipates publishing the interim final rule in the first or second quarter of FY 2013.

7. Personnel and Readiness, Department of Defense

The Department of Defense plans to publish a rule regarding Service Academies:

• *Final Rule:* Service Academies. This rule establishes policy, assigns responsibilities, and prescribes procedures for Department of Defense oversight of the Service Academies. Administrative costs are negligible and benefits are clear, concise rules that enable the Secretary of Defense to insure that the Service Academies are efficiently operated and meet the needs of the armed forces. The proposed rule was published October 18, 2007 (72 FR 59053), and included policy that has since changed. The final rule, particularly the explanation of separation policy, will reflect recent changes in the Don't Ask, Don't Tell policy. It will also incorporate changes resulting from interagency coordination. DoD anticipates publishing the final rule in the first or second quarter of FY 2013.

8. Chief Information Officer, Department of Defense

The Department of Defense plans to publish a final rule to establish the voluntary cyber security information sharing program between DoD and eligible cleared defense contractors:

• *Final Rule:* Defense Industrial Base (DIB) Voluntary Cyber Security/Information Assurance (CS/IA) Activities. The DIB CS/IA program enhances and supplements DIB participant's capabilities to safeguard DoD information that resides on, or transits, DIB unclassified information systems. At the core of this voluntary program is a bilateral cyber security information sharing activity, in which DoD provides cyber threat information and information assurance best practices to DIB companies, and in return, DIB companies report certain types of cyber intrusion incidents to the DoD–DIB Collaborative Information Sharing Environment (DCISE), located at the DoD Cyber Crime Center. The information sharing arrangements between DoD and each participating DIB company are memoralized in a standardized bilateral Framework Agreement. The interim final rule was published on May 11, 2012 (77 FR 27615). The comment period on the interim final rule ended on July 11, 2012. Once adjudication of the comments is complete, DoD anticipates publishing a final rule in the second quarter of FY 2013.

DOD—OFFICE OF THE SECRETARY (OS)

Final Rule Stage

21. Service Academies

Priority: Other Significant.
Legal Authority: 10 U.S.C. 301
CFR Citation: 32 CFR part 217.
Legal Deadline: None.
Abstract: The Department is revising and updating policy guidance and oversight of the Military Service Academies. This rule implements 10 U.S.C. 403, 603, and 903 for the establishment and operation of the United States Military Academy, the United States Naval Academy, and the United States Air Force Academy. Administrative costs are negligible and benefits are clear, concise rules that enable the Secretary of Defense to insure that the Service Academies are efficiently operated and meet the needs of the armed forces. The proposed rule was published October 18, 2007 (72 FR 59053), and included policy that has since changed. The final rule, particularly the explanation of separation policy, will reflect recent changes in the Don't Ask, Don't Tell policy.
Statement of Need: The Department of Defense revises and updates the current rule providing the policy guidance and oversight of the Military Service Academies. This rule implements 10 U.S.C. 403, 603, and 903 for the establishment and operation of the United States Military Academy, the United States Naval Academy, and the United States Air Force Academy.
Summary of Legal Basis: 10 U.S.C. Chapters 403, 603, 903.
Alternatives: None. The Federal statute directs the Department of Defense to develop policy, assign responsibilities, and prescribe procedures for operations and oversight of the Service academies.
Anticipated Cost and Benefits: Administrative costs are negligible and benefits would be clear, concise rules that enable the Secretary of Defense to ensure that the Service Academies are efficiently operated and meet the needs of the armed forces.
Risks: None.
Timetable:

Action	Date	FR Cite
NPRM	10/18/07	72 FR 59053
NPRM Comment Period End.	12/17/07	
Final Action	03/00/13	

Regulatory Flexibility Analysis Required: No.
Small Entities Affected: No.
Government Levels Affected: None.
Additional Information: DoD Instruction 1322.22.
Agency Contact: Paul Nosek, Department of Defense, Office of the Secretary, 4000 Defense Pentagon, Washington, DC 20301–4000, *Phone:* 703 695–5529.
RIN: 0790–AI19

DOD—OS

22. Sexual Assault Prevention and Response Program Procedures

Priority: Other Significant.
Legal Authority: 10 U.S.C. ch 47 sec 113
CFR Citation: 32 CFR part 105.
Legal Deadline: None.

Abstract: This rule implements policy, assigns responsibilities, provides guidance and procedures, and establishes the Sexual Assault Advisory Council for the DoD Sexual Assault Prevention and Response program consistent with the Task Force Report on Care for Victims of Sexual Assault, and pursuant to 10 U.S.C. 113 and 32 CFR part 103. The intent of the program is to prevent and eliminate sexual assault within the Department by providing comprehensive procedures to better establish a culture of prevention, response, and accountability that enhances the safety and well-being of all DoD members.

Statement of Need: This rule implements policy, assigns responsibilities, and provides guidance and procedures for the SAPR Program. It establishes the processes and procedures for the Sexual Assault Forensic Examination (SAFE) Kit; the multidisciplinary Case Management Group to include guidance for the group on how to handle sexual assault; SAPR minimum program standards; SAPR training requirements; and SAPR requirements for the DoD Annual Report on Sexual Assault in the Military.

Summary of Legal Basis: Section 113 of Title 10, United States Code (U.S.C.); and Public Laws 109–364, 109–163, 108–375, 106–65, 110–417, and 111–84.

Alternatives: The Sexual Assault Prevention and Response Office (SAPRO) will lack updated and revised rules for implementing DoD policy on prevention and response to sexual assaults involving members of the U.S. Armed Forces if this rule is not implemented.

Anticipated Cost and Benefits: The preliminary estimate of the anticipated cost associated with this rule for the current fiscal year (2011) is approximately $14.819 million. Additionally, each of the Military Services establishes its own SAPR budget for the programmatic costs arising from the implementation of the training, prevention, reporting, response, and oversight requirements established by this rule.

The anticipated benefits associated with this rule include:

(1) Guidance with which the Department may establish a culture free of sexual assault by providing an environment of prevention, education and training, response capability, victim support, reporting procedures, and appropriate accountability that enhances the safety and well being of all persons covered by this rule;

(2) Treatment of sexual assault patients as emergency cases, which prevents loss of life or suffering resulting from physical injuries (internal or external), sexually transmitted infections, pregnancy, and psychological distress;

(3) The availability of two reporting options for Service members and their dependents who are 18 years of age or older covered by this rule who are victims of sexual assault. The two reporting options are as follows:

(a) Unrestricted Reporting allows an eligible person who is sexually assaulted to access medical treatment and counseling and request an official investigation of the allegation using existing reporting channels (e.g., chain of command, law enforcement, healthcare personnel, the Sexual Assault Response Coordinator [SARC]). When a sexual assault is reported through Unrestricted Reporting, a SARC shall be notified as soon as possible, respond, assign a SAPR Victim Advocate (VA), and offer the victim medical care and a sexual assault forensic examination (SAFE); and

(b) Restricted Reporting allows sexual assault victims to confidentially disclose the assault to specified individuals (i.e., SARC, SAPR VA, or healthcare personnel), in accordance with DoD Directive (DoDD) 5400.11, and receive medical treatment, including emergency care, counseling, and assignment of a SARC and SAPR VA, without triggering an official investigation. The victim's report to healthcare personnel (including the information acquired from a SAFE Kit), SARCs, or SAPR VAs will not be reported to law enforcement, or to the victim's command to initiate the official investigative process, unless the victim consents or an established exception applies in accordance with DoD Instruction (DoDI) 6495.02.

The Department's preference is for complete Unrestricted Reporting of sexual assaults to allow for the provision of victims' services and to pursue accountability. However, Unrestricted Reporting may represent a barrier for victims to access services, when the victim desires no command or law enforcement involvement. Consequently, the Department recognizes a fundamental need to provide a confidential disclosure vehicle via the Restricted Reporting option.

(4) Service members who are on active duty but were victims of sexual assault prior to enlistment or commissioning are eligible to receive SAPR services and utilize either reporting option. The focus of this rule and DoDI 6495.02 is on the victim of sexual assault. The DoD shall provide support to an active duty Service member regardless of when or where the sexual assault took place; and

(5) Guidance for the development of response capabilities that will enable sexual assault victims to recover, and, if Service members, to be fully mission capable and engaged.

Risks: The rule intends to enable military readiness by establishing a culture free of sexual assault. Sexual assault poses a serious threat to military readiness because the potential costs and consequences are extremely high: chronic psychological consequences may include depression, post-traumatic stress disorder, and substance abuse. In the U.S. Armed Forces, sexual assault not only degrades individual resilience but also may erode unit integrity. An effective fighting force cannot tolerate sexual assault within its ranks. Sexual assault is incompatible with military culture and mission readiness, and risks to mission accomplishment. This rule aims to mitigate this risk to mission readiness.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/12	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Additional Information: DoD Instruction 6495.02.

Agency Contact: Teresa Scalzo, Department of Defense, Office of the Secretary, 4000 Defense Pentagon, Washington, DC 20301–1155, *Phone:* 703 696–8977.

RIN: 0790–AI36

DOD—OS

23. Operational Contract Support

Priority: Other Significant.

Legal Authority: Pub. L. 110–181

CFR Citation: 32 CFR part 158.

Legal Deadline: None.

Abstract: In accordance with Public Law 110–181 and Public Law 110–417, DoD is revising policy and assigning responsibilities for program management of operational contract support (OCS) in contingency operations and integration of DoD contractor personnel into military contingency operations outside the United States. An interim final rule is required to procedurally close gaps and ensure the correct planning, oversight and management of DoD contractors supporting contingency operations, by updating the existing outdated policy. The existing policies are causing

significant confusion, as they do not reflect current practices and legislative mandates. The apparent mismatch between local Geographic Command guidance and the DoD-wide policies and the Defense Federal Acquisition Regulations Supplement is confusing for those in the field—in particular policy with regard to accountability and visibility requirements. Since the Presidential decision to expand the number of troops in Afghanistan and the subsequent increase of troops and contractors in theater, this issue has become so significant that DoD needs to revise the DoD-wide policies as a matter of urgency.

Statement of Need: This rule revises policy and assigns responsibilities for program management of operational contract support (OCS) in contingency operations and integration of DoD contractor personnel into military contingency operations outside the United States. GAO, the Commission on Wartime Contracting, and the Special Inspector General for Iraq Reconstruction/Afghanistan Reconstruction are among those who have highlighted the urgent requirement to update the policy.

Summary of Legal Basis: Parts of the rule are required by section 861 of the 2008 NDAA, Public Law 110–181 and Public Law 110–417.

Alternatives: Given the legal requirement to revise this regulation and separately publish a corresponding revision to the Federal Acquisition Regulation, we did not consider any alternatives.

Anticipated Cost and Benefits: This regulation establishes policies and procedures for the oversight and management of contractors supporting contingency operations outside the United States; therefore, there is no cost to public. Updated and refined policy regarding contractors supporting contingency operations will result in improved management, oversight and efficiency.

Risks: This rule represents an update to the existing DoD Instruction and incorporates the latest changes in policy and procedures. This revision is required to integrate lessons learned and improvements in practices gleaned from five years of operational experience. The risk of not publishing this rule is that there would be outdated policy which doesn't reflect practices in the field. This will lead to inefficient and ineffective management of the contractor workforce supporting contingency operations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/29/11	76 FR 81807
Interim Final Rule Effective.	12/29/11	
Interim Final Rule Comment Period End.	02/27/12	
Final Action	01/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Federal.

Additional Information: DoD Instruction 3020.41.

Agency Contact: Kerry Powell, Department of Defense, Office of the Secretary, 3500 Defense Pentagon, Washington, DC 20201–3500, *Phone:* 703 614–1944, *Fax:* 703 697–4942, *Email: kerry.powell@osd.mil.*

RIN: 0790–AI48

DOD—OS

24. Voluntary Education Programs

Priority: Economically Significant. Major under 5 U.S.C. 801.

Legal Authority: 10 U.S.C. 2005; 10 U.S.C. 2007

CFR Citation: 32 CFR part 68.

Legal Deadline: None.

Abstract: This rule will implement policy, assign responsibilities, and prescribe procedures for the operation of voluntary education programs within DoD. Included are: procedures for Service members participating in education programs; guidelines for establishing, maintaining, and operating voluntary education programs, including but not limited to, instructor-led courses offered on-installation and off-installation, as well as via distance learning; procedures for obtaining on-base voluntary education programs and services; minimum criteria for selecting institutions to deliver higher education programs and services on military installations; the establishment of a DoD Voluntary Education Partnership Memorandum of Understanding between DoD and educational institutions receiving tuition assistance payments; and procedures for other education programs for Service members and their adult family members.

Statement of Need: A March 2011 Government Accountability Office report on the DoD TA program recommended the Department take steps to enhance its oversight of schools receiving TA funds. As a result, a DoD Memorandum of Understanding (MOU) requirement was included in this rule, which is designated not only to improve Departmental oversight but also to account for our Service members' unique lifestyle requirements. The purpose of the DoD MOU is to establish a partnership between the Department and institutions to improve educational opportunities while protecting the integrity of each institution's core educational values. This partnership serves to ensure a quality, viable program exists that provides for our Service members to realize their educational goals, while allowing for judicious oversight of taxpayer dollars.

Summary of Legal Basis: Sections 2005 and 2007 of title 10, United States Code.

Alternatives: None.

Anticipated Cost and Benefits: Voluntary Education Programs include: High School Completion/Diploma; Military Tuition Assistance (TA); Postsecondary Degree Programs; Independent Study and Distance Learning Programs; College Credit Examination Program; Academic Skills Program; and Certification/Licensure Programs. Funding for Voluntary Education Programs during 2009 was $800 million, which included tuition assistance and operational costs. This funding provided more than 650,000 individuals (Service members and their adult family members) with the opportunity to participate in Voluntary Education Programs around the world.

Risks: None.

Timetable:

Action	Date	FR Cite
NPRM	08/06/10	75 FR 47504
NPRM Comment Period End.	10/05/10	
Final Action	12/00/12	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Additional Information: DoD Instruction 1322.25.

Agency Contact: Kerrie Tucker Department of Defense, Office of the Secretary, Defense Pentagon, Washington, DC 20301, *Phone:* 703 602–4949.

RIN: 0790–AI50

DOD—OS

25. Defense Industrial Base (DIB) Cyber Security/Information Assurance (CS/IA) Activities

Priority: Other Significant.

Legal Authority: EO 12829

CFR Citation: Not Yet Determined.

Legal Deadline: None.

Abstract: In accordance with Executive Order 12829, this rule will establish policy, assign responsibilities, and delegate authority for directing the conduct of Defense Industrial Base (DIB) Cyber Security/Information Assurance (CS/IA) activities to protect unclassified DoD information that transits or resides on unclassified DIB information systems and networks.

Statement of Need: Adversaries target Defense Industrial Base (DIB) unclassified networks daily. Unauthorized access and compromise of DoD unclassified information poses an unacceptable risk and imminent threat to U.S. national and economic security. DoD's voluntary DIB Cyber Security and Information Assurance (CS/IA) program enhances and supplements DIB participants' capabilities to safeguard DoD information on DIB unclassified information systems.

Summary of Legal Basis: Government and private sector information assurance, which includes cyber threat information sharing, is an urgent U.S. national and economic security priority. The following authorities and policy guidance identify government-industry partnerships as necessary to contend with advanced cyber threats and support the collection of cyber incident information from the DIB.

DoD Information Assurance (IA): DoD is required by statute to establish programs and activities to protect DoD information and DoD information systems, including information and information systems operated and maintained by contractors or others in support of DoD activities. Section 2224 of title 10, U.S. Code (U.S.C.), requires DoD to establish a Defense IA Program to protect and defend DoD information, information systems, and information networks that are critical to the Department during day to day operations and operations in times of crisis. (10 U.S.C. section 2224(a)). The program must provide continuously for the availability, integrity, authentication, confidentiality, non-repudiation, and rapid restitution of information and information systems that are essential elements of the Defense information infrastructure. (10 U.S.C. section 2224(b)). The program strategy also must include vulnerability and threat assessments for defense and supporting non-defense information infrastructures, joint activities with elements of the national information infrastructure, and coordination with representatives of those national critical infrastructure systems that are essential to DoD operations. (10 U.S.C. section 2224(c)). The program must provide for coordination, as appropriate, with the heads of any relevant federal agency and with representatives of those national critical information infrastructure systems that are essential to the operations of the Department regarding information assurance measures necessary to the protection of these systems. (10 U.S.C. section 2224(d)).

Federal Information Security: The Defense IA Program also must ensure compliance with Federal information security requirements of the Federal Information Security Management Act (FISMA), 44 U.S.C. section 3541 *et seq.* FISMA requires all federal agencies to provide information security protections for information collected or maintained by, or on behalf of, the agency. Information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency must be in accordance with 44 U.S.C. section 3544(a)(1)(A). Agencies are expressly required to develop, document, and implement programs to provide information security for information and information systems that support the operations and assets of the agency, including those provided by another agency, contractor, or other source in accordance with 44 U.S.C. section 3544(b).

Critical Infrastructure Protection (CIP): Under Homeland Security Presidential Directive 7 (HSPD–7), ''Critical Infrastructure Identification, Prioritization, and Protection,'' the Department of Defense is the Sector Specific Agency (SSA) for the Defense Industrial Base (DIB) sector (HSPD–7), (18)(g)), and thus engages with the DIB on a wide range of CIP matters, including but not limited to cyber security. HSPD–7 charges the SSAs to: collaborate with all relevant Federal departments and agencies, State and local governments, and the private sector, including with key persons and entities in their infrastructure sector; conduct or facilitate vulnerability assessments of the sector; and encourage risk management strategies to protect against and mitigate the effects of attacks against critical infrastructure and key resources. (HSPD–7), (19)). The Department of Homeland Security (DHS) leads the national effort to protect public and private critical infrastructure. (HSPD–7), (7)). This includes coordinating implementation activities between federal agencies, state and local authorities, and the private sector. Regarding cyber security, these efforts are to include analysis, warning, information sharing, vulnerability reduction, mitigation, and aiding national recovery efforts for critical infrastructure information systems. (HSPD–7), (12)) More specifically, regarding coordination with the private sector, HSPD–7 provides that DHS and the SSAs ''will collaborate with appropriate private sector entities and continue to encourage the development of information sharing and analysis mechanisms [to] identify, prioritize, and coordinate the protection of critical infrastructure and key resources; and to facilitate sharing of information about physical and cyber threats, vulnerabilities, incidents, potential protective measures, and best practices.'' (HSPD–7), (25)).

Alternatives: Private sector DIB company participation in the DIB CS/IA program is completely voluntary, allowing DIB companies to elect whether to participate in the program, or to choose from any other available alternatives, based on their individual approaches to cyber security and information security. The DIB CS/IA bilateral information sharing activities are a core element of the DoD's multi-pronged approach to fulfill its information assurance responsibilities and cyber security. The program enhances and supplements DIB participants' capabilities to safeguard DoD information that resides on, or transits, DIB unclassified information systems.

Anticipated Cost and Benefits: Participation in the DIB CS/IA program is voluntary and does not obligate the DIB participant to use government furnished information (GFI) in, or otherwise to implement any changes to, its information systems. Any action taken by the DIB participant based on GFI or other participation in this program is taken on the DIB participant's own volition and at the participant's own risk and expense. As a voluntary program in which the DIB participants and the Government each bear independent responsibility for their own activities, the costs to both the private sector and to the government are minimized. This voluntary participation will not create an inconsistency or otherwise interfere with any action taken or planned by another Agency. We do not believe that it raises novel legal policy issues arising out of legal mandates, the President's priorities, or principles set forth in Executive Orders.

All DIB participants must have or obtain DoD-approved, medium assurance certificates to enable encrypted unclassified information sharing between DoD and DIB participants. Cost of the DoD approved medium assurance certificates is approximately $175 for each individual identified by the DIB participant. See *http://iase.disa.mil/pki/eca/* for more

information about DoD-approved certificates.

For classified information sharing, each DIB participant will have start up costs of approximately $3,000 per DIBNet-Secret terminal installed in their cleared facility(ies). An estimate of $1,000 per year is projected as sustainment costs for each classified DIBNet-Secret terminal, including associated personnel costs for maintaining software updates for each stand-alone terminal.

There is an estimated annual burden for DIB participants projected at $1,367 for incident reporting. This is based on a DIB participant reporting average of 5 cyber incidents a year affecting DoD information, with 7 hours of labor per incident, at a cost of $39.06 per man hour. These man hour costs are according to the Bureau of Labor Statistics, Occupational Employment and Wages, May 2010, and depending upon the number of cyber incidents experienced and their severity, the annual burden could increase.

These costs provide beneficial capabilities to enhance and supplement DIB participants' capabilities to safeguard DoD information that resides on, or transits, DIB unclassified information systems.

Risks: Cyber threats to DIB unclassified information systems represent an unacceptable risk of compromise of DoD information and pose an imminent threat to U.S. national security and economic security interests. DoD's voluntary DIB CS/IA program enhances and supplements DIB participant's capabilities to safeguard DIB information that resides on, or transits, DIB unclassified information systems.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/11/12	77 FR 27615
Interim Final Rule Comment Period End.	06/10/12	
Final Action	02/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Additional Information: DoD Instruction 5205.ff.

Agency Contact: Brian Fredericks, Department of Defense, Office of the Secretary, 1155 Defense Pentagon, Washington, DC 20301, *Phone:* 703 604–5522, *Email: brian.fredericks2@osd.mil.*

RIN: 0790–AI60

DOD—OS

26. Mission Compatibility Evaluation Process

Priority: Other Significant.

Legal Authority: Pub. L. 111–383, sec 358

CFR Citation: 32 CFR part 211.

Legal Deadline: None.

Abstract: The Department of Defense (DoD) is issuing this interim final rule to implement section 358 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011, Public Law 111–383. That section requires that the DoD issue procedures addressing the impacts upon military operations of certain types of structures if they pose an unacceptable risk to the national security of the United States. The structures addressed are those for which an application is required to be filed with the Secretary of Transportation under section 44718 of title 49, United States Code. Section 358 also requires the designation of a lead organization to coordinate DoD review of applications for projects filed with the Secretary of Transportation pursuant to section 44718, and received by the Department of Defense from the Secretary of Transportation. Section 358 also requires the designation of certain officials by the Secretary of Defense to perform functions pursuant to the section and this implementing rule. Section 358 also requires the establishment of a comprehensive strategy for addressing military impacts of renewable energy projects and other energy projects, with the objective of ensuring that the robust development of renewable energy sources and the expansion of the commercial electrical grid may move forward in the United States, while minimizing or mitigating any adverse impacts on military operations and readiness. Implementing that requirement, however, is not required at this time and is not part of this rule. Other aspects of section 358 not required at this time, such as annual reports to Congress, are also not addressed in this rule. Nor does this rule deal with other clearance processes not included in section 358, such as those applied by the Bureau of Land Management, Department of the Interior.

Statement of Need: This rule implements policy, assigns responsibilities, and prescribes procedures for the establishment and operation of a process for evaluation of proposed projects submitted to the Secretary of Transportation under section 44718 of title 49, United States Code. The evaluation process is established for the purpose of identifying any adverse impact of proposed projects on military operations and readiness, minimizing or mitigating such adverse impacts, and determining if any such projects pose an unacceptable risk to the national security of the United States. The rule also includes procedures for the operation of a central DoD siting clearinghouse to facilitate both informal and formal reviews of proposed projects.

Summary of Legal Basis: Public Law 111–383, Section 358.

Alternatives: The requirement to have a rule and the policies, responsibilities, and procedures contained in the rule were prescribed by section 358 of Public Law 111–383. In the areas where DoD has discretion, e.g., the internal procedures used within DoD to comply with the law, alternative arrangements would have no impact on the net economic effects of the rule.

Anticipated Cost and Benefits: The Department of Defense has long participated in the Department of Transportation review process, interacting with the Federal Aviation Administration (FAA). Prior to Section 358 of Public Law 111–383, DoD's engagement was decentralized—each Military Service participated separately working with FAA representatives at the regional level. In addition, each Service set its own standards for challenging a project application. Section 358 directed that DoD develop a single DoD point of contact for responses, established the threshold level of harm that must be reached before DoD could object to a project application on the basis of national security, and directed that DoD negotiate mitigation with project developers if potential harm is identified. The directed threshold level of harm, identified as ''unacceptable risk to national security,'' is higher than the standard previously used. This will result in DoD objecting to fewer project applications than before, reducing the impact of DoD reviews on non-DoD economic activity. The requirement to engage in mitigation negotiations may delay some projects (which has a negative impact on non-DoD economic activity), but it may result in still fewer DoD objections (which has a positive impact on non-DoD economic activity). DoD estimates that the net effect of these factors on non-DoD economic activity will be a benefit of approximately $70 million.

The higher standard for objection imposed by section 358 of Public Law 111–383 may allow projects that conflict with military activity, but do not achieve the high level of conflict required by law to object, to proceed.

This may impose costs on DoD, e.g., systems testing may have to be moved to alternative test ranges, training and readiness activities may be curtailed or moved, and changes to operations may have to be implemented to overcome interference with coastal, border, and interior homeland surveillance. The early outreach and negotiation over mitigation required by section 358 may allow modification of some projects to reduce or eliminate their conflict with military activities in cases where the absence of early outreach and negotiation would result in the project proceeding without mitigation. This would provide a benefit to DoD. The net effect of these costs and benefits on DoD has not been quantitatively estimated.

Risks: The higher standard for a DoD objection to a project and the requirement to allow early consultation by developers with DoD will reduce the risk to both developers and to industry of planning a project that is unacceptable to DoD. Per the discussion above, there is a risk to DoD that projects in conflict with military activity, but that do not achieve the high level of conflict required by law to object, will proceed and impair DoD's test and evaluation; training and readiness; and coastal, border, and interior homeland surveillance capabilities.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/20/11	76 FR 65112
Interim Final Rule Effective.	10/20/11	
Interim Final Rule Comment Period End.	12/19/11	
Final Action	02/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Businesses.

Government Levels Affected: Federal, Local, State, Tribal.

Agency Contact: David Belote, Department of Defense, Office of the Secretary, 3400 Defense Pentagon, Washington, DC 20301–3400, *Phone:* 703 697–7301, *Email: david.belote@osd.smil.mil.*

RIN: 0790–AI69

DOD—OFFICE OF ASSISTANT SECRETARY FOR HEALTH AFFAIRS (DODOASHA)

Final Rule Stage

27. TRICARE; Reimbursement of Sole Community Hospitals

Priority: Economically Significant. Major under 5 U.S.C. 801.

Legal Authority: 5 U.S.C. 301; 10 U.S.C. ch 55

CFR Citation: 32 CFR part 199.

Legal Deadline: None.

Abstract: This proposed rule would implement the statutory provision at 10 U.S.C. 1079(j)(2) that TRICARE payment methods for institutional care be determined, to the extent practicable, in accordance with the same reimbursement rules as those that apply to payments to providers of services of the same type under Medicare. This proposed rule implements a reimbursement methodology similar to that furnished to Medicare beneficiaries for inpatient services provided by Sole Community Hospitals (SCHs). It will be phased in over a several-year period.

Statement of Need: This rule is being published to implement the statutory provision in 10 U.S.C. 1079(j)(2), that TRICARE payment methods for institutional care be determined, to the extent practicable, in accordance with the same reimbursement rules as apply to payments to providers of services of the same type under Medicare. This proposed rule implements a reimbursement methodology similar to that furnished to Medicare beneficiaries for inpatient services provided by Sole Community Hospitals.

Summary of Legal Basis: There is a statutory basis for this proposed rule: 10 U.S.C. 1079(j)(2).

Alternatives: Alternatives were considered for phasing in the needed reform and an alternative was selected for a gradual, smooth transition.

Anticipated Cost and Benefits: We estimate the total reduction (from the proposed changes in this rule) in hospital revenues under the SCH reform for its first year of implementation (assumed for purposes of this RIA to be FY 2011), compared to expenditures in that same period without the proposed SCH changes, to be approximately $190 million. The estimated impact for FYs 2012 through 2015 (in $ millions) is $208, $229, $252, and $278 respectively.

Risks: Failure to publish this proposed rule would result in noncompliance with a statutory provision.

Timetable:

Action	Date	FR Cite
NPRM	07/05/11	76 FR 39043
NPRM Comment Period End.	09/06/11	
Final Action	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses, Organizations.

Government Levels Affected: None.

Agency Contact: Marty Maxey, Department of Defense, Office of Assistant Secretary for Health Affairs, 1200 Defense Pentagon, Washington, DC 20301, *Phone:* 303 676–3627.

RIN: 0720–AB41

DOD—DODOASHA

28. Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); TRICARE Young Adult

Priority: Other Significant.

Legal Authority: 10 U.S.C. ch 55; 5 U.S.C. 301

CFR Citation: 32 CFR part 199.

Legal Deadline: Final, Statutory, January 1, 2011, Public Law 111–383, section 702.

The amendments by this section took effect on January 1, 2011. The statute provided that the Secretary of Defense would prescribe an interim final rule with respect to such amendments, effective not later than January 1, 2011.

Abstract: This interim final rule implements section 702 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (NDAA for FY11). It establishes the TRICARE Young Adult (TYA) program to provide an extended medical coverage opportunity to most unmarried children under the age of 26 of uniformed services sponsors. The TRICARE Young Adult program is a premium-based program.

Statement of Need: This rule executes section 1110b of title 10, United States Code, ''TRICARE Young Adult,'' as mandated by section 702 of the Ike Skelton National Defense Act for Fiscal Year 2011. Section 702 authorizes the Department of Defense to provide an unmarried child under the age of 26 who is not otherwise eligible for TRICARE medical coverage at age 21 (23 if enrolled in a full-time course of study at an institution of higher learning approved by the Secretary of Defense) unless the dependent is enrolled in or eligible for medical coverage with an employer-sponsored plan as defined by section 5000A(f)(2) of the Internal Revenue Code of 1986. If qualified, the dependent can purchase TRICARE

Standard/Extra or TRICARE Prime benefits depending on the military sponsor's eligibility and the availability of the TRICARE plan in the dependent's geographic location.

Summary of Legal Basis: Title 10, U.S.C., section 1110b and section 702 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011.

Alternatives: None.

Anticipated Cost and Benefits: There are no anticipated budgetary health care or administrative cost increases.

Risks: Failure to publish this rule would result in certain former Military Health System beneficiaries being denied the opportunity to purchase extended dependent medical coverage (similar to one of the significant benefit provisions of the Patient Protection and Affordable Care Act) when they are not longer eligible for care at age 21 (age 23 if enrolled in a full-time course of study at an institution of higher learning approved by the Secretary of Defense) and are under the age of 26.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/27/11	76 FR 23479
Interim Final Rule Effective.	04/27/11	
Interim Final Rule Comment Period End.	06/27/11	
Final Action	02/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Agency Contact: Mark Ellis, Department of Defense, Office of Assistant Secretary for Health Affairs, 5111 Leesburg Pike, Suite 810A, Falls Church, VA 22041, *Phone:* 703 681–0039.

RIN: 0720–AB48

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Statement of Regulatory Priorities

I. Introduction

The U.S. Department of Education (Department) supports States, local communities, institutions of higher education, and others in improving education nationwide and in helping to ensure that all Americans receive a quality education. We provide leadership and financial assistance pertaining to education at all levels to a wide range of stakeholders and individuals, including State educational agencies, local school districts, providers of early learning programs, elementary and secondary schools, institutions of higher education, career and technical schools, nonprofit organizations, postsecondary students, members of the public, families, and many others. These efforts are helping to ensure that all children and students from pre-kindergarten through grade 12 will be ready for, and succeed in, postsecondary education and that students attending postsecondary institutions are prepared for a profession or career.

We also vigorously monitor and enforce the implementation of Federal civil rights laws in educational programs and activities that receive Federal financial assistance, and support innovative programs, research and evaluation activities, technical assistance, and the dissemination of research and evaluation findings to improve the quality of education.

Overall, the laws, regulations, and programs we administer will affect nearly every American during his or her life. Indeed, in the 2012–2013 school year about 55 million students will attend an estimated 132,000 elementary and secondary schools in approximately 13,800 districts, and about 21 million students will enroll in degree-granting postsecondary schools. All of these students may benefit from some degree of financial assistance or support from the Department.

In developing and implementing regulations, guidance, technical assistance, and monitoring related to our programs, we are committed to working closely with affected persons and groups. Specifically, we work with a broad range of interested parties and the general public, including families, students, and educators; State, local, and tribal governments; and neighborhood groups, community-based early learning programs, elementary and secondary schools, colleges, rehabilitation service providers, adult education providers, professional associations, advocacy organizations, businesses, and labor organizations.

We also continue to seek greater and more useful public participation in our rulemaking activities through the use of transparent and interactive rulemaking procedures and new technologies. If we determine that it is necessary to develop regulations, we seek public participation at the key stages in the rulemaking process. We invite the public to submit comments on all proposed regulations through the Internet or by regular mail.

To facilitate the public's involvement, we participate in the Federal Docketing Management System (FDMS), an electronic single Governmentwide access point (*www.regulations.gov*) that enables the public to submit comments on different types of Federal regulatory documents and read and respond to comments submitted by other members of the public during the public comment period. This system provides the public with the opportunity to submit comments electronically on any notice of proposed rulemaking or interim final regulations open for comment, as well as read and print any supporting regulatory documents.

We are continuing to streamline information collections, reduce the burden on information providers involved in our programs, and make information easily accessible to the public.

II. Regulatory Priorities

A. Race to the Top Fund

The Race to the Top Fund program is designed to provide incentives to States to implement system-changing reforms that result in improved student achievement, narrowed achievement gaps, and increased high school graduation and college enrollment rates. On May 22, 2012, the Secretary announced the Race to the Top—District competition, which is designed to build on the momentum of other Race to the Top competitions by encouraging bold, innovative reform at the local level. This district-level FY 2012 competition is authorized under sections 14005 and 14006 of the ARRA, as amended by section 1832(b) of the Department of Defense and Full-Year Continuing Appropriations Act, 2011 and the Department of Education Appropriations Act, 2012 (Title III of Division F of Pub. L. 112–74, the Consolidated Appropriations Act, 2012). The Department expects to fund about 15–25 grants in the range of $5 to $40 million. The amount of an award for which an applicant is eligible to apply depends on the number of students who would be served under the grant.

The Race to the Top—District competition is aimed squarely at classrooms and the all-important relationship between educators and students and invites applicants to demonstrate how they can personalize education for all students in their schools. In that regard, the Race to the Top—District competition will encourage and reward those local educational agencies (LEAs) or consortia of LEAs that have the leadership and vision to implement the strategies, structures, and systems needed for personalized, student-focused approaches to learning and teaching that

will produce excellence and ensure equity for all students.

B. Elementary and Secondary Education Act of 1965, as Amended

In 2010 the Administration released the Blueprint for Reform: *The Reauthorization of the Elementary and Secondary Education Act, the President's plan* for revising the Elementary and Secondary Education Act of 1965 (ESEA) and replacing the No Child Left Behind Act of 2001 (NCLB). *The blueprint can be found at the following Web site: http://www2.ed.gov/policy/elsec/leg/blueprint/index.html.*

We look forward to congressional reauthorization of the ESEA that will build on many of the reforms States and LEAs are implementing under the ARRA grant programs.

Additionally, as we continue to work with Congress on reauthorizing the ESEA, we are implementing a plan to provide flexibility on certain provisions of current law for States that are willing to embrace reform. The mechanisms we are using will ensure continued accountability and commitment to quality education for all students while providing States with increased flexibility to implement State and local reforms to improve student achievement.

C. Carl D. Perkins Career and Technical Education Act of 2006

In 2012, we released Investing in America's Future: A Blueprint for Transforming Career and Technical Education, our plan for a reauthorized Carl D. Perkins Career and Technical Education Act of 2006 (2006 Perkins Act). The Blueprint can be found at the following Web site: *http://www2.ed.gov/about/offices/list/ovae/pi/cte/transforming-career-technical-education.pdf.*

The 2006 Perkins Act made important changes in Federal support for career and technical education (CTE), such as the introduction of a requirement that all States offer ''programs of study.'' These changes in the 2006 Perkins Act helped to improve the learning experiences of CTE students but did not go far enough to systemically create better outcomes for students and employers competing in a 21st-century global economy. The Administration's Blueprint would usher in a new era of rigorous, relevant, and results-driven CTE shaped by four core principles: (1) Alignment. Effective alignment between high-quality CTE programs and labor market needs to equip students with 21st-century skills and prepare them for in-demand occupations in high-growth industry sectors; (2) Collaboration. Strong collaboration among secondary and postsecondary institutions, employers, and industry partners to improve the quality of CTE programs; (3) Accountability. Meaningful accountability for improving academic outcomes and building technical and employability skills in CTE programs for all students, based upon common definitions and clear metrics for performance; and (4) Innovation. Increased emphasis on innovation supported by systemic reform of State policies and practices to support CTE implementation of effective practices at the local level. The Administration's Blueprint proposal reflects a commitment to promoting equity and quality across these alignment, collaboration, accountability, and innovation efforts in order to ensure that more students have access to high-quality CTE programs.

D. Changes to the FFEL and Direct Loan Programs

On March 30, 2010, the President signed into law the Health Care and Education Reconciliation Act of 2010, Public Law 111–152, title II of which is the SAFRA Act. The SAFRA Act made a number of changes to the Federal student financial aid programs under title IV of the Higher Education Act of 1965, as amended (HEA). One of the most significant changes made by the SAFRA Act is that it ended new loans under the Federal Family Education Loan (FFEL) pprogram authorized by title IV, part B of the HEA as of July 1, 2010.

On May 5, 2011, ED announced through a notice in the **Federal Register** that it was beginning a negotiated rulemaking process to streamline the loan program regulations by repealing unnecessary FFEL program regulations and incorporating and modifying necessary requirements within the Direct Loan program regulations, as appropriate. ED held four public hearings in May 2011 to obtain public feedback on proposed amendments, as well as on possible amendments to other ED regulations. Based on the feedback received from these hearings, ED formed a negotiated rulemaking committee to consider proposed amendments and conducted these negotiations in January, February, and March of 2012.

At the final meeting in March 2012, the Loans Committee reached consensus on the full agenda of loans issues, resulting in two notices of proposed rulemaking (NPRMs). We published the first of the two NPRMs on July 17, 2012, and published one of the two final regulations on November 1, 2012. These final regulations implement the new Income-Contingent Repayment (ICR) plan in the Direct Loan program based on the President's ''Pay As You Earn'' repayment initiative, incorporate recent statutory changes to the Income-Based Repayment (IBR) plan in the Direct Loan and FFEL programs, and streamline and add clarity to the total and permanent disability (TPD) discharge process for borrowers in loan programs under title IV of the HEA.

We intend to publish the second of the two NPRMs in 2013 to amend the Student Assistance General Provisions, Federal Perkins Loan (Perkins Loan) Program, Federal Family Education Loan (FFEL) Program, and William D. Ford Federal Direct Loan (Direct Loan) Program regulations. The NPRM would reflect that, as of July 1, 2010, under the SAFRA Act, no new FFEL Program loans will be made and allow a borrower to get out of default on his or her loans if the borrower makes 9 reasonable and affordable payments over a 10-month period. The NPRM would also make other improvements to the Direct Loan, FFEL, and Perkins Loan programs. The NPRM would provide for greater consistency in the regulations governing the title IV, HEA student loan programs and ensure that these programs operate as efficiently as possible.

E. Individuals With Disabilities Education Act

In September of 2011, the Department issued an NPRM to revise the regulations implementing the Assistance to States for the Education of Children with Disabilities program authorized under Part B of the IDEA, and intends to issue final regulations this year.

Specifically, last year we reviewed one particular provision of the Part B regulations related to the use of public benefits or insurance to pay for services provided to children under Part B. IDEA and the Part B regulations allow public agencies to use public benefits or insurance (e.g., Medicaid) to provide or pay for services required under Part B with the consent of the parent of a child who is enrolled in a public benefits or insurance program. Public insurance is an important source of financial support for services required under Part B. With respect to the use of public insurance, our current regulations specifically provide that a public agency must obtain parental consent each time access to public benefits or insurance is sought.

We have proposed to amend the regulations to provide that, instead of having to obtain parental consent each

time access to public benefits or insurance is sought, the public agency responsible for providing special education and related services to a child would be required, before accessing a child's or parent's public benefits or insurance, to provide written notification to the child's parents. The notification would inform parents of their rights under the Part B regulations regarding the use of public benefits or insurance to pay for Part B services, including information about the limitations on a public agency's billing of public benefits or insurance programs, as well as parents' rights under the Family Educational Rights and Privacy Act and IDEA to consent prior to the disclosure of personally identifiable information.

We proposed these amendments to reduce unnecessary burden on a public agency's ability to access public benefits or insurance in appropriate circumstances but still maintain critical parent protections, and we did this for several reasons. Specifically, we are mindful of the importance of ensuring that parents have sufficient information to make decisions about a public agency's use of their public benefits or insurance and the disclosure of their child's educational records for that purpose. At the same time, these proposed amendments are designed to address the concern expressed to the Department by many State personnel and other interested parties that, since the publication of the Part B regulations in 2006, the inability to obtain parental consent has contributed to public agencies' failure to claim all of the Federal financial assistance available for Part B services covered under Medicaid. In addition, public agencies have expressed concern over using limited resources and the significant administrative burden of obtaining parental consent for the use of Medicaid and other public benefits or insurance each time that access to public benefits or insurance is sought. Consequently, many of these parties have requested that the Department remove the parental consent requirement.

The Secretary also intends to issue a notice of proposed rulemaking to amend regulations under Part B of IDEA regarding local maintenance of effort (MOE) to ensure that all parties involved in implementing, monitoring, and auditing LEA compliance with MOE requirements understand the rules. Specifically, we will be seeking public comment on proposed amendments to the regulation regarding local MOE to clarify existing policy and make other related changes regarding: (1) The compliance standard; (2) the eligibility standard; (3) the level of effort required of a local educational agency (LEA) in the year after it fails to maintain effort under section 613(a)(2)(A)(iii) of the IDEA; and (4) the consequence for a failure to maintain local effort.

F. Other Potential Regulatory Activities

Congress may reauthorize the Adult Education and Family Literacy Act (AEFLA) (title II of the Workforce Investment Act of 1998) and the Rehabilitation Act of 1973 (Title IV of the Workforce Investment Act of 1998). The Administration is working with Congress to ensure that any changes to these laws (1) improve the State grant and other programs providing assistance for adult education under the AEFLA and for vocational rehabilitation and independent living services for persons with disabilities under the Rehabilitation Act of 1973; and (2) provide greater accountability in the administration of programs under both statutes. Changes to our regulations may be necessary as a result of the reauthorization of these two statutes.

III. Retrospective Review of Existing Regulations

Pursuant to section 6 of Executive Order 13563 ''Improving Regulation and Regulatory Review'' (Jan. 18, 2011), the following Regulatory Identifier Numbers (RINs) have been identified as associated with retrospective review and analysis in the Department's final retrospective review of regulations plan. Some of the entries on this list may be completed actions that do not appear in *The Regulatory Plan.* However, more information can be found about these completed rulemakings in past publications of the Unified Agenda on reginfo.gov in the Completed Actions section. These rulemakings can also be found on Regulations.gov. The final agency plan can be found at: *www.ed.gov*.

RIN	Title of Rulemaking	Do we expect this rulemaking to significantly reduce burden on small businesses?
1820–AB64	Assistance to States for the Education of Children with Disabilities—Public Benefits or Insurance.	No.
1840–AD05	Title IV of the Higher Education Act of 1965, as Amended—Income-Based Repayment, Income-Contingent Repayment, and Total and Permanent Disability.	No.
1840–AD08	Titles III and V of the Higher Education Act, as Amended	No.
1840–AD12	Transitioning from the FFEL Program to the Direct Loan Program and Loan Rehabilitation under the FFEL, Direct Loan, and Perkins Loan Programs.	Undetermined.
1890–AA14	Direct Grant Programs and Definitions that Apply to Department Regulations	No.

IV. Principles for Regulating

Over the next year other regulations may be needed because of new legislation or programmatic changes. In developing and promulgating regulations we follow our Principles for Regulating, which determine when and how we will regulate. Through consistent application of the following principles, we have eliminated unnecessary regulations and identified situations in which major programs could be implemented without regulations or with limited regulatory action.

In deciding when to regulate, we consider the following:

- Whether regulations are essential to promote quality and equality of opportunity in education.
- Whether a demonstrated problem cannot be resolved without regulation.
- Whether regulations are necessary to provide a legally binding interpretation to resolve ambiguity.
- Whether entities or situations subject to regulation are similar enough that a uniform approach through regulation would be meaningful and do more good than harm.
- Whether regulations are needed to protect the Federal interest, that is, to ensure that Federal funds are used for their intended purpose and to eliminate fraud, waste, and abuse.

In deciding how to regulate, we are mindful of the following principles:

- Regulate no more than necessary.

• Minimize burden to the extent possible, and promote multiple approaches to meeting statutory requirements if possible.

• Encourage coordination of federally funded activities with State and local reform activities.

• Ensure that the benefits justify the costs of regulating.

• To the extent possible, establish performance objectives rather than specify compliance behavior.

• Encourage flexibility, to the extent possible and as needed to enable institutional forces to achieve desired results.

ED—OFFICE OF POSTSECONDARY EDUCATION (OPE)

Proposed Rule Stage

29. Transitioning From the FFEL Program to the Direct Loan Program and Loan Rehabilitation Under the FFEL, Direct Loan, and Perkins Loan Programs

Priority: Economically Significant. Major under 5 U.S.C. 801.

Legal Authority: 20 U.S.C. 1070a; 20 U.S.C. 1071 to 1087–4; 20 U.S.C. 1087a to 1087j; 20 U.S.C. 1098e; Pub. L. 111–152

CFR Citation: 34 CFR ch VI.

Legal Deadline: None.

Abstract: The Secretary proposes amendments to the title IV, HEA student assistance regulations to (a) reflect that, as of July 1, 2010, under the SAFRA Act, no new FFEL Program loans will be made, (b) allow a borrower to get out of default on his or her loans if the borrower makes 9 reasonable and affordable payments over a 10-month period, and (c) make other improvements to the DL, FFEL, and Perkins Loan programs.

Statement of Need: The proposed regulations are needed amend the FFEL and Direct Loan program regulations to reflect changes made to the Higher Education Act of 1965, as amended (HEA), by the SAFRA Act included in the Health Care and Education Reconciliation Act of 2010; incorporate other recent statutory changes in the Direct Loan Program regulations; update, strengthen, and clarify various areas of the Student Assistance General Provisions, Perkins Loan, FFEL, and Direct Loan program regulations; and provide for greater consistency in the regulations governing the title IV, HEA student loan programs.

Anticipated Cost and Benefits: We will provide a comprehensive discussion of the anticipated costs and benefits in the NPRM.

Timetable:

Action	Date	FR Cite
NPRM	03/00/13	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: None.

Additional Information: Includes Retrospective Review under E.O. 13563.

URL For Public Comments: *www.regulations.gov.*

Agency Contact: David Bergeron, Department of Education, Office of Postsecondary Education, Room 8022, 1990 K Street NW., Washington, DC 20006, *Phone:* 202 502–7815, *Email:* *david.bergeron@ed.gov.*

RIN: 1840–AD12

BILLING CODE 4001–01–P

Fall 2012

DEPARTMENT OF ENERGY (DOE)

Statement of Regulatory and Deregulatory Priorities

The Department of Energy (Department or DOE) makes vital contributions to the Nation's welfare through its activities focused on improving national security, energy supply, energy efficiency, environmental remediation, and energy research. The Department's mission is to:

• Promote dependable, affordable and environmentally sound production and distribution of energy;

• Advance energy efficiency and conservation;

• Provide responsible stewardship of the Nation's nuclear weapons;

• Provide a responsible resolution to the environmental legacy of nuclear weapons production; and

• Strengthen U.S. scientific discovery, economic competitiveness, and improving quality of life through innovations in science and technology.

The Department's regulatory activities are essential to achieving its critical mission and to implementing major initiatives of the President's National Energy Policy. Among other things, the Regulatory Plan and the Unified Agenda contain the rulemakings the Department will be engaged in during the coming year to fulfill the Department's commitment to meeting deadlines for issuance of energy conservation standards and related test procedures. The Regulatory Plan and Unified Agenda also reflect the Department's continuing commitment to cut costs, reduce regulatory burden, and increase responsiveness to the public.

Retrospective Review of Existing Regulations

Pursuant to section 6 of Executive Order 13563 ''Improving Regulation and Regulatory Review'' (Jan. 18, 2011), the following Regulatory Identifier Numbers (RINs) have been identified as associated with retrospective review and analysis in the Department's final retrospective review of regulations plan. Some of these entries on this list may be completed actions, which do not appear in The Regulatory Plan. However, more information can be found about these completed rulemakings in past publications of the Unified Agenda on Reginfo.gov in the Completed Actions section for that agency. These rulemakings can also be found on Regulations.gov. The final agency plan can be found at *http://www.whitehouse.gov/sites/default/files/other/2011-regulatory-action-plans/departmentofenergyregulatoryreformplanaugust2011.pdf.*

Rulemakings Subject to Retrospective Analysis

RIN	Title	Small Business Burden Reduction
1904–AB57	Standards for Battery Chargers and External Power Supplies.	
1904–AB90	Standards for Residential Clothes Washers.	
1904–AC04	Standards for Distribution Transformers.	
1904–AC46	Alternative Efficiency Determination Methods and Alternate Rating Methods.	This rule is expected to reduce burden on small manufacturers of covered products and equipment.
1904–AC60	Federal Building Standards Rule–Update–90.1–2010.	
1904–AC64	Standards for Residential Dishwashers.	
1904–AC70	Waiver and Interim Waiver for Consumer Products and Commercial and Industrial Equipment.	This rule is expected to reduce burden on small manufacturers of covered products and equipment.

Energy Efficiency Program for Consumer Products and Commercial Equipment

The Energy Policy and Conservation Act (EPCA) requires DOE to set appliance efficiency standards at levels that achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified. The Residential Clothes Washer, Fluorescent Lamp Ballast, and Residential Dishwasher standards, which were already published in 2012, have an estimated net benefit to the nation of up to $13.1 billion over 30 years. By 2045, these standards are estimated to save enough energy to operate the current inventory of all U.S. homes for almost two months.

The Department continues to follow its schedule for setting new appliance efficiency standards. These rulemakings are expected to save American consumers billions of dollars in energy costs.

The overall plan for implementing the schedule is contained in the Report to Congress under section 141 of EPACT 2005, which was released on January 31, 2006. This plan was last updated in the August 2012 report to Congress and now includes the requirements of the Energy Independence and Security Act of 2007 (EISA 2007). The reports to Congress are posted at: *http://www.eere.energy.gov/buildings/appliance_standards/schedule_setting.html*.

The August 2012 report identifies all products for which DOE has missed the deadlines established in EPCA (42 U.S.C. section 6291 *et seq.*). It also describes the reasons for such delays and the Department's plan for prescribing new or amended standards. Information and timetables concerning these actions can also be found in the Department's Regulatory Agenda, which is posted online at: *www.reginfo.gov*.

Estimate of Combined Aggregate Costs and Benefits

The regulatory actions included in this Regulatory Plan for distribution transformers, battery chargers and external power supplies, and walk-in coolers and freezers may provide significant benefits to the Nation. DOE believes that the benefits to the Nation of the proposed energy standards for distribution transformers and battery chargers and external power supplies (energy savings, consumer average lifecycle cost savings, increase in national net present value, and emission reductions) outweigh the costs (loss of industry net present value and life-cycle cost increases for some consumers). In the proposed rulemakings, DOE estimated that these regulations would produce energy savings of 3.74 quads over thirty years. The net benefit to the Nation was estimated to be between $9.59 billion (seven-percent discount rate) and $24.58 billion (three-percent discount rate). DOE believes that the proposed energy standards for walk-in coolers and freezers will also be beneficial to the Nation. However, because DOE has not yet proposed candidate standard levels for this equipment, DOE cannot provide an estimate of combined aggregate costs and benefits for this action. DOE will, however, in compliance with all applicable law, issue standards that provide the maximum energy savings that are technologically feasible and economically justified. Estimates of energy savings will be provided when DOE issues the notice of proposed rulemaking for walk-in coolers and freezers.

DOE—ENERGY EFFICIENCY AND RENEWABLE ENERGY (EE)

Proposed Rule Stage

30. Energy Conservation Standards for Walk-In Coolers and Walk-In Freezers

Priority: Economically Significant. Major under 5 U.S.C. 801.

Unfunded Mandates: Undetermined.

Legal Authority: 42 U.S.C. 6313(f)(4)

CFR Citation: 10 CFR part 431.

Legal Deadline: Final, Statutory, January 1, 2012.

Abstract: The Energy Independence and Security Act of 2007 amendments to the Energy Policy and Conservation Act require that DOE establish maximum energy consumption levels for walk-in coolers and walk-in freezers and directs the Department of Energy to develop energy conservation standards that are technologically feasible and economically justified.

Statement of Need: EPCA requires minimum energy efficiency standards for certain appliances and commercial equipment, which has the effect of eliminating inefficient appliances and equipment from the market.

Summary of Legal Basis: Section 312 of EISA 2007 establishes definitions and standards for walk-in coolers and walk-in freezers. EISA 2007 directs DOE to establish performance-based standards for this equipment (42 U.S.C. 6313 (f)(4)).

Alternatives: The statute requires DOE to conduct rulemakings to review standards and to revise standards to achieve the maximum improvement in energy efficiency that the Secretary determines is technologically feasible and economically justified. In making this determination, DOE conducts a thorough analysis of the alternative standard levels, including the existing standard, based on the criteria specified by the statute.

Anticipated Cost and Benefits: Because DOE has not yet proposed candidate standard levels for this equipment, DOE cannot provide an estimate of combined aggregate costs and benefits for these actions. DOE will, however, in compliance with all applicable law, issue standards that provide the maximum energy savings that are technologically feasible and economically justified. Estimates of energy savings will be provided when DOE issues the notice of proposed rulemaking for this equipment.

Timetable:

Action	Date	FR Cite
Notice: Public Meeting, Framework Document Availability.	01/06/09	74 FR 411
Notice: Public Meeting, Data Availability.	04/05/10	75 FR 17080
Comment Period End.	05/20/10	
NPRM	04/00/13	
Final Action	12/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: Local, State.

Federalism: Undetermined.

Additional Information: Comments pertaining to this rule may be submitted electronically to *WICF-2008-STD-0015@ee.doe.gov.*

URL For More Information: www.eere.energy.gov/buildings/appliance_standards/commercial/wicf.html.

URL For Public Comments: www.regulations.gov.

Agency Contact: Charles Llenza, Office of Building Technologies Program, EE–2J, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585, *Phone:* 202 586–2192, *Email: charles.llenza@ee.doe.gov.*

Related RIN: Related to 1904–AB85

RIN: 1904–AB86

DOE—EE

Final Rule Stage

31. Energy Efficiency Standards for Battery Chargers and External Power Supplies

Priority: Economically Significant. Major under 5 U.S.C. 801.

Unfunded Mandates: This action may affect the private sector under Pub. L. 104–4.

Legal Authority: 42 U.S.C. 6295(u)

CFR Citation: 10 CFR part 430.

Legal Deadline: Final, Statutory, July 1, 2011.

Abstract: In addition to the existing general definition of ''external power supply,'' the Energy Independence and Security Act of 2007 (EISA) defines a ''Class A external power supply'' and sets efficiency standards for those products. EISA directs DOE to publish a final rule to determine whether the standards set for Class A external power supplies should be amended. EISA also requires DOE to issue a final rule prescribing energy conservation standards for battery chargers, if technologically feasible and economically justified or to determine that no energy conservation standard is technically feasible and economically justified.

Statement of Need: EPCA requires minimum energy standards for appliances, which has the effect of eliminating inefficient appliances and equipment from the market.

Summary of Legal Basis: Title III of EPCA sets forth a variety of provisions designed to improve energy efficiency. Part A of title III (42 U.S.C. 6291 to 6309) provides for the Energy Conservation Program for Consumer Products other than Automobiles. EPCA directs DOE to conduct a rulemaking to establish energy conservation standards for battery chargers or determine that no energy conservation standard is technically feasible and economically justified (42 U.S.C. 6295 (u)(1)(E)(i)–(ii)and (w)(3)(D)).

In addition to the existing general definition of ''external power supply,'' EPCA defines a ''Class A external power supply'' (42 U.S.C. 6291(36)(C)) and sets efficiency standards for those products (42 U.S.C. 6295(u)(3)). EPCA directs DOE to publish a final rule to determine whether amended standards should be set for external power supplies or classes of external power supplies. If such determination is positive, DOE must include any amended or new standards as part of that final rule. DOE completed this determination in 2012. 75 FR 7170 (May 14, 2010)

DOE is bundling these separate rulemaking requirements into a single rulemaking action.

Alternatives: The statute requires DOE to conduct rulemakings to review standards and to revise standards to achieve the maximum improvement in energy efficiency that the Secretary determines is technologically feasible and economically justified. In making this determination, DOE conducts a thorough analysis of the alternative standard levels, including the existing standard, based on the criteria specified by the statute.

Anticipated Cost and Benefits: DOE believes that the benefits to the Nation of the proposed energy standards for battery chargers and external power supplies (such as energy savings, consumer average lifecycle cost savings, an increase in national net present value, and emission reductions) outweigh the burdens (such as loss of industry net present value). DOE estimates that energy savings from electricity will be 2.16 quads over 30 years and the benefit to the Nation will be between $6.68 billion and $12.44 billion

Timetable:

Action	Date	FR Cite
Notice: Public Meeting, Framework Document Availability.	06/04/09	74 FR 26816
Comment Period End.	07/20/09	
Notice: Public Meeting, Data Availability.	09/15/10	75 FR 56021
Comment Period End.	10/15/10	
Final Rule (Technical Amendment).	09/19/11	76 FR 57897
NPRM	03/27/12	77 FR 18478
Final Rule: Technical Amendment.	04/16/12	77 FR 22472
NPRM Comment Period End.	05/29/12	
NPRM Comment Period Reopened.	06/29/12	77 FR 38743
Reopened NPRM Comment Period End.	07/16/12	
Final Action	02/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: Local, State.

Federalism: This action may have federalism implications as defined in EO 13132.

Additional Information: Includes Retrospective Review under E.O. 13563.

URL for More Information: *www1.eere.energy.gov/buildings/appliance_standards/residential/battery_external.html.*

Agency Contact: Jeremy Dommu, Office of Building Technologies Program, EE–2J, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585, *Phone:* 202 586–9870, *Email:* *jeremy.dommu@ee.doe.gov.*

Related RIN: Related to 1904–AB75.

RIN: 1904–AB57

DOE—EE

32. Energy Efficiency Standards for Distribution Transformers

Priority: Economically Significant. Major under 5 U.S.C. 801.

Legal Authority: 42 U.S.C. 6317(a); 42 U.S.C. 6313(a)(6)(C)

CFR Citation: 10 CFR part 431.

Legal Deadline: Other, Judicial, October 1, 2011, Determination or NOPR. Final, Judicial, October 1, 2012.

Abstract: The current distribution transformer efficiency standards for medium-voltage-transformers apply to transformers manufactured or imported on or after January 1, 2010, and to low-voltage, dry type transformers manufactured or imported on or after January 1, 2007. As a result of a settlement agreement, DOE agreed to conduct a review of the standards for liquid-immersed and medium-voltage dry-type distribution transformers to determine if, pursuant to EPCA. The standards for these products need to be amended. As a result of the review, DOE published in the **Federal Register** a notice of proposed rulemaking which included new proposed standards for these products as well as low-voltage, dry-type transformers. Under the settlement agreement, DOE is obligated to publish in the **Federal Register**, no later than October 1, 2012, a final rule including any amendments to the standards for liquid-immersed and medium-voltage dry-type distribution transformers.

Statement of Need: EPAC requires minimum energy efficiency standards for appliances, which has the effect of eliminating inefficient appliances and equipment from the market.

Summary of Legal Basis: EPCA of 1975 established an energy conservation program for major household appliances. The National Energy Conservation Policy Act of 1978 amended EPCA to add part C of title III,

which established an energy conservation program for certain industrial equipment. The Energy Policy Act of 1992 amended EPCA to add certain commercial equipment, including distribution transformers.

DOE published a final rule in October 2007 that established energy conservation standards for liquid-immersed and medium-voltage dry-type distribution transformers. 72 FR 58190 (October 12, 2007); see 10 CFR 431.196(b)–(c). During the course of that rulemaking, EPACT 2005, Public Law 109–58, amended EPCA to set standards for low-voltage dry-type distribution transformers. (EPACT 2005, section 135(c); codified at 42 U.S.C. 6295(y)) Consequently, DOE removed these transformers from the scope of that rulemaking. 72 FR 58191. Prior to publishing the energy conservation standard, DOE published a final rule test procedure for distribution transformers on April 27, 2006. 71 FR 24972; see appendix A to subpart K of 10 CFR 431.

DOE is currently conducting a rulemaking to review and amend the energy conservation standards in effect for distribution transformers. This new rulemaking includes liquid-immersed, medium-voltage dry-type, and low-voltage dry-type distribution transformers.

On July 29, 2011, DOE gave notice that it intends to establish a negotiated rulemaking subcommittee under the Energy Efficiency and Renewables Advisory Committee (ERAC) in accordance with the Federal Advisory Committee Act (FACA) and the Negotiated Rulemaking Act (NRA) to negotiate proposed Federal standards for the energy efficiency of liquid-immersed and medium-voltage dry-type distribution transformers. 77 FR 4547. On August 12, 2011, DOE gave notice that it intends to establish a negotiated rulemaking subcommittee under the ERAC in accordance with the FACA and the NRA to negotiate proposed Federal standards for the energy efficiency of low-voltage dry-type distribution transformers. 76 FR 50148.

ERAC subcommittees met several times from September to December 2011. Subcommittee members included manufacturers, utilities, and energy efficiency advocates. The medium-voltage subcommittee reached consensus on standards for medium-voltage, dry-type distribution transformers, but consensus was not reached for the two other transformer types.

DOE's February publication of the proposed rule for energy conservation standards for liquid-immersed, medium-voltage dry-type, and low-voltage dry-type distribution transformers fulfills DOE's obligation under a court order. 77 FR 7282 (February 10, 2011).

Alternatives: The statute requires DOE to conduct rulemakings to review standards and to revise standards to achieve the maximum improvement in energy efficiency that the Secretary determines is technologically feasible and economically justified. In making this determination, DOE conducts a thorough analysis of the alternative standard levels, including the existing standard, based on the criteria specified by the statute.

Anticipated Cost and Benefits: DOE believes that the benefits to the Nation of the proposed energy standards for distribution transformers (such as energy savings, consumer average lifecycle cost savings, an increase in national net present value, and emission reductions) outweigh the burdens (such as loss of industry net present value). DOE estimates that energy savings from electricity will be 1.58 quads over 30 years and the benefit to the Nation will be between $2.9 billion and $12.1 billion.

Timetable:

Action	Date	FR Cite
Notice: Public Meeting; Preliminary Technical Support Document Availability.	03/02/11	76 FR 11396
Comment Period End.	04/18/11	
Notice of Intent to Negotiate NPRM for MVDT.	07/29/11	76 FR 45471
MVDT NOI Comment Period End.	08/15/11	
Notice of Intent to Negotiate NOPR for LVDT.	08/12/11	76 FR 50148
LVDT NOI Comment Period End.	08/20/11	
Notice of Public Meeting of Working Group.	09/09/11	76 FR 55834
NPRM	02/10/12	77 FR 7282
NPRM Correction	02/24/12	77 FR 10997
NPRM Comment Period End.	04/10/12	
Comment Period End.	06/29/12	
Final Action	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: Undetermined.

Additional Information: RIN 1904–AC62 was merged into this rulemaking.

URL for More Information: *www1.eere.energy.gov/buildings/appliance_standards/commercial/distribution_transformers.html.*

URL for Public Comments: *www.regulations.gov.*

Agency Contact: James Raba, Office of Building Technologies Program, EE–2J, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585, *Phone:* 202 586–8654, *Email: jim.raba@ee.doe.gov.*

Related RIN: Merged with 1904–AC62.

RIN: 1904–AC04

BILLING CODE 6450–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Statement of Regulatory Priorities for Fiscal Year 2013

The Department of Health and Human Services (HHS) is the Federal Government's principal agency charged with protecting the health of all Americans and providing essential human services, especially for those least able to help themselves. The Department operates more than 300 programs covering a wide spectrum of activities, manages almost a quarter of all Federal expenditures, and administers more grant dollars than all other Federal agencies combined. In fiscal year 2013, HHS agencies will continue to implement programs that strengthen the health care system; advance scientific knowledge and innovation; advance the health, safety, and well-being of the American people; increase efficiency, transparency, and accountability of HHS programs; and strengthen the nation's health and human services infrastructure and workforce.

To carry out its mission, the Department develops an ambitious regulatory agenda each year. HHS actively encourages public participation in the regulatory process and is currently engaging in a Department-wide effort to identify ways to make the rulemaking process more accessible to the general public. Incorporating this feedback, Secretary Kathleen Sebelius has worked with HHS agencies to identify opportunities to streamline regulations and reduce the regulatory burden on industry and states; secure and maintain health care coverage for all Americans; take advantage of technology to promote health care innovation and rapidly respond to

adverse events; implement a 21st century food safety system; promote children's health and well-being; and arm consumers with information to help them make healthy choices.

This overview outlines the Department's regulatory priorities for FY 2013 and some of the regulations on the agenda that best exemplify these priorities.

Streamlining Regulations To Reduce Regulatory Burdens

Consistent with the President's Executive Order 13563, ''Improving Regulation and Regulatory Review,'' the Department remains committed to reducing regulatory burden on states, health care providers and suppliers, and other regulated industries by eliminating outdated procedures, streamlining rules, and providing flexibility to use technology.

▪ The Centers for Medicare & Medicaid Services (CMS) has an ambitious effort underway to reduce burdens on hospitals and other health care providers and save providers money and time so that they can focus their resources on caring for patients. In May 2012, CMS finalized two rules—addressing the Medicare conditions of participation for hospitals and critical access hospitals (CAH) (0938–AQ89) and regulatory requirements for a broader range of health care providers and suppliers regulated under Medicare and Medicaid (0938–AQ96)—that will save approximately $1.1 billion across the health care system in just the first year while reducing unnecessary burdens on hospitals and other health care providers. For the second phase of this effort, CMS will issue regulations that will eliminate or streamline Medicare rules and requirements that are unnecessary, obsolete, or excessively burdensome to health care professionals and patients.[1] This effort will allow health care professionals to devote more time and effort to improving patient care.

▪ The Food and Drug Administration (FDA) will finalize amendments to its medical device reporting regulations to require manufacturers and importers to submit electronic reports of individual medical device adverse events to the agency.[2] This will help move the medical device industry from paper to electronic reporting, which will reduce paperwork burden on industry and increase the speed at which FDA processes critical information.

▪ In a major undertaking, the Department and White House Office of Science and Technology Policy are reviewing and considering making revisions to the ethical rules governing research on human subjects, often referred to as the Common Rule.[3] The Common Rule governs institutions and researchers supported by HHS, and researchers throughout much of the Federal Government, in the conduct of research on humans. The proposed revisions will aim to better protect human subjects who are involved in research while facilitating research and reducing burden, delay, and ambiguity for investigators.

▪ The Administration for Children and Families (ACF) will propose reforms to its child support regulations that will simplify program operations, clarify technical provisions in the existing rules, and allow States and tribes to take advantage of advances in technology and move toward electronic communication with ACF and with other States and tribes.[4] These reforms will create more efficient child support systems that better serve families in need of this crucial financial support.

Strengthening Medicare and Expanding Coverage in the Private Health Care Market

The Department continues to implement Affordable Care Act provisions that expand health insurance coverage and ensure that the American people can rely on their existing coverage when they need it most. Millions of Americans—including women, families, seniors, and small business owner—are already benefitting from the Affordable Care Act. In June, HHS announced that 12.8 million Americans will benefit from $1.1 billion in rebates from insurance companies, as a result of HHS regulations that require insurers to spend the majority of health insurance premiums on medical care and health care quality improvement, instead of administration and overhead.[5] As well, the Affordable Care Act has provided $4.8 billion in reinsurance payments to employers and other sponsors of early retiree health coverage to help them continue to provide health benefits to retired workers who are not yet eligible for Medicare and to the families of these retired workers. At least 19 million retirees and their family members have already benefitted or will benefit from this program. Because of another Affordable Care Act provision, approximately 54 million Americans with private health insurance and 32.5 million seniors with Medicare received at least one free preventive service from their health care provider in 2011.[6] And as of August 1, 2012, about 47 million women will be able to receive preventive care such as mammograms, cervical cancer screenings, and annual preventive care visits without paying co-pays or deductibles.[7]

Building on those efforts, HHS will provide guidance this year to States, providers, and insurers that are preparing for the reforms to the health care marketplace that become effective in 2014.

▪ The Department will finalize a rule that outlines standards for the state-run and federally-facilitated Affordable Insurance Exchanges, which will provide competitive marketplaces for individuals and small employers to directly compare available private health insurance options on the basis of price and quality. These standards will ensure, for example, that individual and small group plans provide certain levels of coverage. This means that consumers can rest assured that plans inside and outside of the Exchanges will cover certain essential health benefits.[8]

▪ The Department will also implement provisions of the Affordable Care Act that set the rules for risk adjustment, reinsurance, risk corridors, advanced premium tax credits, and cost-sharing reductions.[9]

▪ Another final rule would outline many of the consumer protections at the heart of the Affordable Care Act.[10] These new health insurance market standards will promote access to, and the affordability of, health insurance coverage by extending new guaranteed availability rights to individuals and employers, continuing current guaranteed renewability protections,

[1] Part II—Regulatory Provisions to Promote Program Efficiency, Transparency, and Burden Reduction (RIN: 0938–AR49) (assumes the proposed rule will publish before the Reg Agenda is posted).

[2] Medical Device Reporting; Electronic Submission Requirements (RIN: 0910–AF86).

[3] Human Subjects Research Protections: Enhancing Protections for Research Subjects and Reducing Burden, Delay, and Ambiguity for Investigators (RIN: 0937–AA02).

[4] Flexibility, Efficiency, and Modernization of Child Support Enforcement Programs (RIN: 0970–AC50).

[5] From 6/21/12 Press Release: *http://www.hhs.gov/news/press/2012pres/06/20120621a.html.*

[6] *http://www.whitehouse.gov/blog/2012/02/16/last-year-54-million-americans-received-free-preventive-services-thanks-health-care-*

[7] *http://www.healthcare.gov/news/factsheets/2011/08/womensprevention08012011a.html.*

[8] Exchanges Part II—Standards Related to Essential Health Benefits; Health Insurance Issuer and Exchange Responsibilities with Respect to Actuarial Value, Cost-Sharing Reductions, and Advance Payments of the Premium Tax Credit (RIN: 0938–AR03).

[9] Notice of Benefit and Payment Parameters (CMS–9964–P).

[10] Insurance Market Rules (RIN: 0938–AR40).

specifying a limited, transparent set of factors that can be used to set premiums, and requiring broader pooling of insurance risk. This rule, in tandem with rules implementing Affordable Care Act provisions that establish Exchanges; provide tax credits to certain individuals and employers for purchasing health insurance coverage; and create the risk adjustment, reinsurance, and risk corridor programs; lays the foundation for a more affordable, better-functioning insurance market.

▪ Another rule would implement provisions of the Affordable Care Act that expand access to health insurance through Medicaid, the establishment of the Affordable Insurance Exchanges, and coordination between Medicaid, the Children's Health Insurance Program (CHIP), and the Exchanges. This proposed rule would continue CMS's efforts to assist States in implementing changes to the eligibility, appeals, and enrollment under Medicaid and other State health subsidy programs.[11]

▪ In addition, CMS will update several Medicare provider payment rules in ways that strengthen Medicare, better reflect the state of practice, and are responsive to feedback from providers.[12] These rules, which are published annually, provide predictability for health care providers so they can manage their finances appropriately.

▪ Finally, CMS will implement the Affordable Care Act provision that establishes a new prospective payment system for Federally Qualified Health Centers (FQHCs), which are facilities that provide primary care services to underserved urban and rural communities.[13] This rule will bring the FQHC payment system in line with the payment procedure for the majority of Medicare providers and will allow FQHCs to anticipate future reimbursements for providing services to Medicare beneficiaries.

Advancing Innovation To Improve Consumer Health and Safety

Through administrative reforms, innovations, and providing additional information to support consumer decision-making, HHS is supporting high-value, safe, and effective care across health care settings and in the community. For example, FDA will issue a Unique Device Identifier final rule to establish a unique identification system for medical devices to track a device from pre-market application through distribution and use. This system will allow FDA and other public health professionals to track individual devices so that when an adverse event occurs, epidemiologists can quickly track down and identify other users of the device to provide guidance and recommendations on what steps to take to prevent additional medical errors.[14]

As discussed previously, FDA is also amending its post-marketing medical device reporting regulations to require manufacturers and importers to submit electronic reports of individual medical device adverse events to the Agency. These electronic submissions will help FDA receive information about malfunctioning devices quickly and will enhance the Agency's ability to collect and analyze data from these adverse events. In addition to providing the Agency with this information soon after an adverse event occurs, this final rule is expected to result in significant burden reductions in reporting and recordkeeping for device manufacturers and suppliers.[15]

Implementing a 21st Century Food Safety System

FDA will continue its work to implement the Food Safety Modernization Act, working with public and private partners to build a new system of food safety oversight. In implementing that Act, the Department is focusing on applying the best available science and lessons from previous outbreaks to shift the Agency's emphasis from recalling unsafe products from the market place to preventing unsafe food from entering commerce in the first place. FDA will propose several new rules to establish a robust, enhanced food safety program.

▪ FDA will propose regulations establishing preventive controls in the manufacture and distribution of human foods [16] and of animal feeds.[17] These regulations constitute the heart of the food safety program by instituting uniform practices for the manufacture and distribution of food products to ensure that those products are safe for consumption and will not cause or spread disease.

▪ FDA will continue its work on a rule to ensure that produce sold in the United States meets rigorous safety standards.[18] The regulation will set enforceable, science-based standards for the safe production and harvesting of fresh produce at the farm and the packing house to minimize the risk of serious adverse health consequences.

▪ In another proposed rule, FDA will require food importers to establish a verification program to improve the safety of food that is imported into the United States.[19] Specifically, the FDA will outline proposed standards that foreign food suppliers must meet to ensure that imported food is produced in a manner that is as safe as food produced in the United States.

▪ FDA will also establish a program to accredit third-party auditors to conduct audits of foreign food suppliers.[20] This program will allow importers to contract with an accredited auditor to meet the audit requirements instead of having to establish such programs themselves.

Promoting Children's Health and Well-Being

ACF's regulatory portfolio includes several rules that promote children's health and well-being. For example, one proposed rule would provide the first comprehensive update of Child Care and Development Fund (CCDF) regulations since 1998.[21] The CCDF is a Federal program that provides formula grants to States, territories, and tribes. The program provides financial assistance to low-income families to access child care so that they can work or attend a job training or educational program. It also provides funding to improve the quality of child care and increase the supply and availability of care for all families, including those who receive no direct assistance through CCDF. The proposed rule would make improvements in four key areas: (1) Health and safety; (2) child care quality; (3) family-friendly policies that promote continuity of care and support working families; and (4) program integrity. These proposed changes reflect current research and knowledge about the early care and education sector, State innovations in policies and practices over the past decade, and increased recognition that high quality child care both supports

[11] Medicaid Eligibility Expansion under the Affordable Care Act of 2010 Part 2—NPRM (0938–AR04).

[12] No RINS yet. Internally identified as CMS–1599–P, CMS–1600–P, and CMS–1601–P.

[13] Prospective Payment System for Federally Qualified Health Centers (No RIN yet; internally identified as CMS–1443–P).

[14] Unique Device Identifier (RIN: 0910–AG31).

[15] Medical Device Reporting; Electronic Submission Requirements (RIN: 0910–AF86).

[16] Hazard Analysis and Risk-Based Preventive Controls (RIN: 0910–AG36).

[17] Current Good Manufacturing Practice and Hazard Analysis and Risk-Benefit Preventive Controls for Food for Animals (RIN: 0910–AG10).

[18] Produce Safety Regulation (RIN: 0910–AG35).

[19] Foreign Supplier Verification Program (RIN: 0910–AG64).

[20] Accreditation of Third Parties to Conduct Food Safety Audits and for Other Related Purposes (RIN: 0910–AG66).

[21] Child Care and Development Fund Reforms to Support Child Development and Working Families (RIN: 0970–AC53).

work for low-income parents and promotes children's learning and healthy development. The rule is responsive to the need for State flexibility in administering the CCDF program.

Empowering Americans To Make Healthy Choices in the Marketplace

As of 2010, more than one-third of U.S. adults [22] and 17% of all children and adolescents [23] in the United States are obese, representing a dramatic increase in the rise of this health status. Since 1980, the prevalence of obesity among children and adolescents has almost tripled.[24] Obesity has both immediate and long-term effects on the health and quality of life of those affected, increasing their risk for chronic diseases, including heart disease, type 2 diabetes, certain cancers, stroke, and arthritis—as well as increasing medical costs for the individual and the health system.

Building on the momentum of the First Lady Obama's ''Let's Move'' initiative and the Secretary's leadership, HHS has marshaled the skills and expertise from across the Department to address this epidemic with research, public education, and public health strategies. Adding to this effort, FDA will issue several rules designed to provide more useful, easy to understand dietary information—tools that will help millions of American families identify healthy choices in the marketplace.[25]

▪ One final rule will require restaurants and similar retail food establishments with 20 or more locations to list calorie content information for standard menu items on restaurant menus and menu boards, including drive-through menu boards.[26] Other nutrient information—total calories, fat, saturated fat, cholesterol, sodium, total carbohydrates, sugars, fiber and total protein—would have to be made available in writing upon request.

■ A second final rule will require vending machine operators who own or operate 20 or more vending machines to disclose calorie content for some items.[27] The Department anticipates that such information will ensure that patrons of chain restaurants and vending machines have nutritional information about the food they are consuming.

■ A third proposed rule would revise the nutrition and supplement facts labels on packaged food, which has not been updated since 1993 when mandatory nutrition labeling of food was first required. The aim of the proposed revision is to provide updated and easier to read nutrition information on the label to help consumers maintain healthy dietary practices.[28]

Another proposed rule will focus on the serving sizes of foods that can reasonably consumed in one serving. This rule would provide consumers with nutrition information based on the amount of food that is typically eaten as a serving, which would assist consumers in maintaining health dietary practices.[29]

Promoting International Regulatory Cooperation With Our Global Partners

The Department is working to implement Executive Order 13609, ''Promoting International Regulatory Cooperation,'' which charges the Federal Government to identify efforts to align U.S. regulations with those of our global partners to address shared regulatory challenges. FDA has already established such relationships through its participation in key international regulatory cooperation fora, including Codex Alimentarius, the U.S.-Mexico High Level Regulatory Cooperation Council, the U.S.-Canada Regulatory Cooperation Councils. In addition, FDA is developing several rulemakings that have a specific international focus.

■ In one proposed rule, FDA will use international standards and promotes harmonization by allowing medical devices companies to use certain kinds of international symbols in device labeling.[30]

■ As a result of collaboration under the U.S.-Canada Regulatory Cooperation Council (RCC), FDA will propose a rule to add the common cold indication to certain over-the-counter (OTC) antihistamine active ingredients.[31] The objectives of the RCC monograph alignment working group are to conduct a pilot program to develop aligned monograph elements for a selected over-the-counter (OTC) drug category (e.g. aligned directions, warnings, indications and conditions of use) and subsequently, develop recommendations to determine the feasibility of an ongoing mechanism for alignment in review and adoption of these OTC drug monograph elements.

Retrospective Review of Existing Regulations

Pursuant to section 6 of Executive Order 13563 ''Improving Regulation and Regulatory Review'' (Jan. 18, 2011), the following Regulatory Identifier Numbers (RINs) have been identified as associated with retrospective review and analysis in the Department's final retrospective review of regulations plan. Some of these entries on this list may be completed actions, which do not appear in *The Regulatory Plan.* However, more information can be found about these completed rulemakings in past publications of the Unified Agenda on reginfo.gov in the Completed Actions section for that agency. These rulemakings can also be found on regulations.gov. The final agency plan can be found at reginfo.gov.

RIN	Title	Reduce Small Business Burden?
0970–AC43	Performance Standards for Runaway and Homeless Youth Grantees	No.
0970–AC50	Flexibility, Efficiency, and Modernization of Child Support Enforcement Programs	No.
0920–AA23	Control of Communicable Disease: Foreign; Requirements for Importers of Nonhuman Primates	No.
0938–AO53	Home and Community-Based State Plan Services Program and Provider Payment Reassignments (CMS–2249–F).	Yes.
0938–AP61	Home and Community Based Services Waivers (CMS–2296–F)	Yes.
0938–AQ38	CLIA Program and HIPAA Privacy Rule; Patients' Access to Test Reports (CMS–2319–F)	No.
0938–AR49	Part II—Regulatory Provisions to Promote Program Efficiency, Transparency, and Burden Reduction (CMS–3267–P).	Yes.

[22] *http://www.cdc.gov/obesity/data/adult.html.*

[23] *http://www.cdc.gov/obesity/childhood/index.html.*

[24] *http://www.cdc.gov/obesity/data/childhood.html.*

[25] See *http://www.letsmove.gov/eat-healthy*

[26] Food Labeling: Nutrition Labeling of Standard Menu Items in Restaurants and Similar Retail Food Establishments (RIN: 0910–AG57).

[27] Food Labeling: Nutrition Labeling for Food Sold in Vending Machines (RIN: 0910–AG56).

[28] Food Labeling; Revision of the Nutrition and Supplement Facts Labels (RIN: 0910–AF22).

[29] Food Labeling: Serving Sizes of Foods That Can Reasonably Be Consumed In One Eating Occasion; Duel Column Labeling; and Modifying the Reference Amounts Customarily Consumed (RIN: 0910–AF23).

[30] Use of Symbols in Labeling (RIN: 0910–AG74).

[31] Over-the-Counter (OTC) Drug Review—Cough/Cold (Antihistamine) Products (RIN: 0910–AF31).

RIN	Title	Reduce Small Business Burden?
0910–AF22	Food Labeling; Revision of the Nutrition and Supplement Facts Labels	No.
0910–AF81	Current Good Manufacturing Practice for Combination Products	No.
0910–AF82	Postmarket Safety Reporting for Combination Products	Yes.
0910–AF86	Medical Device Reporting; Electronic Submission Requirements	No.
0910–AF87	Laser Products; Amendment to Performance Standard	No.
0910–AG14	Prescription Drug Marketing Act of 1987; Prescription Drug Amendments of 1992; Policies, Requirements, and Administrative Procedures.	Yes.
0910–AG18	Electronic Distribution of Prescribing Information for Human Drugs Including Biological Products	No.
0910–AG36	Hazard Analysis and Risk-Based Preventive Controls	No.
0910–AG54	General Hospital and Personal Use Devices: Issuance of Draft Special Controls Guidance for Infusion Pumps.	No.
0910–AG70	Amendments to the Current Good Manufacturing Practice Regulations for Finished Pharmaceuticals—Components.	No.
0910–AG74	Use of Symbols in Labeling	Yes.
0906–AA87	Elimination of Duplication Between the Healthcare Integrity and Protection Data Bank (HIPDB) into the National Practitioner Data Bank (NPDB).	No.
0925–AA43	National Institutes of Health Loan Repayment Program	No.
0937–AA02	Human Subjects Research Protections: Enhancing Protections for Research Subjects and Reducing Burden, Delay, and Ambiguity for Investigators.	No.
0945–AA03	Modifications to the HIPAA Privacy, Security, Enforcement, and Breach Notification Rules	Yes.
0945–AA00	HIPAA Privacy Rule Accounting of Disclosures under the Health Information Technology for Economic and Clinical Health Act.	No.
0930–AA14	Opioid Drugs in Maintenance or Detoxification Treatment of Opiate Addiction	No.

HHS—FOOD AND DRUG ADMINISTRATION (FDA)

Proposed Rule Stage

33. Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Food for Animals

Priority: Economically Significant. Major under 5 U.S.C. 801.

Unfunded Mandates: This action may affect the private sector under Pub. L. 104–4.

Legal Authority: 21 U.S.C. 321; 21 U.S.C. 331; 21 U.S.C. 342; 21 U.S.C. 350d note; 21 U.S.C. 350g; 21 U.S.C. 350g note; 21 U.S.C. 371; 21 U.S.C. 374; 42 U.S.C. 264; 42 U.S.C. 243; 42 U.S.C. 271

CFR Citation: 21 CFR part 507.

Legal Deadline: The legal deadline for FDA under the Food Safety Modernization Act to promulgate proposed regulations is October 2011 for certain requirements, with a final rule to publish 9 months after the close of the comment period. The Food Safety Modernization Act mandates that FDA promulgate final regulations for certain other provisions by July 2012. Finally, the FDA Amendments Act of 2007 directs FDA to publish final regulations for a subset of the proposed requirements by September 2009.

Abstract: FDA is proposing regulations for preventive controls for animal food, including ingredients and mixed animal feed. This action is intended to provide greater assurance that food marketed for all animals, including pets, is safe.

Statement of Need: Regulatory oversight of the animal food industry has traditionally been limited and focused on a few known safety issues, so there could be potential human and animal health problems that remain unaddressed. The massive pet food recall due to adulteration of pet food with melamine and cyanuric acid in 2007 is a prime example. The actions taken by two protein suppliers in China affected a large number of pet food suppliers in the United States and created a nationwide problem. By the time the cause of the problem was identified, melamine- and cyanuric acid-contaminated ingredients resulted in the adulteration of millions of individual servings of pet food. Congress passed FSMA, which the President signed into law on January 4, 2011 (Pub. L. 111–353). Section 103 of FSMA amended the Federal Food, Drug, and Cosmetic Act (FD&C Act) by adding section 418 (21 U.S.C. 350g) Hazard Analysis and Risk Based Preventive Controls. In enacting FSMA, Congress sought to improve the safety of food in the United States by taking a risk-based approach to food safety, emphasizing prevention. Section 418 of the FD&C Act requires owners, operators, or agents in charge of food facilities to develop and implement a written plan that describes and documents how their facility will implement the hazard analysis and preventive controls required by this section.

Summary of Legal Basis: FDA's authority for issuing this rule is provided in FSMA (Pub. L. 111–353), which amended the FD&C Act by establishing section 418, which directed FDA to publish implementing regulations. FSMA also amended section 301 of the FD&C Act to add 301(uu) that states the operation of a facility that manufactures, processes, packs, or holds food for sale in the United States, if the owner, operator, or agent in charge of such facility is not in compliance with section 418 of the FD&C Act, is a prohibited act.

FDA is also issuing this rule under the certain provisions of section 402 of the FD&C Act (21 U.S.C. 342) regarding adulterated food.

In addition, section 701(a) of the FD&C Act (21 U.S.C. 371(a)) authorizes the Agency to issue regulations for the efficient enforcement of the Act.

Alternatives: The Food Safety Modernization Act requires this rulemaking.

Anticipated Cost and Benefits: The benefits of the proposed rule would result from fewer cases of contaminated animal food ingredients or finished animal food products. Discovering contaminated food ingredients before they are used in a finished product would reduce the number of recalls of contaminated animal food products. Benefits would include reduced medical treatment costs for animals, reduced loss of market value of live animals, reduced loss of animal companionship, and reduced loss in value of animal food products. More stringent requirements for animal food manufacturing would maintain public confidence in the safety of animal foods and protect animal and human health. FDA lacks sufficient data to quantify the benefits of the proposed rule.

The compliance costs of the proposed rule would result from the additional labor and capital required to perform the hazard analyses, write and implement the preventive controls, monitor and verify the preventive controls, take corrective actions if preventive controls fail to prevent feeds from becoming contaminated, and implement requirements from the operations and practices section.

Risks: FDA is proposing this rule to provide greater assurance that food intended for animals is safe and will not cause illness or injury to animals. This rule would implement a risk-based, preventive controls food safety system intended to prevent animal food containing hazards, which may cause illness or injury to animals or humans, from entering into the food supply. The rule would apply to domestic and imported animal food (including raw materials and ingredients). Fewer cases of animal food contamination would reduce the risk of serious illness and death to animals.

Timetable:

Action	Date	FR Cite
NPRM	01/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

International Impacts: This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

Agency Contact: Kim Young, Deputy Director, Division of Compliance, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine, Room 106 (MPN–4, HFV–230), 7519 Standish Place, Rockville, MD 20855, *Phone:* 240 276–9207, *Email: kim.young@fda.hhs.gov.*

RIN: 0910–AG10

HHS—FDA

34. Produce Safety Regulation

Priority: Economically Significant. Major under 5 U.S.C. 801.

Unfunded Mandates: This action may affect the private sector under Pub. L. 104–4.

Legal Authority: 21 U.S.C. 342; 21 U.S.C. 350h; 21 U.S.C. 371; 42 U.S.C. 264; Pub. L. 111–353 (signed on Jan. 4, 2011)

CFR Citation: Not Yet Determined.

Legal Deadline: NPRM, Statutory, January 4, 2012, Proposed rule not later than 12 months after the date of enactment of the Food Safety Modernization Act.

Abstract: FDA is proposing to establish science-based minimum standards for the safe production and harvesting of those types of fruits and vegetables that are raw agricultural commodities for which the Secretary has determined that such standards minimize the risk of serious adverse health consequences or death. The purpose of the proposed rule is to reduce the risk of illness associated with fresh produce.

Statement of Need: FDA is taking this action to meet the requirements of the FSMA and to address the food safety challenges associated with fresh produce and thereby protect the public health. Data indicate that between 1973 and 1997, outbreaks of foodborne illness in the U.S. associated with fresh produce increased in absolute numbers and as a proportion of all reported foodborne illness outbreaks. The Agency issued general good agricultural practice guidelines for fresh fruits and vegetables over a decade ago. Incorporating prevention-oriented public health principles and incorporating what we have learned in the past decade into a regulation is a critical step in establishing standards for the production and harvesting of produce and reducing the foodborne illness attributed to fresh produce.

Summary of Legal Basis: FDA is relying on the amendments to the Federal Food, Drug, and Cosmetic Act (the FD&C Act), provided by section 105 of the Food Safety Modernization Act (codified primarily in section 419 of the FD&C Act (21 U.S.C. 350h)). FDA's legal basis also derives in part from sections 402(a)(3), 402(a)(4), and 701(a) of the FD&C Act (21 U.S.C. 342(a)(3), 342(a)(4), and 371(a)). FDA also intends to rely on section 361 of the Public Health Service Act (PHS Act) (42 U.S.C. 264), which gives FDA authority to promulgate regulations to control the spread of communicable disease.

Alternatives: Section 105 of the Food Safety Modernization Act requires FDA to conduct this rulemaking.

Anticipated Cost and Benefits: FDA estimates that the costs to more than 300,000 domestic and foreign producers and packers of fresh produce from the proposal would include one-time costs (e.g., new tools and equipment) and recurring costs (e.g., monitoring, training, recordkeeping). FDA anticipates that the benefits would be a reduction in foodborne illness and deaths associated with fresh produce. Monetized estimates of costs and benefits are not available at this time.

Risks: This regulation would directly and materially advance the Federal Government's substantial interest in reducing the risks for illness and death associated with foodborne infections associated with the consumption of fresh produce. Less restrictive and less comprehensive approaches have not been sufficiently effective in reducing the problems addressed by this regulation. FDA anticipates that the regulation would lead to a significant decrease in foodborne illness associated with fresh produce consumed in the U.S.

Timetable:

Action	Date	FR Cite
NPRM	01/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

Federalism: Undetermined.

International Impacts: This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

Agency Contact: Samir Assar, Supervisory Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition, Office of Food Safety, 5100 Paint Branch Parkway, College Park, MD 20740, *Phone:* 240 402–1636, *Email: samir.assar@fda.hhs.gov.*

RIN: 0910–AG35

HHS—FDA

35. Hazard Analysis and Risk-Based Preventive Controls

Priority: Economically Significant. Major under 5 U.S.C. 801.

Unfunded Mandates: This action may affect the private sector under Pub. L. 104–4.

Legal Authority: 21 U.S.C. 342; 21 U.S.C. 371; 42 U.S.C. 264; Pub. L. 111–353 (signed on Jan. 4, 2011)

CFR Citation: 21 CFR part 110.

Legal Deadline: Final, Statutory, July 4, 2012, Final rule must be published no later than 18 months after the date of enactment of the FDA Food Safety Modernization Act.

Abstract: This proposed rule would require a food facility to have and implement preventive controls to significantly minimize or prevent the occurrence of hazards that could affect food manufactured, processed, packed, or held by the facility. This action is

intended to prevent or, at a minimum, quickly identify foodborne pathogens before they get into the food supply.

Statement of Need: FDA is taking this action to meet the requirements of the FSMA and to better address changes that have occurred in the food industry and thereby protect public health.

FDA last updated its food CGMP regulations for the manufacturing, packing, or holding of human food in 1986. Modernizing these food CGMP regulations to address risk-based preventive controls and more explicitly address issues such as environmental pathogens, food allergens, mandatory employee training, and sanitation of food contact surfaces, would be a critical step in raising the standards for food production and distribution. By amending 21 CFR 110 to modernize good manufacturing practices, the Agency could focus the attention of food processors on measures that have been proven to significantly reduce the risk of foodborne illness. An amended regulation also would allow the Agency to better focus its regulatory efforts on ensuring industry compliance with controls that have a significant food safety impact.

Summary of Legal Basis: FDA is relying on section 103 of the FSMA. FDA is also relying on sections 402(a)(3), (a)(4) and 701(a) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 342(a)(3), (a)(4), and 371(a)). Under section 402(a)(3) of the FD&C Act, a food is adulterated if it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for food. Under section 402(a)(4), a food is adulterated if it has been prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth or may have been rendered injurious to health. Under section 701(a) of the FD&C Act, FDA is authorized to issue regulations for the efficient enforcement of the FD&C Act. FDA's legal basis also derives from section 361 of the Public Health Service Act (PHS Act) (42 U.S.C. 264), which gives FDA authority to promulgate regulations to control the spread of communicable disease.

Alternatives: An alternative to this rulemaking is not to update the CGMP regulations, and instead issue separate regulations to implement the FDA Food Safety Modernization Act.

Anticipated Cost and Benefits: FDA estimates that the costs from the proposal to domestic and foreign producers and packers of processed foods would include new one-time costs (e.g., adoption of written food safety plans, setting up training programs, implementing allergen controls, and purchasing new tools and equipment) and recurring costs (e.g., auditing and monitoring suppliers of sensitive raw materials and ingredients, training employees, and completing and maintaining records used throughout the facility). FDA anticipates that the benefits would be a reduced risk of foodborne illness and death from processed foods and a reduction in the number of safety-related recalls.

Risks: This regulation will directly and materially advance the Federal Government's substantial interest in reducing the risks for illness and death associated with foodborne infections. Less restrictive and less comprehensive approaches have not been effective in reducing the problems addressed by this regulation. The regulation will lead to a significant decrease in foodborne illness in the U.S.

Timetable:

Action	Date	FR Cite
NPRM	01/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

Federalism: Undetermined.

International Impacts: This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

Additional Information: Includes Retrospective Review under E.O. 13563.

Agency Contact: Jenny Scott, Senior Advisor, Department of Health and Human Services, Food and Drug Administration, 5100 Paint Branch Parkway, Office of Food Safety, College Park, MD 20740, *Phone:* 240 402–1488, *Email: jenny.scott@fda.hhs.gov.*

RIN: 0910–AG36

HHS—FDA

36. Foreign Supplier Verification Program

Priority: Other Significant. Major status under 5 U.S.C. 801 is undetermined.

Unfunded Mandates: Undetermined.

Legal Authority: 21 U.S.C. 384a; title III, sec 301 of FDA Food Safety Modernization Act, Pub. L. 111–353, establishing sec 805 of the Federal Food, Drug, and Cosmetic Act (FD&C Act)

CFR Citation: Not Yet Determined.

Legal Deadline: Final, Statutory, January 4, 2012.

Abstract: FDA is proposing regulations that describe what a food importer must do to verify that its foreign suppliers produce food that is as safe as food produced in the United States. FDA is taking this action to improve the safety of food that is imported into the United States.

Statement of Need: The proposed rule is needed to help improve the safety of food that is imported into the United States. Imported food products have increased dramatically over the last several decades. Data indicate that about 15% of the U.S. food supply is imported. FSMA provides the Agency with additional tools and authorities to help ensure that imported foods are safe for U.S. consumers. Included among these tools and authorities is a requirement that importers perform risk-based foreign supplier verification activities to verify that the food they import is produced in compliance with U.S. requirements, as applicable, and is not adulterated or misbranded. This proposed rule on the content of foreign supplier verification programs (FSVPs) sets forth the proposed steps that food importers would be required to take to fulfill their responsibility to ensure the safety of the food they bring into this country.

Summary of Legal Basis: Section 805(c) of the FD&C Act (21 U.S.C. 384a(c)) directs FDA, not later than 1 year after the date of enactment of FSMA, to issue regulations on the content of FSVPs. Section 805(c)(4) states that verification activities under such programs may include monitoring records for shipments, lot-by-lot certification of compliance, annual onsite inspections, checking the hazard analysis and risk-based preventive control plans of foreign suppliers, and periodically testing and sampling shipments of imported products. Section 301(b) of FSMA amends section 301 of the FD&C Act (21 U.S.C. 331) by adding section 301(zz), which designates as a prohibited act the importation or offering for importation of a food if the importer (as defined in section 805) does not have in place an FSVP in compliance with section 805. In addition, section 301(c) of FSMA amends section 801(a) of the FD&C Act (21 U.S.C. 381(a)) by stating that an article of food being imported or offered for import into the United States shall be refused admission if it appears from an examination of a sample of such an article or otherwise that the importer is in violation of section 805.

Alternatives: We are considering a range of alternative approaches to the requirements for foreign supplier verification activities. These might include: (1) Establishing a general requirement that importers determine

and conduct whatever verification activity that would adequately address the risks associated with the foods they import; (2) allowing importers to choose from a list of possible verification mechanisms, such as the activities listed in section 805(c)(4) of the FD&C Act; (3) requiring importers to conduct particular verification activities for certain types of foods or risks (e.g., for high-risk foods) but allowing flexibility in verification activities for other types of foods or risks; and (4) specifying use of a particular verification activity for each particular kind of food or risk. To the extent possible while still ensuring that verification activities are adequate to ensure that foreign suppliers are producing food in accordance with U.S. requirements, we will seek to give importers the flexibility to choose verification procedures that are appropriate to adequately address the risks associated with the importation of a particular food.

Anticipated Cost and Benefits: We are still estimating the cost and benefits for this proposed rule. However, the available information suggests that the costs will be significant. Our preliminary analysis of FY10 OASIS data suggests that this rule will cover about 60,000 importers, 240,000 unique combinations of importers and foreign suppliers, and 540,000 unique combinations of importers, products, and foreign suppliers. These numbers imply that provisions that require activity for each importer, each unique combination of importer and foreign supplier, or each unique combination of importer, product, and foreign supplier will generate significant costs. An example of a provision linked to combinations of importers and foreign suppliers would be a requirement to conduct a verification activity, such as an onsite audit, under certain conditions. The cost of onsite audits will depend in part on whether foreign suppliers can provide the same onsite audit results to different importers or whether every importer will need to take some action with respect to each of their foreign suppliers. The benefits of this proposed rule will consist of the reduction of adverse health events linked to imported food that could result from increased compliance with applicable requirements.

Risks: As stated above, about 15 percent of the U.S. food supply is imported, and many of these imported foods are high-risk commodities. According to recent data from the Centers for Disease Control and Prevention, each year, about 48 million Americans get sick, 128,000 are hospitalized, and 3,000 die from foodborne diseases. From July 1, 2007, through June 30, 2008, FDA oversaw 40 recalls of imported foods that were so contaminated that the Agency deemed them to be an imminent threat. We expect that the adoption of FSVPs by food importers will lead to a significant reduction to the threat to public health posed by unsafe imported food.

Timetable:

Action	Date	FR Cite
NPRM	01/00/13	

Regulatory Flexibility Analysis Required: Undetermined.

Small Entities Affected: Businesses.

Government Levels Affected: None.

International Impacts: This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

Agency Contact: Brian L. Pendleton, Senior Policy Advisor, Department of Health and Human Services, Food and Drug Administration, Office of Policy, WO 32, Room 4245, 10903 New Hampshire Avenue, Silver Spring, MD 20993–0002, *Phone:* 301 796–4614, *Fax:* 301 847–8616, *Email: brian.pendleton@fda.hhs.gov.*

RIN: 0910–AG64

HHS—FDA

37. Accreditation of Third Parties To Conduct Food Safety Audits and for Other Related Purposes

Priority: Other Significant.

Legal Authority: 21 U.S.C. 384d; Pub. L. 111–353, sec 307, FDA Food Safety Modernization Act; Other sections of FDA Food Safety Modernization Act, as appropriate

CFR Citation: Not Yet Determined.

Legal Deadline: Final, Statutory, July 2012, Promulgate implementing regulations. Per Pub. L. 111–353, section 307, promulgate, within 18 months of enactment, certain implementing regulations for accreditation of third-party auditors to conduct food safety audits.

Abstract: FDA is proposing regulations for accreditation of third-party auditors to conduct food safety audits. FDA is taking this action to improve the safety of food that is imported into the United States.

Statement of Need: The use of accredited third-party auditors to certify food imports will assist in ensuring the safety of food from foreign origin entering U.S. commerce. Accredited third-party auditors auditing foreign facilities can increase FDA's information about foreign facilities that FDA may not have adequate resources to inspect in a particular year. FDA will establish identified standards creating overall uniformity to complete the task. Audits that result in issuance of facility certificates will provide FDA information about the compliance status of the facility. Additionally, auditors will be required to submit audit reports that may be reviewed by FDA for purposes of compliance assessment and work planning.

Summary of Legal Basis: Section 808 of the FD&C Act directs FDA to establish, not later than 2 years after the date of enactment, a system for the recognition of accreditation bodies that accredit third-party auditors, who in turn certify that their eligible entities meet the requirements. To directly accredit third-party auditors should none be identified and recognized by the 2-year date of enactment, FDA is to obtain a list of all accredited third-party auditors and their agents from recognized accreditation bodies, and determine requirements for regulatory audit reports while avoiding unnecessary duplication of efforts and costs.

Alternatives: FSMA described in detail the framework for, and requirements of, the accredited third-party auditor program. Alternatives include certain oversight activities required of recognized accreditation bodies that accredit third-party auditors, as distinguished from third-party auditors directly accredited by FDA. Another alternative relates to the nature of the required standards and the degree to which those standards are prescriptive or flexible.

Anticipated Cost and Benefits: The benefits of the proposed rule would result from fewer cases of unsafe or misbranded food entering U.S. commerce. Additional benefits include the increased flow of credible information to FDA regarding the compliance status of foreign firms and their foods that are ultimately offered for import into the United States, which information in turn would inform FDA's work planning for inspection of foreign food facilities and might result in a signal of possible problems with a particular firm or its products, and with sufficient signals, might raise questions about the rigor of the food safety regulatory system of the country of origin.

The compliance costs of the proposed rule would result from the additional labor and capital required of accreditation bodies seeking FDA recognition and of third-party auditors seeking accreditation to the extent that

will involve the assembling of information for an application unique to the FDA third-party program. The compliance costs associated with certification will be accounted for separately under the costs associated with participation in the voluntary qualified importer program and the costs associated with mandatory certification for high-risk food imports. The third-party program is funded through revenue neutral-user fees, which will be developed by FDA through rulemaking. User fee costs will be accounted for in that rulemaking.

Risks: FDA is proposing this rule to provide greater assurance the food offered for import into the United States is safe and will not cause injury or illness to animals or humans. The rule would implement a program for accrediting third-party auditors to conduct food safety audits of foreign food entities, including registered foreign food facilities, and based on the findings of the regulatory audit, to issue certifications to foreign food entities found to be in compliance with FDA requirements. The certifications could be used by importers seeking to participate in the Voluntary Qualified Importer Program for expedited review and entry of product and would be a means to provide assurance of compliance as required by FDA based on risk-related considerations. The rule would apply to any foreign or domestic accreditation body seeking FDA recognition, any foreign or domestic third-party auditor seeking accreditation, any registered foreign food facility or other foreign food entity subject to a food safety audit (including a regulatory audit conducted for purposes of certification), and any importer seeking to participate in the Voluntary Qualified Importer Program. Fewer cases of unsafe or misbranded food entering U.S. commerce would reduce the risk of serious illness and death to humans and animals.

Timetable:

Action	Date	FR Cite
NPRM	01/00/13	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: Undetermined.

International Impacts: This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

Agency Contact: Charlotte A. Christin, Senior Policy Advisor, Department of Health and Human Services, Food and Drug Administration, Office of Policy, WO 32, Room 4234, 10903 New Hampshire Avenue, Silver Spring, MD 20993, *Phone:* 301 796–4718, *Fax:* 301 847–3541, *Email:* *charlotte.christin@fda.hhs.gov.*

RIN: 0910–AG66

HHS—FDA

38. • Revision of Postmarketing Reporting Requirements Discontinuance or Interruption in Supply of Certain Products (Drug Shortages)

Priority: Other Significant. Major status under 5 U.S.C. 801 is undetermined.

Legal Authority: secs 506C, 506C–1, 506D, and 506F of the FDA&C Act, as amended by title X (Drug Shortages) of FDASIA, Pub. L. 112–144, July 9, 2012

CFR Citation: 21 CFR 314.81; 21 CFR 314.91.

Legal Deadline: NPRM, Statutory, January 9, 2014. Not later than 18 months after the date of enactment of FDASIA, FDA must adopt the final regulation implementing section 506C as amended. Section 1001 of FDASIA states that not later than 18 months after the date of enactment of FDASIA, the Secretary shall adopt a final regulation implementing section 506C as amended.

Abstract: FDASIA amends the FD&C Act to require manufacturers of certain drug products to report to FDA discontinuances or interruptions in the production of these products 6 months prior to the discontinuance or interruption, or if that is not possible, as soon as practicable. Manufacturers must notify FDA of a discontinuance or interruption in the manufacture of drugs that are life-supporting, life-sustaining or intended for use in the prevention or treatment of a debilitating disease or condition. FDASIA requires FDA to define in regulation the terms ''life-supporting,'' ''life-sustaining,'' and ''intended for use in the prevention or treatment of a debilitating disease or condition,'' and to distribute, to the maximum extent practical, information on the discontinuation or interruption in the manufacture of these products to appropriate organizations. FDASIA also amends the FD&C Act to include other provisions related to drug shortages, and to require FDA to adopt a final regulation implementing amended section 506C not later than 18 months after the date of enactment of FDASIA. When finalized, this rule will implement the drug shortages provisions of FDASIA.

Statement of Need: The Food and Drug Administration Safety and Innovation Act (FDASIA), Public Law No. 112–144 (July 9, 2012), amends the FD&C Act to require manufacturers of certain drug products to report to FDA discontinuances or interruptions in the production of these products that are likely to meaningfully disrupt supply 6 months prior to the discontinuance or interruption, or if that is not possible, as soon as practicable. FDASIA also amends the FD&C Act to include other provisions related to drug shortages. Drug shortages have a significant impact on patient access to critical medications and the number of drug shortages has risen steadily since 2005 to a high of 251 shortages in 2011. Notification to FDA of a shortage or an issue that may lead to a shortage is critical—FDA was able to prevent more than 100 shortages in the first three quarters of 2012 due to early notification. This rule will implement the FDASIA drug shortages provisions, allowing FDA to more quickly and efficiently respond to shortages, thereby improving patient access to critical medications and promoting public health.

Summary of Legal Basis: Sections 506C, 506C–1, 506D, 506E, and 506F of the FD&C Act, as amended by title X (Drug Shortages) of FDASIA.

Alternatives: The principal alternatives assessed were to provide guidance on voluntary notification to FDA or to continue to rely on the requirements under the current interim final rule on notification. These alternatives would not meet the statutory requirement to issue the final regulation required by title X, section 1001 of FDASIA.

Anticipated Cost and Benefits: The rule would increase the modest reporting costs associated with notifying FDA of discontinuances or interruptions in the production of certain drug products. The rule would generate benefits in the form of the value of public health gains through more rapid and effective FDA responses to potential or actual drug shortages that otherwise would limit patient access to critical medications.

Risks: Drug shortages can significantly impede patient access to critical, sometimes life-saving, medications. Drug shortages, therefore, can pose a serious risk to public health and patient safety. This rule will require early notification of potential shortages, enabling FDA to more quickly and effectively respond to potential or actual drug shortages that otherwise would limit patient access to critical medications.

Timetable:

Action	Date	FR Cite
NPRM	03/00/13	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: None.

Agency Contact: Valerie Jensen, Department of Health and Human Services, Food and Drug Administration, White Oak, Building 22, Room 6202, New Hampshire Avenue, Silver Spring, MD 20903, *Phone:* 301 796–0737.

RIN: 0910–AG88

HHS—FDA

Final Rule Stage

39. Unique Device Identification

Priority: Economically Significant. Major under 5 U.S.C. 801.

Unfunded Mandates: This action may affect the private sector under Pub. L. 104–4.

Legal Authority: 21 U.S.C. 351; 21 U.S.C. 352; 21 U.S.C. 360; 21 U.S.C. 360h; 21 U.S.C. 360i; 21 U.S.C. 360j; 21 U.S.C. 360l; 21 U.S.C. 371

CFR Citation: 21 CFR part 16; 21 CFR part 801; 21 CFR part 803; 21 CFR part 806; 21 CFR part 810; 21 CFR part 814; 21 CFR part 820; 21 CFR part 821; 21 CFR part 822.

Legal Deadline: Final, Statutory, May 7, 2013, Must be finalized no later than 6 months after end of comment period (November 7, 2012).

Deadlines added by section 614 of FDASIA, Pub. L. 112–144.

Abstract: FDA is issuing a final rule establishing a unique device identification system for medical devices. A unique device identification system would allow health care professionals and others to rapidly and precisely identify a device and obtain important information concerning the device and would reduce medical errors.

Statement of Need: A unique device identification system will help reduce medical errors; will allow FDA, the healthcare community, and industry to more rapidly review and organize adverse event reports; identify problems relating to a particular device (even down to a particular lot or batch, range of serial numbers, or range of manufacturing or expiration dates); and thereby allow for more rapid, effective, corrective actions that focus sharply on the specific devices that are of concern.

Summary of Legal Basis: Section 519(f) of the FD&C Act (added by sec. 226 of the Food and Drug Administration Amendments Act of 2007) directs the Secretary to promulgate regulations establishing a unique device identification (UDI) system for medical devices, requiring the label of devices to bear a unique identifier that will adequately identify the device through its distribution and use.

Alternatives: FDA considered several alternatives that would allow certain requirements of the proposed rule to vary, such as the required elements of a UDI and the scope of affected devices.

Anticipated Cost and Benefits: FDA estimates that the affected industry would incur one-time and recurring costs, including administrative costs, to change and print labels that include the required elements of a UDI, costs to purchase equipment to print and verify the UDI, and costs to purchase software and integrate and validate the UDI into existing IT systems. FDA anticipates that implementation of a UDI system would help improve the efficiency and accuracy of medical device recalls and medical device adverse event reporting. The proposed rule would also standardize how medical devices are identified and contribute to future potential public health benefits of initiatives aimed at optimizing the use of automated systems in healthcare. Most of these benefits, however, require complementary developments and innovations in the private and public sectors.

Risks: This rule is intended to substantially eliminate existing obstacles to the consistent identification of medical devices used in the United States. UDI will allow FDA to more rapidly and effectively identify and aggregate adverse event reports and is central to improvement in FDA's medical device postmarket surveillance plan. By providing the means to rapidly and accurately identify a device and key attributes that affect its safe and effective use, the rule would reduce medical errors that result from misidentification of a device or confusion concerning its appropriate use.

Timetable:

Action	Date	FR Cite
NPRM	07/10/12	77 FR 40735
NPRM Comment Period End.	11/07/12	
Final Action	05/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

URL for More Information: *www.fda.gov/medicaldevices/deviceregulationandguidance/uniquedeviceidentification/default.htm.*

URL for Public Comments: *www.regulations.gov.*

Agency Contact: John J. Crowley, Senior Advisor for Patient Safety, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health, WO 66, Room 2315, 10903 New Hampshire Avenue, Silver Spring, MD 20993, *Phone:* 301 980–1936, *Email:* *jay.crowley@fda.hhs.gov.*

RIN: 0910–AG31

HHS—FDA

40. Food Labeling: Nutrition Labeling for Food Sold in Vending Machines

Priority: Economically Significant. Major under 5 U.S.C. 801.

Legal Authority: 21 U.S.C. 321; 21 U.S.C. 343; 21 U.S.C. 371

CFR Citation: Not Yet Determined.

Legal Deadline: None.

Abstract: The Food and Drug Administration (FDA) published a proposed rule in the **Federal Register** of April 6, 2011 (72 FR 19238) to establish requirements for nutrition labeling of certain food items sold in certain vending machines. FDA also proposed the terms and conditions for vending machine operators registering to voluntarily be subject to the requirements. FDA took this action to carry out section 4205 of the Patient Protection and Affordable Care Act (Affordable Care Act or ACA), which was signed into law on March 23, 2010.

Statement of Need: This rulemaking was mandated by section 4205 of the Patient Protection and Affordable Care Act (Affordable Care Act).

Summary of Legal Basis: On March 23, 2010, the Affordable Care Act (Pub. L. 111–148) was signed into law. Section 4205 amended 403(q)(5) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) by, among other things, creating new clause (H) to require that vending machine operators, who own or operate 20 or more machines, disclose calories for certain food items. FDA has the authority to issue this rule under sections 403(q)(5)(H) and 701(a) of the FD&C Act (21 U.S.C. 343(q)(5)(H), and 371(a)). Section 701(a) of the FD&C Act vests the Secretary of Health and Human Services, and, by delegation, the Food and Drug Administration (FDA) with the authority to issue regulations for the efficient enforcement of the FD&C Act.

Alternatives: Section 4205 of the Affordable Care Act requires the

Secretary (and by delegation, the FDA) to establish by regulation requirements for calorie labeling of articles of food sold from covered vending machines. Therefore, there are no alternatives to rulemaking. FDA has analyzed alternatives that may reduce the burden of the rulemaking, including analyzing the benefits and costs of: Restricting the flexibility of the format for calorie disclosure, lengthening the compliance time, and extending the coverage of the rule to bulk vending machines without selection buttons.

Anticipated Cost and Benefits: Any vending machine operator operating fewer than 20 machines may voluntarily choose to be covered by the national standard. It is anticipated that vending machine operators that own or operate 20 or more vending machines will bear costs associated with adding calorie information to vending machines. FDA estimates that the total cost of complying with section 4205 of the Affordable Care Act and this rulemaking will be approximately $25.8 million initially, with a recurring cost of approximately $24 million.

Because comprehensive national data for the effects of vending machine labeling do not exist, FDA has not quantified the benefits associated with section 4205 of the Affordable Care Act and this rulemaking. Some studies have shown that some consumers consume fewer calories when calorie content information is displayed at the point of purchase. Consumers will benefit from having this important nutrition information to assist them in making healthier choices when consuming food away from home. Given the very high costs associated with obesity and its associated health risks, FDA estimates that if 0.02 percent of the adult obese population reduces energy intake by at least 100 calories per week, then the benefits of section 4205 of the Affordable Care Act and this rulemaking will be at least as large as the costs.

Risks: Americans now consume an estimated one-third of their total calories from foods prepared outside the home and spend almost half of their food dollars on such foods. This rule will provide consumers with information about the nutritional content of food to enable them to make healthier food choices, and may help mitigate the trend of increasing obesity in America.

Timetable:

Action	Date	FR Cite
NPRM	04/06/11	76 FR 19238
NPRM Comment Period End.	07/05/11	
Final Action	04/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses, Governmental Jurisdictions.

Government Levels Affected: Federal, Local, State.

Federalism: This action may have federalism implications as defined in E.O. 13132.

Agency Contact: Daniel Reese, Food Technologist, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS–820), 5100 Paint Branch Parkway, College Park, MD 20740, *Phone:* 240 402–2126, *Email: daniel.reese@fda.hhs.gov.*

RIN: 0910–AG56

HHS—FDA

41. Food Labeling: Nutrition Labeling of Standard Menu Items in Restaurants and Similar Retail Food Establishments

Priority: Economically Significant. Major under 5 U.S.C. 801.

Unfunded Mandates: This action may affect the private sector under Pub. L. 104–4.

Legal Authority: 21 U.S.C. 321; 21 U.S.C. 343; 21 U.S.C. 371

CFR Citation: Not Yet Determined.

Legal Deadline: None.

Abstract: The Food and Drug Administration (FDA) published a proposed rule in the **Federal Register** of April 6, 2011 (72 FR 19192), to establish requirements for nutrition labeling of standard menu items in chain restaurants and similar retail food establishments. FDA also proposed the terms and conditions for restaurants and similar retail food establishments registering to voluntarily be subject to the Federal requirements. FDA took this action to carry out section 4205 of the Patient Protection and Affordable Care Act (Affordable Care Act or ACA), which was signed into law on March 23, 2010.

Statement of Need: This rulemaking was mandated by section 4205 of the Patient Protection and Affordable Care Act (Affordable Care Act).

Summary of Legal Basis: On March 23, 2010, the Affordable Care Act (Pub. L. 111–148) was signed into law. Section 4205 of the Affordable Care Act amended 403(q)(5) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) by, among other things, creating new clause (H) to require that certain chain restaurants and similar retail food establishments with 20 or more locations disclose certain nutrient information for standard menu items. FDA has the authority to issue this rule under sections 403(a)(1), 403(q)(5)(H), and 701(a) of the FD&C Act (21 U.S.C. 343(a)(1), 343(q)(5)(H), and 371(a)). Section 701(a) of the FD&C Act vests the Secretary of Health and Human Services, and, by delegation, the Food and Drug Administration (FDA) with the authority to issue regulations for the efficient enforcement of the FD&C Act.

Alternatives: Section 4205 of the Affordable Care Act requires the Secretary, and by delegation the FDA, to establish by regulation requirements for nutrition labeling of standard menu items for covered restaurants and similar retail food establishments. Therefore, there are no alternatives to rulemaking. FDA has analyzed alternatives that may reduce the burden of this rulemaking, including analyzing the benefits and costs of expanding and contracting the set of establishments covered by this rule and shortening or lengthening the compliance time relative to the rulemaking.

Anticipated Cost and Benefits: Chain restaurants and similar retail food establishments covered by the Federal law operating in local jurisdictions that impose different nutrition labeling requirements will benefit from having a uniform national standard. Any restaurant or similar retail food establishment with fewer than 20 locations may voluntarily choose to be covered by the national standard. It is anticipated that chain restaurants with 20 or more locations will bear costs for adding nutrition information to menus and menu boards. FDA estimates that the total cost of section 4205 and this rulemaking will be approximately $80 million, annualized over 10 years, with a low annualized estimate of approximately $33 million and a high annualized estimate of approximately $125 million over 10 years. These costs include an initial cost of approximately $320 million with an annually recurring cost of $45 million.

Because comprehensive national data for the effects of menu labeling do not exist, FDA has not quantified the benefits associated with section 4205 of the Affordable Care Act and this rulemaking. Some studies have shown that some consumers consume fewer calories when menus have information about calorie content displayed. Consumers will benefit from having important nutrition information for the approximately 30 percent of calories consumed away from home. Given the very high costs associated with obesity and its associated health risks, FDA

estimates that if 0.6 percent of the adult obese population reduces energy intake by at least 100 calories per week, then the benefits of section 4205 of the Affordable Care Act and this rule will be at least as large as the costs.

Risks: Americans now consume an estimated one-third of their total calories on foods prepared outside the home and spend almost half of their food dollars on such foods. Unlike packaged foods that are labeled with nutrition information, foods in restaurants, for the most part, do not have nutrition information that is readily available when ordered. Dietary intake data have shown that obese Americans consume over 100 calories per meal more when eating food away from home rather than food at home. This rule will provide consumers information about the nutritional content of food to enable them to make healthier food choices and may help mitigate the trend of increasing obesity in America.

Timetable:

Action	Date	FR Cite
NPRM	04/06/11	76 FR 19192
NPRM Comment Period End.	07/05/11	
Final Action	04/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses, Governmental Jurisdictions.

Government Levels Affected: Federal, Local, State.

Federalism: This action may have federalism implications as defined in E.O. 13132.

Agency Contact: Geraldine A. June, Supervisor, Product Evaluation and Labeling Team, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition, (HFS–820), 5100 Paint Branch Parkway, College Park, MD 20740, *Phone:* 240 402–1802, *Fax:* 301 436–2636, *Email: geraldine.june@fda.hhs.gov.*

RIN: 0910–AG57.

HHS—CENTERS FOR MEDICARE & MEDICAID SERVICES (CMS)

Proposed Rule Stage

42. Patient Protection and Affordable Care Act; Standards Related to Essential Health Benefits, Actuarial Value, and Accreditation (CMS–9980–F)

Priority: Economically Significant. Major under 5 U.S.C. 801.

Legal Authority: Pub. L. 111–148, title I

CFR Citation: 45 CFR part 156; 45 CFR part 155; 45 CFR part 147.

Legal Deadline: Final, Statutory, January 1, 2014.

Abstract: This final rule details standards for health insurance consistent with title I of the Affordable Care Act. Specifically, this rule outlines Exchange and issuer standards related to coverage of essential health benefits (EHB) and actuarial value (AV). This rule also proposes a timeline for qualified health plans to be accredited in Federally-facilitated Exchanges and an amendment that provides an application process for the recognition of additional accrediting entities for purposes of certification of qualified health plans.

Statement of Need: This rule sets forth standards related to EHB and AV consistent with the Affordable Care Act. HHS believes that the provisions that are included in this rule are necessary to fulfill the Secretary's obligations under sections 1302 and 1311 of the Affordable Care Act. Establishing specific approaches for defining EHB and calculating AV will bring needed clarity for States, issuers, and other stakeholders. Absent the provisions outlined in this rule, States, issuers, and consumers would face significant uncertainty about how coverage of EHB should be defined and evaluated. Similarly, failing to specify a method for calculating AV could result in significant inconsistency across States and issuers. Finally, establishing a clear timeline for potential qualified health plans to become accredited is essential to successful issuer participation in Federally-facilitated Exchanges.

Summary of Legal Basis: The provisions that are included in this rule are necessary to implement the requirements of title I of the Affordable Care Act.

Alternatives: None. This is a statutory requirement.

Anticipated Cost and Benefits: HHS anticipates that the provisions of this rule will assure consumers that they will have health insurance coverage for essential health benefits, and significantly increase consumers' ability to compare health plans, make an informed selection by promoting consistency across covered benefits and levels of coverage, and more efficiently purchase coverage. This rule ensures that consumers can shop on the basis of issues that are important to them such as price, network physicians, and quality, and be confident that the plan they choose does not include unexpected coverage gaps, like hidden benefit exclusions. It also allows for some flexibility for plans to promote innovation in benefit design. HHS anticipates that the provisions of this proposed regulation will likely result in increased costs related to increased utilization of health care services by people receiving coverage for previously uncovered benefits.

Risks: If this regulation is not published, the Exchanges will not become operational by January 1, 2014, thereby violating the statute.

Timetable:

Action	Date	FR Cite
Notice	09/14/11	76 FR 56767
Comment Period End.	10/31/11	
NPRM	11/26/12	77 FR 70644
NPRM Comment Period End.	12/26/12	

Regulatory Flexibility Analysis Required: Undetermined.

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations.

Government Levels Affected: Federal, Local, State, Tribal.

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Leigha Basini, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 301 492–4307, *Email: leigha.basini@cms.hhs.gov.*

RIN: 0938–AR03

HHS—CMS

43. PART II—Regulatory Provisions To Promote Program Efficiency, Transparency, and Burden Reduction (CMS–3267–P)

Priority: Economically Significant. Major status under 5 U.S.C. 801 is undetermined.

Legal Authority: 42 U.S.C. 1302; 42 U.S.C. 1395hh; 42 U.S.C. 1395rr

CFR Citation: 42 CFR part 482; 42 CFR part 485; 42 CFR part 491; 42 CFR part 483; 42 CFR part 416; 42 CFR part 486; 42 CFR part 488; 42 CFR part 493.

Legal Deadline: None.

Abstract: This proposed rule identifies and proposes reforms in Medicare regulations that CMS has identified as unnecessary, obsolete, or excessively burdensome on health care providers and beneficiaries. This proposed rule would increase the ability of health care professionals to devote resources to improving patient care, by

eliminating or reducing requirements that impede quality patient care or that divert resources away from providing high quality patient care. This is one of several rules that CMS is proposing to achieve regulatory reforms under Executive Order 13563 on Improving Regulation and Regulatory Review and the Department's Plan for Retrospective Review of Existing Rules.

Statement of Need: In Executive Order 13563, the President recognized the importance of a streamlined, effective, efficient regulatory framework designed to promote economic growth, innovation, job creation, and competitiveness. To achieve a more robust and effective regulatory framework, the President has directed each executive agency to establish a plan for ongoing retrospective review of existing significant regulations to identify those rules that can be eliminated as obsolete, unnecessary, burdensome, or counterproductive or that can be modified to be more effective, efficient, flexible, and streamlined. This rule continues our direct response to the President's instructions in Executive Order 13563 by reducing outmoded or unnecessarily burdensome rules, and thereby increasing the ability of health care entities to devote resources to providing high quality patient care.

Summary of Legal Basis: The provisions that are included in this rule are necessary to implement the requirements of Executive Order 13563, ''Improving Regulations and Regulatory Review.''

Alternatives: To date, nearly 90 specific reforms have been identified and scheduled for action. These reforms impact hospitals, physicians, home health agencies, ambulance providers, clinical labs, skilled nursing facilities, intermediate care facilities, managed care plans, Medicare Advantage organizations, and States. Many of these reforms will be included in rules that relate to particular categories of regulations or types of providers. Other reforms are being implemented without the need for regulations. This rule includes reforms that do not fit directly in other rules scheduled for publication.

Anticipated Cost and Benefits: This rule makes several changes that create measurable monetary savings for providers and suppliers, while others create less tangible savings of time and administrative burden. We anticipate that the provider industry and health professionals will welcome the changes and reductions in burden. We also expect that health professionals will experience increased efficiencies and resources to appropriately devote to improving patient care, increasing accessibility to care, and reducing associated health care costs.

Risks: If this regulation is not published, outdated and obsolete regulations would remain in place, thereby violating the Executive Order. Proposals to remove excessively burdensome requirements and increased efficiencies in patient care would not be achieved.

Timetable:

Action	Date	FR Cite
NPRM	12/00/12	

Regulatory Flexibility Analysis Required: Undetermined.

Small Entities Affected: Businesses.

Government Levels Affected: None.

Additional Information: Includes Retrospective Review under E.O. 13563 with small business burden reduction.

Agency Contact: Lauren Oviatt, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Office of Clinical Standards and Quality, Mailstop S3–23–27, 7500 Security Boulevard, Baltimore, MD 21244–1850, *Phone:* 410 786–4683, *Email: lauren.oviatt@cms.hhs.gov.*

RIN: 0938–AR49

HHS—CMS

44. • Notice of Benefit and Payment Parameters (CMS–9964–P)

Priority: Economically Significant. Major under 5 U.S.C. 801.

Legal Authority: Pub. L. 111–148, secs 1341 to 1343

CFR Citation: 45 CFR part 153; 45 CFR part 155.

Legal Deadline: Final, Statutory, January 1, 2014.

Abstract: Under the Affordable Care Act, this proposed rule would establish parameters of the risk adjustment, reinsurance, risk corridors, advanced premium tax credit, and cost-sharing reduction programs.

Statement of Need: This rule would provide additional guidance for several programs including risk adjustment, reinsurance, and risk corridors. The purpose of these programs is to protect health insurance issuers from the negative effects of adverse selection and to protect consumers from increases in premiums due to uncertainty for issuers. The rule would also provide new information on the cost-sharing reductions (CSRs) and advanced premium tax credits (APTCs) programs. These programs provide financial support for purchasing insurance and increase access to care for individuals through the Affordable Insurance Exchanges. They also provide assistance on user fees and administrative fees used to implement the Federally-facilitated Exchange and the risk adjustment and reinsurance programs.

Summary of Legal Basis: The provisions that are included in this rule are necessary to implement the requirements of sections 1341, 1342, 1343, 1401, 1402, 1411, and 1412 of the Affordable Care Act.

Alternatives: None. This is a statutory requirement.

Anticipated Cost and Benefits: Payments through reinsurance, risk adjustment, and risk corridors would reduce the increased risk of financial loss that health insurance issuers might otherwise expect to incur in 2014 due to market reforms such as guaranteed issue and the elimination of medical underwriting. These payments would reduce the risk to the issuer and the issuer could pass on a reduced risk premium to enrollees. Administrative costs would vary across States and health insurance issuers depending on the sophistication of technical infrastructure and prior experience with data collection and risk adjustment. States and issuers that already have systems in place for data collection and reporting would have reduced administrative costs.

Federal financial assistance for enrollees through the CSR and APTC programs would enable many low- and moderate-income individuals to purchase health insurance. The user fees and administrative fees would be charged on a per capita basis to issuers of certain plans. Those fees would be used to administer the Federally-facilitated Exchange and the HHS-operated risk adjustment and reinsurance programs.

Risks: If this regulation is not published, the Exchanges may be at risk for not becoming fully operational by January 1, 2014, thereby delaying the benefits of health insurance coverage to millions of Americans.

Timetable:

Action	Date	FR Cite
NPRM	12/07/12	77 FR 73118
NPRM Comment Period End.	12/31/12	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: Federal, State.

Agency Contact: Sharon Arnold, Acting Director, Payment Policy and Financial Management Group,

Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 301 492–4415, *Email: sharon.arnold@cms.hhs.gov.*

RIN: 0938–AR51

HHS—CMS

45. • Changes to the Hospital Inpatient and Long-Term Care Prospective Payment System for FY 2014 (CMS–1599–P)

Priority: Economically Significant. Major under 5 U.S.C. 801.

Unfunded Mandates: Undetermined.

Legal Authority: Sec 1886(d) of the Social Security Act

CFR Citation: Not Yet Determined.

Legal Deadline: NPRM, Statutory, April 1, 2013. Final, Statutory, August 1, 2013.

Abstract: This annual major proposed rule would revise the Medicare hospital inpatient and long-term care hospital prospective payment systems for operating and capital-related costs. This proposed rule would implement changes arising from our continuing experience with these systems.

Statement of Need: CMS annually revises the Medicare hospital inpatient prospective payment systems (IPPS) for operating and capital-related costs to implement changes arising from our continuing experience with these systems. In addition, we describe the proposed changes to the amounts and factors used to determine the rates for Medicare hospital inpatient services for operating costs and capital-related costs. Also, CMS annually updates the payment rates for the Medicare prospective payment system (PPS) for inpatient hospital services provided by long-term care hospitals (LTCHs). The rule solicits comments on the proposed IPPS and LTCH payment rates and new policies. CMS will issue a final rule containing the payment rates for the FY 2014 IPPS and LTCHs at least 60 days before October 1, 2013.

Summary of Legal Basis: The Social Security Act (the Act) sets forth a system of payment for the operating costs of acute care hospital inpatient stays under Medicare Part A (Hospital Insurance) based on prospectively set rates. The Act requires the Secretary to pay for the capital-related costs of hospital inpatient and Long Term Care stays under a PPS. Under these systems, Medicare payment for hospital inpatient and Long Term Care operating and capital-related costs is made at predetermined, specific rates for each hospital discharge. These changes would be applicable to services furnished on or after October 1, 2013.

Alternatives: None. This implements a statutory requirement.

Anticipated Cost and Benefits: Total expenditures will be adjusted for FY 2014.

Risks: If this regulation is not published timely, inpatient hospital and LTCH services will not be paid appropriately beginning October 1, 2013.

Timetable:

Action	Date	FR Cite
NPRM	04/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: Federal.

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Brian Slater, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Mail Stop C4–07–07, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–5229, *Email: brian.slater@cms.hhs.gov.*

RIN: 0938–AR53

HHS—CMS

46. • Changes to the Hospital Outpatient Prospective Payment System and Ambulatory Surgical Center Payment System for CY 2014 (CMS–1601–P)

Priority: Economically Significant. Major under 5 U.S.C. 801.

Unfunded Mandates: Undetermined.

Legal Authority: Sec 1833 of the Social Security Act

CFR Citation: Not Yet Determined.

Legal Deadline: Final, Statutory, November 1, 2013.

Abstract: This proposed rule would revise the Medicare hospital outpatient prospective payment system to implement applicable statutory requirements and changes arising from our continuing experience with this system. The proposed rule also describes changes to the amounts and factors used to determine payment rates for services. In addition, the rule proposes changes to the Ambulatory Surgical Center Payment System list of services and rates.

Statement of Need: Medicare pays over 4,000 hospitals for outpatient department services under the hospital outpatient prospective payment system (OPPS). The OPPS is based on groups of clinically similar services called ambulatory payment classification groups (APCs). CMS annually revises the APC payment amounts based on the most recent claims data, proposes new payment policies, and updates the payments for inflation using the hospital operating market basket. The rule solicits comments on the proposed OPPS payment rates and new policies. Medicare pays roughly 5,000 Ambulatory Surgical Centers (ASCs) under the ASC payment system. CMS annually revises the payment under the ASC payment system, proposes new policies, and updates payments for inflation. CMS will issue a final rule containing the payment rates for the 2014 OPPS and ASC payment system at least 60 days before January 1, 2014.

Summary of Legal Basis: Section 1833 of the Social Security Act establishes Medicare payment for hospital outpatient services and ASC services. The rule revises the Medicare hospital OPPS and ASC payment system to implement applicable statutory requirements. In addition, the rule describes changes to the outpatient APC system, relative payment weights, outlier adjustments, and other amounts and factors used to determine the payment rates for Medicare hospital outpatient services paid under the prospective payment system as well as changes to the rates and services paid under the ASC payment system. These changes would be applicable to services furnished on or after January 1, 2014.

Alternatives: None. This is a statutory requirement.

Anticipated Cost and Benefits: Total expenditures will be adjusted for CY 2014.

Risks: If this regulation is not published timely, outpatient hospital and ASC services will not be paid appropriately beginning January 1, 2014.

Timetable:

Action	Date	FR Cite
NPRM	06/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: Federal.

Federalism: Undetermined.

Agency Contact: Marjorie Baldo, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare Management, 7500 Security Boulevard, C4–03–06, Baltimore, MD 21244, *Phone:* 410 786–

4617, *Email: marjorie.baldo@cms.hhs.gov.*

RIN: 0938–AR54

HHS—CMS

47. • Revisions to Payment Policies Under the Physician Fee Schedule and Medicare Part B for CY 2014 (CMS–1600–P)

Priority: Economically Significant. Major under 5 U.S.C. 801.

Unfunded Mandates: Undetermined.

Legal Authority: Social Security Act, secs 1102, 1871, 1848

CFR Citation: Not Yet Determined.

Legal Deadline: Final, Statutory, November 1, 2013.

Abstract: This proposed rule would revise payment polices under the Medicare physician fee schedule, and make other policy changes to payment under Medicare Part B. These changes would be applicable to services furnished on or after January 1 annually.

Statement of Need: The statute requires that we establish each year, by regulation, payment amounts for all physicians' services furnished in all fee schedule areas. This rule would implement changes affecting Medicare Part B payment to physicians and other Part B suppliers. The final rule has a statutory publication date of November 1, 2013, and an implementation date of January 1, 2014.

Summary of Legal Basis: Section 1848 of the Social Security Act (the Act) establishes the payment for physician services provided under Medicare. Section 1848 of the Act imposes a deadline of no later than November 1 for publication of the final rule or final physician fee schedule.

Alternatives: None. This implements a statutory requirement.

Anticipated Cost and Benefits: Total expenditures will be adjusted for CY 2014.

Risks: If this regulation is not published timely, physician services will not be paid appropriately, beginning January 1, 2014.

Timetable:

Action	Date	FR Cite
NPRM	06/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: Undetermined.

Federalism: Undetermined.

Agency Contact: Christina Ritter, Director, Division of Practitioner Services, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Mail Stop C4–03–06, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–4636, *Email: christina.ritter@cms.hhs.gov.*

RIN: 0938–AR56

HHS—CMS

48. • Prospective Payment System for Federally Qualified Health Centers (FQHCS) (CMS–1443–P) (Section 610 Review)

Priority: Economically Significant. Major under 5 U.S.C. 801.

Unfunded Mandates: Undetermined.

Legal Authority: Pub. L. 111–148, sec 10501

CFR Citation: Not Yet Determined.

Legal Deadline: Final, Statutory, October 1, 2014.

Abstract: The Affordable Care Act amends the current Medicare FQHC payment policy by requiring the establishment of a new payment system, effective with cost reporting periods beginning on or after October 1, 2014. This rule proposes the establishment of the new prospective payment system.

Statement of Need: FQHCs include providers such as community health centers, public housing centers, outpatient health programs funded by the Indian Health Service, and programs serving migrants and the homeless. The main purpose of the FQHC program is to enhance the provision of primary care services in underserved urban and rural communities. CMS is required by statute to develop a prospective payment system for FQHCs effective October 1, 2014.

Summary of Legal Basis: Sections 5502 and 10501 of the Affordable Care Act.

Alternatives: None. This implements a statutory requirement.

Anticipated Cost and Benefits: Total expenditures will be adjusted for fiscal year 2015.

Risks: If this regulation is not published timely, FQHC services will not be paid appropriately beginning October 1, 2014.

Timetable:

Action	Date	FR Cite
NPRM	06/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Governmental Jurisdictions, Organizations.

Government Levels Affected: Federal, Local, State.

Federalism: Undetermined.

Agency Contact: Sarah Harding, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Mail Stop C4–01–26, Windsor Mill, MD 21244, *Phone:* 410 786–4001, *Email: sarah.harding@cms.hhs.gov.*

RIN: 0938–AR62

HHS—ADMINISTRATION FOR CHILDREN AND FAMILIES (ACF)

Proposed Rule Stage

49. Child Care and Development Fund Reforms To Support Child Development and Working Families

Priority: Other Significant.

Legal Authority: sec 658E and other provisions of the Child Care and Development Block Grant Act of 1990, as amended

CFR Citation: 45 CFR part 98.

Legal Deadline: None.

Abstract: This proposed rule would provide the first comprehensive update of Child Care and Development Fund (CCDF) regulations since 1998. It would make changes in four key areas: (1) Improving health and safety; (2) improving the quality of child care; (3) establishing family-friendly policies; and (4) strengthening program integrity. The rule seeks to retain much of the flexibility afforded to States, Territories, and Tribes consistent with the nature of a block grant. The changes would update the regulation to reflect: Current research and knowledge about the early care and education sector; state innovations in policies and practices over the past decade; and increased recognition that high quality child care both supports work for low-income parents and promotes children's learning and healthy development.

Statement of Need: The CCDF program has far-reaching implications for America's poorest children. It provides child care assistance to 1.7 million children from nearly 1 million low-income working families and families who are attending school or job training. Half of the children served are living at or below poverty level. In addition, children who receive CCDF are cared for alongside children who do not receive CCDF, by approximately 570,000 participating child care providers, some of whom lack basic assurances needed to ensure children are safe, healthy, and learning.

Since 1996, a body of research has demonstrated the importance of the early years on brain development and has shown that high quality, consistent child care can positively impact later success in school and life. This is especially true for low-income children

who face a school readiness and achievement gap and can benefit the most from high quality early learning environments. In light of this research, many States, Territories, and tribes, working collaboratively with the Federal Government, have taken important steps over the last 15 years to make the CCDF program more child-focused and family-friendly; however, implementation of these evidence-informed practices is uneven across the country and critical gaps remain.

This regulatory action is needed in order to increase accountability in the CCDF program by ensuring that all children receiving federally-funded child care assistance are in safe, quality programs that both support their parent's labor market participation, and help children develop the tools and skills they need to reach their full potential.

A major focus of this proposed rule is to raise the bar on quality by establishing a floor of health and safety standards for child care paid for with Federal funds. National surveys have demonstrated that most parents logically assume that their child care providers have had a background check, have had training in child health and safety, and are regularly monitored. However, State policies surrounding the training and oversight of child care providers vary widely. In some States, many children receiving CCDF subsidies are cared for by providers that have little to no oversight with respect to compliance with basic standards designed to safeguard children's well-being, such as first-aid and safe sleep practices. This can leave children in unsafe conditions, even as their care is being funded with public dollars.

In addition, the proposed rule empowers all parents who choose child care, regardless of whether they receive a Federal subsidy, with better information to make the best choices for their children. This includes providing parents with information about the quality of child care providers and making information about providers' compliance with health and safety regulations more transparent so that parents can be aware of the safety track record of providers when it's time to choose child care.

Summary of Legal Basis: This proposed regulation is being issued under the authority granted to the Secretary of Health and Human Services by the CCDBG Act (42 U.S.C. 9858, *et seq.*) and Section 418 of the Social Security Act (42 U.S.C. 618).

Alternatives: The Administration for Children and Families considered a range of approaches to improve early childhood care and education, including administrative and regulatory action. ACF has taken administrative actions to recommend that States adopt stronger health and safety requirements and provided technical assistance to States. Despite these efforts to assist States in making voluntary reforms, unacceptable health and safety lapses remain. An alternative to this rule would be to take no regulatory action or to limit the nature of the required standards and the degree to which those standards are prescriptive. ACF believes this rulemaking is the preferable alternative to ensure children's health and safety and promote their learning and development.

Anticipated Cost and Benefits: Changes in this proposed rule directly benefit children and parents who use CCDF assistance to pay for child care. The 1.7 million children who are in child care funded by CCDF would have stronger protections for their health and safety, which addresses every parent's paramount concern. All children in the care of a participating CCDF provider will be safer because that provider is more knowledgeable about health and safety issues. In addition, the families of the 12 million children who are served in child care will benefit from having clear, accessible information about the safety compliance records and quality indicators of providers available to them as they make critical choices about where their children will be cared for while they work. Provisions also will benefit child care providers by encouraging States to invest in high quality child care providers and professional development and to take into account quality when they determine child care payment rates.

A primary reason for revising the CCDF regulations is to better reflect current State and local practices to improve the quality of child care. Therefore, there are a significant number of States, Territories, and Tribes that have already implemented many of these policies. The cost of implementing the changes in this proposed rule will vary depending on a State's specific situation. ACF does not believe the costs of this proposed regulatory action would be economically significant and that the tremendous benefits to low-income children justify costs associated with this proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	12/00/12	
NPRM Comment Period End.	02/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: State, Tribal.

Agency Contact: Andrew Williams, Policy Division Director, Department of Health and Human Services, Administration for Children and Families, Office of Child Care, 370 L'Enfant Promenade SW., Washington, DC 20447, *Phone:* 202 401–4795, *Fax:* 202 690–5600, *Email: andrew.williams@acf.hhs.gov.*

RIN: 0970–AC53

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DEPARTMENT OF HOMELAND SECURITY (DHS)

Fall 2012 Statement of Regulatory Priorities

The Department of Homeland Security (DHS or Department) was created in 2003 pursuant to the Homeland Security Act of 2002, Public Law 107–296. DHS has a vital mission: To secure the Nation from the many threats we face. This requires the dedication of more than 225,000 employees in jobs that range from aviation and border security to emergency response, from cybersecurity analyst to chemical facility inspector. Our duties are wide-ranging, but our goal is clear—keeping America safe.

Our mission gives us six main areas of responsibility:

1. Prevent Terrorism and Enhance Security,
2. Secure and Manage Our Borders,
3. Enforce and Administer our Immigration Laws,
4. Safeguard and Secure Cyberspace,
5. Ensure Resilience to Disasters, and
6. Mature and Strengthen DHS.

In achieving these goals, we are continually strengthening our partnerships with communities, first responders, law enforcement, and government agencies—at the State, local, tribal, Federal, and international levels. We are accelerating the deployment of science, technology, and innovation in order to make America more secure, and we are becoming leaner, smarter, and more efficient, ensuring that every security resource is used as effectively as possible. For a further discussion of our main areas of responsibility, see the DHS Web site at *http://www.dhs.gov/our-mission*.

The regulations we have summarized below in the Department's fall 2012 regulatory plan and in the agenda support the Department's responsibility areas listed above. These regulations

will improve the Department's ability to accomplish its mission.

The regulations we have identified in this year's fall regulatory plan continue to address legislative initiatives including, but not limited to, the following acts: The Implementing Recommendations of the 9/11 Commission Act of 2008 (9/11 Act), Public Law 110–53 (Aug. 3, 2007); the Post-Katrina Emergency Management Reform Act of 2006 (PKEMRA), Public Law 109–295 (Oct. 4, 2006); the Consolidated Natural Resources Act of 2008 (CNRA), Public Law 110–220 (May 7, 2008); the Security and Accountability for Every Port Act of 2006 (SAFE Port Act), Public Law 109–347 (Oct. 13, 2006); and the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009, Public Law 110–329 (Sep. 30, 2008).

DHS strives for organizational excellence and uses a centralized and unified approach in managing its regulatory resources. The Office of the General Counsel manages the Department's regulatory program, including the agenda and regulatory plan. In addition, DHS senior leadership reviews each significant regulatory project to ensure that the project fosters and supports the Department's mission.

The Department is committed to ensuring that all of its regulatory initiatives are aligned with its guiding principles to protect civil rights and civil liberties, integrate our actions, build coalitions and partnerships, develop human resources, innovate, and be accountable to the American public.

DHS is also committed to the principles described in Executive Orders 13563 and 12866 (as amended). Both Executive orders direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

Finally, the Department values public involvement in the development of its regulatory plan, agenda, and regulations, and takes particular concern with the impact its rules have on small businesses. DHS and each of its components continue to emphasize the use of plain language in our notices and rulemaking documents to promote a better understanding of regulations and increased public participation in the Department's rulemakings.

Retrospective Review of Existing Regulations

Pursuant to Executive Order 13563 ''Improving Regulation and Regulatory Review'' (Jan. 18, 2011), DHS identified the following regulatory actions as associated with retrospective review and analysis. Some of the regulatory actions on the below list may be completed actions, which do not appear in The Regulatory Plan. You can find more information about these completed rulemakings in past publications of the Unified Agenda (search the Completed Actions sections) on *www.reginfo.gov*. Some of the entries on this list, however, are active rulemakings. You can find entries for these rulemakings on *www.regulations.gov*.

RIN	Rule
1615–AB71	Electronic Communications; Registration Requirement for Petitioners Seeking to File H–1B Petitions.
1615–AB99	Provisional Unlawful Presence Waivers of Inadmissibility for Certain Immediate Relatives.
1615–AB92	Employment Authorization for Certain H–4 Spouses.
1615–AB95	Immigration Benefits Business Transformation: Nonimmigrants; Student and Exchange Visitor Program.
1625–AA16	Implementation of the Amendments to the International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers (STCW) and Changes to Domestic Endorsements.
1625–AB38	Update to Maritime Security Regulations.
1625–AB80	Elimination of Transportation Worker Identification Credential (TWIC) for Certain Mariner Populations. (Implementation of Section 809 of the 2010 Coast Guard Authorization Act).
1651–AA96	Definition of Form I–94 to Include Electronic Format.
1651–AA93	Closing of the Port of Whitetail, Montana.
1651–AA94	Internet Publication of Administrative Seizure/Forfeiture Notices.
1652–AA43	Modification of the Aviation Security Infrastructure Fee (ASIF).
1652–AA61	Revisions to the Alien Flight Student Program (AFSP) Regulations.
1653–AA44	Amendment to Accommodate Process Changes with the Student and Exchange Visitor Information System (SEVIS) II.
1660–AA75	Increased Federal Cost Share and Reimbursement for Force Account Labor for Public for Public Assistance Debris Removal.
1660–XXXX	State Standard and Enhanced Mitigation Plan.

Promoting International Regulatory Cooperation

Pursuant to Sections 3 and 4(b) of Executive Order 13609 ''Promoting International Regulatory Cooperation'' (May 1, 2012), DHS has identified the following regulatory actions that have significant international impacts. Some of the regulatory actions on the below list may be completed actions. You can find more information about these completed rulemakings in past publications of the Unified Agenda (search the Completed Actions sections) on *www.reginfo.gov*. Some of the entries on this list, however, are active rulemakings. You can find entries for these rulemakings on *www.regulations.gov*.

RIN	Rule
1625–AB38	Updates to Maritime Security.
1651–AA70	Importer Security Filing and Additional Carrier Requirements.
1651–AA72	Changes to the Visa Waiver Program To Implement the Electronic System for Travel Authorization (ESTA) Program.
1651–AA98	Amendments to Importer Security Filing and Additional Carrier Requirements.
1651–AA96	Definition of Form I–94 to Include Electronic Format.

DHS participates in some international regulatory cooperation activities that are reasonably anticipated to lead to significant regulations. For example, the Coast Guard is the primary U.S. representative to the International Maritime Organization (IMO) and plays a major leadership role in establishing international standards in the global maritime community. IMO's work to establish international standards for maritime safety, security, and environmental protection closely aligns with Coast Guard regulations. As an IMO member nation, the U.S. is obliged to incorporate IMO treaty provisions not already part of U.S. domestic policy into regulations for those vessels affected by the international standards. Consequently, the Coast Guard initiates rulemakings to harmonize with IMO international standards such as treaty provisions and the codes, conventions, resolutions, and circulars that supplement them.

Also, President Obama and Prime Minister Harper created the Canada-US Regulatory Cooperation Council (RCC) in February 2011. The RCC is an initiative between both federal governments aimed at pursuing greater alignment in regulation, increasing mutual recognition of regulatory practices and establishing smarter, more effective and less burdensome regulations in specific sectors. The Canada-US RCC initiative arose out of the recognition that high level, focused, and sustained effort would be required to reach a more substantive level of regulatory cooperation. Since its creation in early 2011, USCG has participated in stakeholder consultations with their Transport Canada counterparts and the public, drafted items for inclusion in the RCC Action Plan, and detailed work plans for each included Action Plan item.

The fall 2012 regulatory plan for DHS includes regulations from DHS components—including U.S. Citizenship and Immigration Services (USCIS), the U.S. Coast Guard (Coast Guard), U.S. Customs and Border Protection (CBP), the U.S. Immigration and Customs Enforcement (ICE), and the Transportation Security Administration (TSA), which have active regulatory programs. In addition, it includes regulations from the Department's major offices and directorates such as the National Protection and Programs Directorate (NPPD). Below is a discussion of the fall 2012 regulatory plan for DHS regulatory components, as well as for DHS offices and directorates.

United States Citizenship and Immigration Services

U.S. Citizenship and Immigration Services (USCIS) administers immigration benefits and services while protecting and securing our homeland. USCIS has a strong commitment to welcoming individuals who seek entry through the U.S. immigration system, providing clear and useful information regarding the immigration process, promoting the values of citizenship, and assisting those in need of humanitarian protection. Based on a comprehensive review of the planned USCIS regulatory agenda, USCIS will promulgate several rulemakings to directly support these commitments and goals.

Regulations To Facilitate Retention of High-Skilled Workers

Employment Authorization for Certain H–4 Dependent Spouses. USCIS will propose to amend its regulations to extend eligibility for employment authorization to H–4 dependent spouses of principal H–1B nonimmigrants who have begun the process of seeking lawful permanent resident status through employment and have extended their authorized period of admission or ''stay'' in the United States under section 104(c) or 106(a) of Public Law 106–313, also known as the American Competitiveness in the Twenty-First Century Act of 2000 (AC21). Allowing the eligible class of H–4 dependent spouses to work encourages professionals with high-demand skills to remain in the country and help spur innovation and growth of U.S. businesses.

Enhancing Opportunities for High-Skilled Workers. USCIS will propose to amend its regulations affecting high-skilled workers within the nonimmigrant classifications for specialty occupation professionals from Chile and Singapore (H–1B1) and from Australia (E–3), to include these classifications in the list of classes of aliens authorized for employment incident to status with a specific employer, to extend automatic employment authorization extensions with pending extension of stay requests, and to update filing procedures. USCIS will also propose amendments related to the immigration classification for employment-based first preference (EB–1) outstanding professors or researchers to allow the submission of comparable evidence. These changes will encourage and facilitate the employment and retention of these high-skilled workers.

Improvements to the Immigration System

Provisional Unlawful Presence Waivers of Inadmissibility for Certain Immediate Relatives. USCIS will amend its regulations to allow certain immediate relatives of U.S. citizens, who are physically present in the United States and must seek immigrant visas through consular processing abroad, to apply for provisional unlawful presence waivers under section 212(a)(9)(B)(v) of the Immigration and Nationality Act of 1952; 8 U.S.C. 1182(a)(9)(B)(v) while in the United States. This regulatory change would significantly reduce the length of time U.S. citizens are separated from their immediate relatives who must use the consular process abroad. It also creates greater efficiencies for both the U.S. Government and applicants.

Regulations Related to Transformation. USCIS is currently engaged in a multi-year transformation effort to create a more efficient, effective, and customer-focused organization by improving our business processes and technology. In the coming years, USCIS will publish regulations to facilitate that effort, including regulations that would accomplish the following changes: Remove references to form numbers, form titles, expired regulatory provisions, and descriptions of internal procedure; mandate electronic filing in certain circumstances; and comprehensively reorganize 8 CFR part 214.

Requirements for Filing Motions and Administrative Appeals. USCIS will propose to revise the procedural regulations governing appeals and motions to reopen or reconsider before its Administrative Appeals Office, and to require that applicants and petitioners exhaust administrative remedies before seeking judicial review of an unfavorable decision. The changes proposed by the rule will streamline the procedures before the Administrative Appeals Office and improve the efficiency of the adjudication process.

Regulations Related to the Commonwealth of Northern Mariana Islands. In 2009, USCIS issued three regulations (two interim final rules and one notice of proposed rulemaking) to implement the extension of U.S. immigration law to the Commonwealth of Northern Mariana Islands (CNMI), as required under title VII of the Consolidated Natural Resources Act of 2008 (CNRA). During fiscal year 2011, USCIS issued two final rules finalizing the interim final rules from 2009 related to the extension of the U.S. immigration

law to the CNMI. In fiscal year 2013, USCIS plans to issue with the Department of Justice (DOJ) a joint final rule titled ''Application of Immigration Regulations to the CNMI.'' This regulation would implement the applicable CNRA provisions to extend U.S. immigration law to the CNMI.

Regulatory Changes Involving Humanitarian Benefits

Asylum and Withholding Definitions. USCIS plans a regulatory proposal to amend the regulations that govern asylum eligibility and refugee status determinations. The amendments are expected to revise the portions of the existing regulations that deal with determinations of whether suffered or feared persecution is on account of a protected ground, the requirements for establishing that the government is unable or unwilling to protect the applicant, and the definition of membership in a particular social group. This proposal would provide greater clarity and consistency in this important area of the law.

Exception to the Persecution Bar for Asylum, Refugee, or Temporary Protected Status, and Withholding of Removal. In a joint rulemaking, DHS and DOJ will propose amendments to existing DHS and DOJ regulations to resolve ambiguity in the statutory language precluding eligibility for asylum, refugee resettlement, temporary protected status, and withholding or removal of an applicant who ordered, incited, assisted, or otherwise participated in the persecution of others. The proposed rule would provide a limited exception for persecutory actions taken by the applicant under duress and would clarify the required level of the applicant's knowledge of the persecution.

''T'' and ''U'' Nonimmigrants. USCIS plans additional regulatory initiatives related to T nonimmigrants (victims of trafficking), U nonimmigrants (victims of criminal activity), and adjustment of status for T and U nonimmigrants to lawful permanent resident status. USCIS hopes to provide greater consistency in eligibility, application and procedural requirements for these vulnerable groups, their advocates, and the community through these regulatory initiatives. These rulemakings will contain provisions to adjust documentary requirements for this vulnerable population and provide greater clarity to the law enforcement community.

Application of the William Wilberforce Trafficking Victims Protection Act of 2008. In a joint rulemaking, DHS and DOJ will propose amendments to implement the William Wilberforce Trafficking Victims Protection Act of 2008 (TVPRA). This statute specified that USCIS has initial jurisdiction over an asylum application filed by an unaccompanied alien child in removal proceedings before an immigration judge. The agencies implemented this legislation with interim procedures that the TVPRA mandated within 90 days after enactment. The proposed rule would amend both agencies' regulations to finalize the procedures to determine when an alien child is unaccompanied and how jurisdiction would be transferred to USCIS for initial adjudication of the child's asylum application. In addition, this rule would address adjustment of status for special immigrant juveniles and voluntary departure for unaccompanied alien children in removal proceedings.

United States Coast Guard

The U.S. Coast Guard (Coast Guard) is a military, multi-mission, maritime service of the United States and the only military organization within DHS. It is the principal Federal agency responsible for maritime safety, security, and stewardship and delivers daily value to the Nation through multi-mission resources, authorities, and capabilities.

Effective governance in the maritime domain hinges upon an integrated approach to safety, security, and stewardship. The Coast Guard's policies and capabilities are integrated and interdependent, delivering results through a network of enduring partnerships. The Coast Guard's ability to field versatile capabilities and highly-trained personnel is one of the U.S. Government's most significant and important strengths in the maritime environment.

America is a maritime nation, and our security, resilience, and economic prosperity are intrinsically linked to the oceans. Safety, efficient waterways, and freedom of transit on the high seas are essential to our well-being. The Coast Guard is leaning forward, poised to meet the demands of the modern maritime environment. The Coast Guard creates value for the public through solid prevention and response efforts. Activities involving oversight and regulation, enforcement, maritime presence, and public and private partnership foster increased maritime safety, security, and stewardship.

The statutory responsibilities of the Coast Guard include ensuring marine safety and security, preserving maritime mobility, protecting the marine environment, enforcing U.S. laws and international treaties, and performing search and rescue. The Coast Guard supports the Department's overarching goals of mobilizing and organizing our Nation to secure the homeland from terrorist attacks, natural disasters, and other emergencies. The rulemaking projects identified for the Coast Guard in the Unified Agenda, and the rules appearing in the fall 2012 Regulatory Plan below, contribute to the fulfillment of those responsibilities and reflect our regulatory policies.

Transportation Worker Identification Credential (TWIC); Card Reader Requirements. The Coast Guard is proposing to establish electronic card reader requirements for maritime facilities and vessels to be used in combination with the Transportation Security Administration's (TSA) TWIC. Congress enacted several statutory requirements within the Security and Accountability For Every (SAFE) Port Act of 2006 pertaining to TWIC readers, including a requirement to evaluate TSA's final pilot program report as part of the TWIC reader rulemaking. During the rulemaking process, the Coast Guard is taking into account the final pilot data and the various conditions in which TWIC readers may be employed. For example, the Coast Guard is considering the types of vessels and facilities that will use TWIC readers, locations of secure and restricted areas, operational constraints, and need for accessibility. This rulemaking will also address recordkeeping requirements, amendments to security plans, and the requirement for data exchanges (i.e., Canceled Card List) between TSA and vessel or facility owners/operators.

Implementation of the 1995 Amendments to the International Convention on Standards of Training, Certification, and Watchkeeping (STCW) for Seafarers, 1978. The Coast Guard proposed to amend its regulations to implement changes to an interim rule published on June 26, 1997. These proposed amendments go beyond changes found in the interim rule and seek to more fully incorporate the requirements of the STCW in the requirements for the credentialing of U.S. merchant mariners. The proposed changes are primarily substantive and: (1) Are necessary to continue to give full and complete effect to the STCW Convention; (2) incorporate lessons learned from implementation of the STCW through the interim rule and through policy letters and Navigation and Vessel Inspection Circulars; and (3) attempt to clarify regulations that have generated confusion. This proposal published as a Supplemental Notice of Proposed Rulemaking (SNPRM) on

August 1, 2011. The Coast Guard has reviewed and analyzed comments received on that SNPRM, and intends to publish a final rule complying with the requirements of the newly amended STCW Convention. DHS included this rulemaking in the DHS Final Plan for the Retrospective Review of Existing Regulations, which DHS released on August 22, 2011.

Vessel Requirements for Notices of Arrival and Departure, and Automatic Identification System. The Coast Guard intends to expand the applicability of notice of arrival and departure (NOAD) and automatic identification system (AIS) requirements to include more commercial vessels. This rule, once final, would expand the applicability of notice of arrival (NOA) requirements to include additional vessels, establish a separate requirement for vessels to submit notices of departure (NOD) when departing for a foreign port or place, set forth a mandatory method for electronic submission of NOA and NOD, and modify related reporting content, timeframes, and procedures. This rule would also extend the applicability of AIS requirements beyond Vessel Traffic Service (VTS) areas to all U.S. navigable waters and require additional commercial vessels install and use AIS. These changes are intended to improve navigation safety, enhance our ability to identify and track vessels, and heighten the Coast Guard's overall maritime domain awareness, thus helping the Coast Guard address threats to maritime transportation safety and security and mitigate the possible harm from such threats.

Offshore Supply Vessels of 6000 or more GT ITC. The Coast Guard Authorization Act of 2010 (the Act) removed the size limit on offshore supply vessels (OSVs) and directed the Coast Guard to issue, as soon as practicable, an interim rule to implement section 617 of the Act. As required by the Act, this interim rule is intended to provide for the safe carriage of oil, hazardous substances, and individuals in addition to crew on OSVs of at least 6000 gross tonnage as measured under the International Convention on Tonnage Measurement of Ships (6,000 GT ITC). In developing the regulations the Coast Guard is taking into account the characteristics of offshore supply vessels, their methods of operation, and their service in support of exploration, exploitation, or production of offshore mineral or energy resources.

United States Customs and Border Protection

U.S. Customs and Border Protection (CBP) is the federal agency principally responsible for the security of our Nation's borders, both at and between the ports of entry and at official crossings into the United States. CBP must accomplish its border security and enforcement mission without stifling the flow of legitimate trade and travel. The primary mission of CBP is its homeland security mission, that is, to prevent terrorists and terrorist weapons from entering the United States. An important aspect of this priority mission involves improving security at our borders and ports of entry, but it also means extending our zone of security beyond our physical borders.

CBP is also responsible for administering laws concerning the importation into the United States of goods, and enforcing the laws concerning the entry of persons into the United States. This includes regulating and facilitating international trade; collecting import duties; enforcing U.S. trade, immigration and other laws of the United States at our borders; inspecting imports, overseeing the activities of persons and businesses engaged in importing; enforcing the laws concerning smuggling and trafficking in contraband; apprehending individuals attempting to enter the United States illegally; protecting our agriculture and economic interests from harmful pests and diseases; servicing all people, vehicles and cargo entering the United States; maintaining export controls; and protecting U.S. businesses from theft of their intellectual property.

In carrying out its priority mission, CBP's goal is to facilitate the processing of legitimate trade and people efficiently without compromising security. Consistent with its primary mission of homeland security, CBP intends to finalize several rules during the next fiscal year that are intended to improve security at our borders and ports of entry. These rules foster the DHS' Strategic Goals of awareness and prevention. We have highlighted some of these rules below.

Electronic System for Travel Authorization (ESTA). On June 9, 2008, CBP published an interim final rule amending DHS regulations to implement the Electronic System for Travel Authorization (ESTA) for aliens who wish to enter the United States under the Visa Waiver Program (VWP) at air or sea ports of entry. This rule is intended to fulfill the requirements of section 711 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (9/11 Act). The rule establishes ESTA and delineates the data field DHS has determined will be collected by the system. The rule requires that each alien traveling to the United States under the VWP must obtain electronic travel authorization via the ESTA System in advance of such travel. VWP travelers may obtain the required ESTA authorization by electronically submitting to CBP biographic and other information that was previously submitted to CBP via the I–94W Nonimmigrant Alien Arrival/Departure Form (I–94W). ESTA became mandatory on January 12, 2009. Therefore, VWP travelers must either obtain travel authorization in advance of travel under ESTA or obtain a visa prior to traveling to the United States.

The shift from a paper to an electronic form and requiring the data in advance of travel enables CBP to determine before the alien departs for the U.S., the eligibility of nationals from VWP countries to travel to the United States and to determine whether such travel poses a law enforcement or security risk. By modernizing the VWP, the ESTA increases national security and provides for greater efficiencies in the screening of international travelers by allowing for vetting of subjects of potential interest well before boarding, thereby reducing traveler delays based on lengthy processes at ports of entry. On August 9, 2010, CBP also published an interim final rule amending the ESTA regulations to require ESTA applicants to pay a congressionally mandated fee which is the sum of two amounts, a $10 travel promotion fee for an approved ESTA and a $4.00 operational fee for the use of ESTA set by the Secretary of Homeland Security to at least ensure the recovery of the full costs of providing and administering the ESTA system. CBP intends to issue a final rule on ESTA and the ESTA fee during the next fiscal year.

Importer Security Filing and Additional Carrier Requirements. The Security and Accountability for Every Port Act of 2006 (SAFE Port Act), calls for CBP to promulgate regulations to require the electronic transmission of additional data elements for improved high-risk targeting. See Pub. L. No. 109–347, Section 203 (October 13, 2006). This includes appropriate security elements of entry data for cargo destined for the United States by vessel prior to loading of such cargo on vessels at foreign seaports. *Id.* The SAFE Port Act requires that the information collected reasonably improve CBP's ability to identify high-risk shipments to prevent smuggling and ensure cargo safety and security. *Id.*

On November 25, 2008, CBP published an interim final rule ''Importer Security filing and Additional Carrier Requirements,'' amending CBP Regulations to require carriers and importers to provide to CBP, via a CBP approved electronic data interchange system, information necessary to enable CBP to identity high-risk shipments to prevent smuggling and ensure cargo safety and security. This rule, which became effective on January 26, 2009, improves CBP risk assessment and targeting capabilities, facilitates the prompt release of legitimate cargo following its arrival in the United States, and assists CBP in increasing the security of the global trading system. The comment period for the interim final rule concluded on June 1, 2009. CBP is analyzing comments and conducting a structured review of certain flexibility provided in the interim final rule. CBP intends to publish a final rule during the next fiscal year.

Implementation of the Guam-CNMI Visa Waiver Program. CBP published an interim final rule in November 2008 amending the DHS regulations to replace the current Guam Visa Waiver Program with a new Guan-CNMI Visa Waiver program. This rule implements portions of the National Resources Act of 2008 (CNRA), which extends the immigration laws of the United States to the Commonwealth of the Northern Mariana Islands (CNMI) and among others things, provides for a visa waiver program for travel to Guan and the CNMI. The amended regulations set forth the requirements for nonimmigrant visitors who seek admission for business or pleasure and solely for entry into and stay on Guam or the CNMI without a visa. The rule also establishes six ports of entry in the CNMI for purposes of administering and enforcing the Guam-CNMI Visa Waiver program. CBP intends to issue a final rule during the next fiscal year.

In the above paragraphs, DHS discusses the CBP regulations that foster DHS's mission. CBP also issues regulations related to the mission of the Department of the Treasury. Under section 403(1) of the Homeland Security Act of 2002, the former-U.S. Customs Service, including functions of the Secretary of the Treasury relating thereto, transferred to the Secretary of Homeland Security. As part of the initial organization of DHS, the Customs Service inspection and trade functions were combined with the immigration and agricultural inspection functions and the Border Patrol and transferred into CBP. It is noted that certain regulatory authority of the United States Customs Service relating to customs revenue function was retained by the Department of the Treasury (see the Department of the Treasury Regulatory Plan). In addition to its plans to continue issuing regulations to enhance border security, CBP, during fiscal year 2013, expects to continue to issue regulatory documents that will facilitate legitimate trade and implement trade benefit program. CBP regulations regarding the customs revenue function are discussed in the Regulatory Plan of the Department of the Treasury.

Federal Emergency Management Agency

The Federal Emergency Management Agency does not have any significant regulatory actions planned for fiscal year 2013.

Federal Law Enforcement Training Center

The Federal Law Enforcement Training Center (FLETC) does not have any significant regulatory actions planned for fiscal year 2013.

United States Immigration and Customs Enforcement

ICE is the principal criminal investigative arm of the Department of Homeland Security and one of the three Department components charged with the civil enforcement of the Nation's immigration laws. Its primary mission is to protect national security, public safety, and the integrity of our borders through the criminal and civil enforcement of Federal law governing border control, customs, trade, and immigration.

During fiscal year 2013, ICE will pursue rulemaking actions to make improvements in three critical subject areas: Setting national standards to prevent, detect, and respond to sexual abuse and assault in DHS confinement facilities; improving the detention of aliens who are subject to final orders of removal; and updating and enhancing policies and procedures governing the Student and Exchange Visitor Program (SEVP).

Setting National Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in DHS Confinement Facilities. In cooperation with Department and CBP, ICE will set national detention standards to prevent, detect, and respond to sexual abuse and assault in DHS confinement facilities. For purposes of this rulemaking, DHS confinement facilities are broken down into two distinct types: 1) immigration detention facilities and 2) holding facilities. The proposed standards will reflect existing ICE and other DHS detention policies and are in response to the President's Memorandum ''Implementing the Prison Rape Elimination Act,'' issued on May 17, 2012, the same day the Department of Justice issued its final rule in response to the Prison Rape Elimination Act of 2003 (PREA), 42 U.S.C. 15601 *et seq.* President Obama's Memorandum affirmed the goals of PREA and directed Federal agencies with confinement facilities to propose rules or procedures necessary to satisfy the requirements of PREA within 120 days of the Memorandum. The DHS notice of proposed rulemaking (NPRM) will be issued during fiscal year 2012, with a final rule to follow addressing comments received through the notice-and-comment process.

Improving Continued Detention of Aliens Subject to Final Orders of Removal. ICE will improve the post order custody review process in a final rule related to the continued detention of aliens subject to final orders of removal in light of the U.S. Supreme Court's decisions in *Zadvydas v. Davis,* 533 U.S. 678 (2001) and *Clark v. Martinez,* 543 U.S. 371 (2005), as well as changes pursuant to the enactment of the Homeland Security Act of 2002. During fiscal year 2013, ICE will also issue a companion NPRM that will allow the public an opportunity to comment on new sections of the custody determination process not previously published for comment.

Updating and enhancing limitations on designated school official assignment and study by F–2 and M–2 nonimmigrants. ICE will revise the current regulation that limits the number of designated school officials (DSOs) that may be nominated for the oversight of each school's campus(es) where international students are enrolled, as well as modify the restrictions placed on the dependents of an F–1 or M–1 nonimmigrant student, in order to permit F–2 and M–2 nonimmigrants to enroll in less than a full course of study at an SEVP-certified school. Currently, schools are limited to ten DSOs per school or per campus in a multi-campus school. ICE has found that the current DSO limit of ten per campus is too constraining, especially in schools that have large numbers of F and M nonimmigrant students. ICE believes that, in many circumstances, elimination of a DSO limit may improve the capability of DSOs to meet their liaison, reporting and oversight responsibilities. In addition, ICE recognizes that there is increasing global competition to attract the best and brightest international students to study in our schools. Allowing a more flexible

approach by permitting F–2 and M–2 nonimmigrant spouses and children to engage in study in the United States at SEVP-certified schools, so long as that study does not amount to a full course of study, will provide greater incentive for international students to travel to the United States for their education.

National Protection and Programs Directorate

The goal of the National Protection and Programs Directorate (NPPD) is to advance the Department's risk-reduction mission. Reducing risk requires an integrated approach that encompasses both physical and virtual threats and their associated human elements.

Ammonium Nitrate Security Program. Section 563 of the Fiscal Year 2008 Department of Homeland Security Appropriations Act, Public Law 110–161, amended the Homeland Security Act of 2002 to provide DHS with the authority to ''regulate the sale and transfer of ammonium nitrate by an ammonium nitrate facility * * * to prevent the misappropriation or use of ammonium nitrate in an act of terrorism.'' This authority is contained in a new Secure Handling of Ammonium Nitrate subtitle of the Homeland Security Act (Subtitle J, 6 U.S.C. 488–488i).

The Secure Handling of Ammonium Nitrate provisions of the Homeland Security Act direct DHS to promulgate regulations requiring potential buyers and sellers of ammonium nitrate to register with DHS. As part of the registration process, the statute directs DHS to screen registration applicants against the Federal Government's Terrorist Screening Database. The statute also requires sellers of ammonium nitrate to verify the identities of those seeking to purchase it; to record certain information about each sale or transfer of ammonium nitrate; and to report thefts and losses of ammonium nitrate with DHS.

The Ammonium Nitrate Security Program Notice of Proposed Rulemaking proposes requirements that would implement the Secure Handling of Ammonium Nitrate provisions of the Homeland Security Act. The rule would aid the Federal Government in its efforts to prevent the misappropriation of ammonium nitrate for use in acts of terrorism. By preventing such misappropriation, this rule aims to limit terrorists' abilities to threaten the public and to threaten the Nation's critical infrastructure and key resources. By securing the Nation's supply of ammonium nitrate, it will be more difficult for terrorists to obtain ammonium nitrate materials for use in terrorist acts.

On October 29, 2008, DHS published an Advance Notice of Proposed Rulemaking (ANPRM) for the Secure Handling of Ammonium Nitrate Program, and received a number of public comments on that ANPRM. DHS reviewed those comments and published a Notice of Proposed Rulemaking (NPRM) for the Ammonium Nitrate Security Program on August 3, 2011. NPPD accepted public comments until December 1, 2011, and is now reviewing the public comments and developing a Final Rule related to the Ammonium Nitrate Security Program.

Transportation Security Administration

The Transportation Security Administration (TSA) protects the Nation's transportation systems to ensure freedom of movement for people and commerce. TSA is committed to continuously setting the standard for excellence in transportation security through its people, processes, and technology as we work to meet the immediate and long-term needs of the transportation sector.

In fiscal year 2013, TSA will promote the DHS mission by emphasizing regulatory efforts that allow TSA to better identify, detect, and protect against threats against various modes of the transportation system, while facilitating the efficient movement of the traveling public, transportation workers, and cargo.

Passenger Screening Using Advanced Imaging Technology (AIT). TSA will propose to amend its civil aviation regulations to clarify that screening and inspection of an individual, conducted to control access to the sterile area of an airport or to an aircraft, may include the use of advanced imaging technology (AIT). This NPRM will be issued to comply with the decision rendered by the U.S. Court of Appeals for the District Columbia Circuit in Electronic Privacy Information Center (EPIC) v. U.S. Department of Homeland Security on July 15, 2011. 653 F.3d 1 (D.C. Cir. 2011). The Court directed TSA to conduct notice and comment rulemaking on the use of AIT in the primary screening of passengers.

Security Training for Surface Mode Employees. TSA will propose regulations to enhance the security of several non-aviation modes of transportation. In particular, TSA will propose regulations requiring freight railroad carriers, public transportation agencies (including rail mass transit and bus systems), passenger railroad carriers, and over-the-road bus operators to conduct security training for front line employees. This regulation would implement sections 1408 (Public Transportation), 1517 (Freight Railroads), and 1534(a) (Over the Road Buses) of the Implementing Recommendations of the 9/11 Commission Act of 2008 (9/11 Act), Public Law 110–53 (Aug. 3, 2007). In compliance with the definitions of frontline employees in the pertinent provisions of the 9/11 Act, the Notice of Proposed Rulemaking (NPRM) would define which employees are required to undergo training. The NPRM would also propose definitions for transportation security-sensitive materials, as required by section 1501 of the 9/11 Act.

Aircraft Repair Station Security. TSA will finalize a rule requiring repair stations that are certificated by the Federal Aviation Administration under 14 CFR part 145 to adopt and implement standard security programs and to comply with security directives issued by TSA. TSA issued a Notice of Proposed Rulemaking (NPRM) on November 18, 2009. The final rule will also codify the scope of TSA's existing inspection program and could require regulated parties to allow DHS officials to enter, inspect, and test property, facilities, and records relevant to repair stations. This rulemaking action will implement section 1616 of the 9/11 Act.

Standardized Vetting, Adjudication, and Redress Process and Fees. TSA is developing a proposed rule to revise and standardize the procedures, adjudication criteria, and fees for most of the security threat assessments (STA) of individuals that TSA conducts. DHS is considering a proposal that would include procedures for conducting STAs for transportation workers from almost all modes of transportation, including those covered under the 9/11 Act. In addition, TSA will propose equitable fees to cover the cost of the STAs and credentials for some personnel. TSA plans to identify new efficiencies in processing STAs and ways to streamline existing regulations by simplifying language and removing redundancies.

As part of this proposed rule, TSA will propose revisions to the Alien Flight Student Program (AFSP) regulations. TSA published an interim final rule for ASFP on September 20, 2004. TSA regulations require aliens seeking to train at Federal Aviation Administration-regulated flight schools to complete an application and undergo an STA prior to beginning flight training. There are four categories under which students currently fall; the nature of the STA depends on the student's category. TSA is considering changes to the AFSP that would improve equity among fee payers and enable the

implementation of new technologies to support vetting.

United States Secret Service

The United States Secret Service does not have any significant regulatory actions planned for fiscal year 2013.

DHS Regulatory Plan for Fiscal Year 2013

A more detailed description of the priority regulations that comprise DHS's fall 2012 regulatory plan follows.

DHS—U.S. CITIZENSHIP AND IMMIGRATION SERVICES (USCIS)

Proposed Rule Stage

50. Asylum and Withholding Definitions

Priority: Other Significant.

Legal Authority: 8 U.S.C. 1103; 8 U.S.C. 1158; 8 U.S.C. 1226; 8 U.S.C. 1252; 8 U.S.C. 1282

CFR Citation: 8 CFR part 2; 8 CFR part 208.

Legal Deadline: None.

Abstract: This rule proposes to amend Department of Homeland Security regulations that govern asylum eligibility. The amendments focus on portions of the regulations that deal with the definitions of membership in a particular social group, the requirements for failure of State protection, and determinations about whether persecution is inflicted on account of a protected ground. This rule codifies long-standing concepts of the definitions. It clarifies that gender can be a basis for membership in a particular social group. It also clarifies that a person who has suffered or fears domestic violence may under certain circumstances be eligible for asylum on that basis. After the Board of Immigration Appeals published a decision on this issue in 1999, Matter of R–A–, Int. Dec. 3403 (BIA 1999), it became clear that the governing regulatory standards required clarification. The Department of Justice began this regulatory initiative by publishing a proposed rule addressing these issues in 2000.

Statement of Need: This rule provides guidance on a number of key interpretive issues of the refugee definition used by adjudicators deciding asylum and withholding of removal (withholding) claims. The interpretive issues include whether persecution is inflicted on account of a protected ground, the requirements for establishing the failure of State protection, and the parameters for defining membership in a particular social group. This rule will aid in the adjudication of claims made by applicants whose claims fall outside of the rubric of the protected grounds of race, religion, nationality, or political opinion. One example of such claims which often fall within the particular social group ground concerns people who have suffered or fear domestic violence. This rule is expected to consolidate issues raised in a proposed rule in 2000 and to address issues that have developed since the publication of the proposed rule. This rule should provide greater stability and clarity in this important area of the law. This rule will also provide guidance to the following adjudicators: USCIS asylum officers, Department of Justice Executive Office for Immigration Review (EOIR) immigration judges, and members of the EOIR Board of Immigration Appeals (BIA).

Summary of Legal Basis: The purpose of this rule is to provide guidance on certain issues that have arisen in the context of asylum and withholding adjudications. The 1951 Geneva Convention relating to the Status of Refugees contains the internationally accepted definition of a refugee. United States immigration law incorporates an almost identical definition of a refugee as a person outside his or her country of origin ''who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.'' Section 101(a)(42) of the Immigration and Nationality Act.

Alternatives: A sizable body of interpretive case law has developed around the meaning of the refugee definition. Historically, much of this case law has addressed more traditional asylum and withholding claims based on the protected grounds of race, religion, nationality, or political opinion. In recent years, however, the United States increasingly has encountered asylum and withholding applications with more varied bases, related, for example, to an applicant's gender or sexual orientation. Many of these new types of claims are based on the ground of ''membership in a particular social group,'' which is the least well-defined of the five protected grounds within the refugee definition.

On December 7, 2000, DOJ published a proposed rule in the **Federal Register** providing guidance on the definitions of ''persecution'' and ''membership in a particular social group.'' Prior to publishing a new proposed rule, the Department will be considering how the nexus between persecution and a protected ground might be further conceptualized; how membership in a particular social group might be defined and evaluated; and what constitutes a State's inability or unwillingness to protect the applicant where the persecution arises from a non-State actor. The alternative to publishing this rule would be to allow the standards governing this area of law to continue to develop piecemeal through administrative and judicial precedent. This approach has resulted in inconsistent and confusing standards, and the Department has therefore determined that promulgation of the new proposed rule is necessary.

Anticipated Cost and Benefits: By providing a clear framework for key asylum and withholding issues, we anticipate that adjudicators will have clear guidance, increasing administrative efficiency and consistency in adjudicating these cases. The rule will also promote a more consistent and predictable body of administrative and judicial precedent governing these types of cases. We anticipate that this will enable applicants to better assess their potential eligibility for asylum, and to present their claims more efficiently when they believe that they may qualify, thus reducing the resources spent on adjudicating claims that do not qualify. In addition, a more consistent and predictable body of law on these issues will likely result in fewer appeals, both administrative and judicial, and reduce associated litigation costs. The Department has no way of accurately predicting how this rule will impact the number of asylum applications filed in the United States. Based on anecdotal evidence and on the reported experience of other nations that have adopted standards under which the results are similar to those we anticipate for this rule, we do not believe this rule will cause a change in the number of asylum applications filed.

Risks: The failure to promulgate a final rule in this area presents significant risk of further inconsistency and confusion in the law. The Government's interests in fair, efficient, and consistent adjudications would be compromised.

Timetable:

Action	Date	FR Cite
NPRM	12/07/00	65 FR 76588
NPRM Comment Period End.	01/22/01	
NPRM	05/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Additional Information: CIS No. 2092–00, Transferred from RIN 1115–AF92.

Agency Contact: Ted Kim, Deputy Chief, Asylum Division, Office of Refugee, Asylum, and International Operations, Department of Homeland Security, U.S. Citizenship and Immigration Services, 20 Massachusetts Avenue NW., Suite 3200, Washington, DC 20259, *Phone:* 202 272–1614, *Fax:* 202 272–1994, *Email: ted.h.kim@uscis.dhs.gov.*

RIN: 1615–AA41

DHS—USCIS

51. Exception to the Persecution Bar for Asylum, Refugee, and Temporary Protected Status, and Withholding of Removal

Priority: Other Significant.

Legal Authority: 8 U.S.C. 1101; 8 U.S.C. 1103; 8 U.S.C. 1158; 8 U.S.C. 1226; Pub. L. 107–26; Pub. L. 110–229

CFR Citation: 8 CFR part 1; 8 CFR part 208; 8 CFR part 244; 8 CFR part 1244.

Legal Deadline: None.

Abstract: This joint rule proposes amendments to Department of Homeland Security (DHS) and Department of Justice (DOJ) regulations to describe the circumstances under which an applicant will continue to be eligible for asylum, refugee, or temporary protected status, special rule cancellation of removal under the Nicaraguan Adjustment and Central American Relief Act, and withholding of removal, even if DHS or DOJ has determined that the applicant's actions contributed, in some way, to the persecution of others. The purpose of this rule is to resolve ambiguity in the statutory language precluding eligibility for asylum, refugee, and temporary protected status of an applicant who ordered, incited, assisted, or otherwise participated in the persecution of others. The proposed amendment would provide a limited exception for actions taken by the applicant under duress and clarify the required levels of the applicant's knowledge of the persecution.

Statement of Need: This rule resolves ambiguity in the statutory language precluding eligibility for asylum, refugee, and temporary protected status of an applicant who ordered, incited, assisted, or otherwise participated in the persecution of others. The proposed amendment would provide a limited exception for actions taken by the applicant under duress and clarify the required levels of the applicant's knowledge of the persecution.

Summary of Legal Basis: In Negusie v. Holder, 129 S. Ct. 1159 (2009), the Supreme Court addressed whether the persecutor bar should apply where an alien's actions were taken under duress. DHS believes that this is an appropriate subject for rulemaking and proposes to amend the applicable regulations to set out its interpretation of the statute. In developing this regulatory initiative, DHS has carefully considered the purpose and history behind enactment of the persecutor bar, including its international law origins and the criminal law concepts upon which they are based.

Alternatives: DHS did consider the alternative of not publishing a rulemaking on these issues. To leave this important area of the law without an administrative interpretation would confuse adjudicators and the public.

Anticipated Cost and Benefits: The programs affected by this rule exist so that the United States may respond effectively to global humanitarian situations and assist people who are in need. USCIS provides a number of humanitarian programs and protection to assist individuals in need of shelter or aid from disasters, oppression, emergency medical issues, and other urgent circumstances. This rule will advance the humanitarian goals of the asylum/refugee program, and other specialized programs. The main benefits of such goals tend to be intangible and difficult to quantify in economic and monetary terms. These forms of relief have not been available to certain persecutors. This rule will allow an exception to this bar from protection for applicants who can meet the appropriate evidentiary standard. Consequently, this rule may result in a small increase in the number of applicants for humanitarian programs. To the extent a small increase in applicants occurs, there could be additional fee costs incurred by these applicants.

Risks: If DHS were not to publish a regulation, the public would face a lengthy period of confusion on these issues. There could also be inconsistent interpretations of the statutory language, leading to significant litigation and delay for the affected public.

Timetable:

Action	Date	FR Cite
NPRM	03/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Agency Contact: Molly Groom, Chief, Refugee and Asylum Law Division, Office of the Chief Counsel, Department of Homeland Security, U.S. Citizenship and Immigration Services, 20 Massachusetts Avenue NW., Washington, DC 20259, *Phone:* 202 272–1400, *Fax:* 202 272–1408, *Email: molly.m.groom@uscis.dhs.gov.*

RIN: 1615–AB89

DHS—USCIS

52. Employment Authorization for Certain H–4 Dependent Spouses

Priority: Other Significant.

Legal Authority: INA sec 214(a)(1) 8 U.S.C. 1184(a)(1); INA 274A(h)(3) 8 U.S.C. 1324a(h)(3); 8 CFR 274a.12(c); sec 104(c) of Pub. L. 106–313; sec 106(a) of Pub. L. 106–313; * * *

CFR Citation: 8 CFR 274a.12(c).

Legal Deadline: None.

Abstract: The Department of Homeland Security (DHS) proposes to amend its regulations by extending the availability of employment authorization to H–4 dependent spouses of principal H–1B nonimmigrants who have begun the process of seeking lawful permanent resident status through employment and have extended their authorized period of admission or ''stay'' in the U.S. under section 104(c) or 106(a) of Public Law 106–313, also known as the American Competitiveness in the Twenty-First Century Act of 2000 (AC21). Allowing the eligible class of H–4 dependent spouses to work encourages professionals with high demand skills to remain in the country and help spur the innovation and growth of U.S. companies.

Statement of Need: Congress intended that the AC21 provisions allowing for extension of H–1B status past the 6th year for workers who are the beneficiaries of certain pending or approved employment-based immigrant petitions or labor certification applications would minimize the disruption to U.S. businesses employing H–1B workers that would result if such workers were required to leave the United States. DHS recognizes that the limitation on the period of stay is not the only event that could cause an H–1B worker to leave his or her employment and cause disruption to the employer's business, inclusive of the loss of significant time and money invested in the immigration process.

The rule, as proposed by this NPRM, is intended to mitigate some of the negative economic effects of limiting H–1B households to one income during lengthy waiting periods in the adjustment of status process. Also, this rule will encourage H–1B skilled workers to not abandon their adjustment application because their H–4 spouse is unable to work.

Summary of Legal Basis: Sections 103(a), and 274A(h)(3) of the Immigration and Nationality Act (INA) generally authorize the Secretary to provide for employment authorization for aliens in the United States. In addition, section 214(a)(1) of the INA authorizes the Secretary to prescribe regulations setting terms and conditions of admission of nonimmigrants.

Alternatives: An alternative considered by DHS was to permit employer authorization for all H–4 dependent spouses. In enacting AC21, Congress was especially concerned with avoiding the disruption to U.S. businesses caused by the required departure of H–1B workers (for whom the businesses intended to file employment-based immigrant visa petitions) upon the expiration of workers' maximum six-year period of authorized stay. Although the inability of an H–4 spouse to work may cause an H–1B worker to consider departing from the United States prior to his or her eligibility for an H–1B extension. This alternative was rejected in favor of the proposed process to limit employment authorization to the smaller sub-class of H–4 nonimmigrants who intend to remain in the United States permanently and who have been granted an extension of H status under the provisions of AC21.

Anticipated Cost and Benefits: The proposed changes would only impact spouses of H–1B workers who have been admitted or have extended their stay under the provisions of AC21. The costs of the rule would stem from filing fees and the opportunity costs of time associated with filing an Application for Employment Authorization for those eligible H–4 spouses who decide to seek employment while residing in the United States. Allowing certain H–4 spouses the opportunity to work would result in a negligible increase to the overall domestic labor force.

The benefits of this rule are retaining highly-skilled persons who intend to adjust to lawful permanent resident status. This is important when considering the contributions of these individuals to the U.S. economy, including advances in entrepreneurial and research and development endeavors, which are highly correlated with overall economic growth and job creation. In addition, the proposed amendments would bring U.S. immigration laws more in line with other countries that seek to attract skilled foreign workers.

Timetable:

Action	Date	FR Cite
NPRM	03/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Additional Information: Includes Retrospective Review under E.O. 13563.

URL for More Information: *www.regulations.gov*.

URL for Public Comments: *www.regulations.gov*.

Agency Contact: Kevin J. Cummings, Chief, Business and Foreign Workers Division, Department of Homeland Security, U.S. Citizenship and Immigration Services, Office of Policy and Strategy, 20 Massachusetts Avenue NW., Washington, DC 20529–2140, *Phone:* 202 272–1470, *Fax:* 202 272–1480, *Email:* *kevin.j.cummings@uscis.dhs.gov*.

RIN: 1615–AB92

DHS—USCIS

53. Enhancing Opportunities for High–Skilled H–1B1 and E–3 Nonimmigrants and EB–1 Immigrants

Priority: Other Significant.

Legal Authority: 8 U.S.C. 1101; 8 U.S.C. 1103; 8 U.S.C. 1151; 8 U.S.C. 1153; 8 U.S.C. 1154; 8 U.S.C. 1182; 8 U.S.C. 1184; 8 U.S.C. 1186a; 8 U.S.C. 1255; 8 U.S.C. 1641; * * *

CFR Citation: 8 CFR part 204; 8 CFR part 214; 8 CFR part 248; 8 CFR part 274a.

Legal Deadline: None.

Abstract: The Department of Homeland Security (DHS) proposes to amend its regulations affecting high-skilled workers within the nonimmigrant classifications for specialty occupation professionals from Chile and Singapore (H–1B1) and from Australia (E–3), and the immigration classification for employment-based first preference (EB–1) outstanding professors or researchers. DHS proposes changes that would harmonize the regulations for E–3 and H–1B1 nonimmigrant classifications with existing regulations for other, similarly situated nonimmigrant classifications. DHS is proposing these changes to the regulations to encourage and facilitate the employment and retention of these high-skilled workers.

Statement of Need: DHS proposes to amend its regulations to improve the programs serving the E–3 and H–1B1 nonimmigrant classifications and the EB–1 immigrant classification for outstanding professors and researchers. The regulatory changes to these categories would significantly improve procedures to more effectively encourage and facilitate the retention of these high-skilled workers in the United States.

Anticipated Cost and Benefits: The portion of the proposed rule addressing E–3 and H–1B1 visas would extend the period of employment authorized while requests for an extension of these employment-based nonimmigrant visa classifications are being reviewed. We do not anticipate that this rule would impose any additional costs. The benefits of this portion of the proposed rule include easing the regulatory burden on employers of E–3 and H–1B1 nonimmigrants and avoiding potential gaps in employment for these nonimmigrant workers.

The portion of the proposed rule addressing the evidentiary requirements for the EB–1 outstanding professor and researcher employment-based immigrant classification would allow for the submission of comparable evidence (achievements not listed in the criteria such as important patents or prestigious, peer-reviewed funding grants) for that listed in 8 CFR 204.5(i)(3)(i)(A)–(F) to establish that the EB–1 professor or researcher is recognized internationally as outstanding in his or her academic field. We do not anticipate that this part of the proposed rule would impose additional costs.

The non-quantified benefits would include the harmonization of the evidentiary requirements for EB–1 outstanding professors and researchers with other comparable employment-based immigrant classifications and easing petitioners' recruitment of these highly skilled individuals by expanding the range of evidence that may be adduced to support their petitions.

Timetable:

Action	Date	FR Cite
NPRM	03/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Businesses, Organizations.

Government Levels Affected: None.

Agency Contact: Kevin J. Cummings, Chief, Business and Foreign Workers

Division, Department of Homeland Security, U.S. Citizenship and Immigration Services, Office of Policy and Strategy, 20 Massachusetts Avenue NW., Washington, DC 20529–2140, *Phone:* 202 272–1470, *Fax:* 202 272–1480, *Email: kevin.j.cummings@uscis.dhs.gov.*

RIN: 1615–AC00

DHS—USCIS

Final Rule Stage

54. New Classification for Victims of Severe Forms of Trafficking in Persons; Eligibility for T Nonimmigrant Status

Priority: Other Significant.

Legal Authority: 5 U.S.C. 552; 5 U.S.C. 552a; 8 U.S.C. 1101 to 1104; 8 U.S.C. 1182; 8 U.S.C. 1184; 8 U.S.C. 1187; 8 U.S.C. 1201; 8 U.S.C. 1224 to 1227; 8 U.S.C. 1252 to 1252a; 22 U.S.C. 7101; 22 U.S.C. 7105

CFR Citation: 8 CFR part 103; 8 CFR part 212; 8 CFR part 214; 8 CFR part 274a; 8 CFR part 299.

Legal Deadline: None.

Abstract: T classification was created by 107(e) of the Victims of Trafficking and Violence Protection Act of 2000 (VTVPA), Public Law 106–386. The T nonimmigrant classification was designed for eligible victims of severe forms of trafficking in persons who aid law enforcement with their investigation or prosecution of the traffickers, and who can establish that they would suffer extreme hardship involving unusual and severe harm if they were removed from the United States. The rule establishes application procedures and responsibilities for the Department of Homeland Security (DHS) and provides guidance to the public on how to meet certain requirements to obtain T nonimmigrant status. The Trafficking Victims Protection Reauthorization Act of 2008, Public Law 110–457, made amendments to the T nonimmigrant status provisions of the Immigration and Naturalization Act.

Statement of Need: T nonimmigrant status is available to eligible victims of severe forms of trafficking in persons who have complied with any reasonable request for assistance in the investigation or prosecution of acts of trafficking in persons, and who can demonstrate that they would suffer extreme hardship involving unusual and severe harm if removed from the United States. This rule addresses the essential elements that must be demonstrated for classification as a T nonimmigrant alien, the procedures to be followed by applicants to apply for T nonimmigrant status, and evidentiary guidance to assist in the application process.

Summary of Legal Basis: Section 107(e) of the Trafficking Victims Protection Act (TVPA), Public Law 106–386, as amended, established the T classification to create a safe haven for certain eligible victims of severe forms of trafficking in persons who assist law enforcement authorities in investigating and prosecuting the perpetrators of these crimes.

Alternatives: To develop a comprehensive Federal approach to identifying victims of severe forms of trafficking in persons, to provide them with benefits and services, and to enhance the Department of Justice's ability to prosecute traffickers and prevent trafficking in persons in the first place, a series of meetings with stakeholders were conducted with representatives from key Federal agencies; national, State, and local law enforcement associations; non-profit, community-based victim rights organizations; and other groups. DHS is considering and using suggestions from these stakeholders in developing this regulation.

Anticipated Cost and Benefits: Applicants for T nonimmigrant status do not pay application or biometric fees.

The anticipated benefits of these expenditures include: Assistance to trafficked victims and their families, prosecution of traffickers in persons, and the elimination of abuses caused by trafficking activities.

Benefits which may be attributed to the implementation of this rule are expected to be:

1. An increase in the number of cases brought forward for investigation and/or prosecution;
2. Heightened awareness by the law enforcement community of trafficking in persons;
3. Enhanced ability to develop and work cases in trafficking in persons cross-organizationally and multi-jurisdictionally, which may begin to influence changes in trafficking patterns.

Risks: There is a 5,000-person limit to the number of individuals who can be granted T–1 status per fiscal year. Eligible applicants who are not granted T–1 status due solely to the numerical limit will be placed on a waiting list maintained by U.S. Citizenship and Immigration Services (USCIS).

To protect T–1 applicants and their families, USCIS will use various means to prevent the removal of T–1 applicants on the waiting list, and their family members who are eligible for derivative T status, including its existing authority to grant deferred action, parole, and stays of removal.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/31/02	67 FR 4784
Interim Final Rule Effective.	03/04/02	
Interim Final Rule Comment Period End.	04/01/02	
Interim Final Rule	09/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Federal, Local, State.

Additional Information: CIS No. 2132–01; AG Order No. 2554–2002. There is a related rulemaking, CIS No. 2170–01, the new U nonimmigrant status (RIN 1615–AA67). Transferred from RIN 1115–AG19.

Agency Contact: Laura M. Dawkins, Chief, Regulatory Coordination Division, Department of Homeland Security, U.S. Citizenship and Immigration Services, Suite 1200, 20 Massachusetts Avenue NW., Washington, DC 20529, *Phone:* 202 272–1470, *Fax:* 202 272–1480, *Email: laura.dawkins@uscis.dhs.gov.*

Related RIN: Related to 1615–AA67.

RIN: 1615–AA59

DHS—USCIS

55. Adjustment of Status to Lawful Permanent Resident for Aliens in T and U Nonimmigrant Status

Priority: Other Significant.

Legal Authority: 5 U.S.C. 552; 5 U.S.C. 552a; 8 U.S.C. 1101 to 1104; 8 U.S.C. 1182; 8 U.S.C. 1184; 8 U.S.C. 1187; 8 U.S.C. 1201; 8 U.S.C. 1224 to 1227; 8 U.S.C. 1252 to 1252a; 8 U.S.C. 1255; 22 U.S.C. 7101; 22 U.S.C. 7105

CFR Citation: 8 CFR part 204; 8 CFR part 214; 8 CFR part 245.

Legal Deadline: None.

Abstract: This rule sets forth measures by which certain victims of severe forms of trafficking who have been granted T nonimmigrant status and victims of certain criminal activity who have been granted U nonimmigrant status may apply for adjustment to permanent resident status in accordance with Public Law 106–386, Victims of Trafficking and Violence Protection Act of 2000; and Public Law 109–162, Violence Against Women and Department of Justice Reauthorization Act of 2005. The Trafficking Victims Protection Reauthorization Act of 2008, Public Law 110–457, made amendments

to the T nonimmigrant status provisions of the Immigration and Naturalization Act. The Department of Homeland Security (DHS) will issue another interim final rule to make the changes required by recent legislation.

Statement of Need: This regulation is necessary to permit aliens in lawful T or U nonimmigrant status to apply for adjustment of status to that of lawful permanent residents. T nonimmigrant status is available to aliens who are victims of a severe form of trafficking in persons and who are assisting law enforcement in the investigation or prosecution of the acts of trafficking. U nonimmigrant status is available to aliens who are victims of certain crimes and are being helpful to the investigation or prosecution of those crimes.

Summary of Legal Basis: This rule implements the Victims of Trafficking and Violence Protection Act of 2000 (VTVPA), Public Law 106–386, 114 Stat. 1464 (Oct. 28, 2000), as amended, to permit aliens in lawful T or U nonimmigrant status to apply for adjustment of status to that of lawful permanent residents.

Alternatives: DHS did not consider alternatives to managing T and U applications for adjustment of status. Ease of administration dictates that adjustment of status applications from T and U nonimmigrants would be best handled on a first in, first out basis, because that is the way applications for T and U status are currently handled.

Anticipated Cost and Benefits: DHS uses fees to fund the cost of processing applications and associated support benefits. In the 2008 interim final rule, DHS estimated the fee collection resulting from this rule at approximately $3 million in the first year, $1.9 million in the second year, and an average about $32 million in the third and subsequent years. To estimate the new fee collections to be generated by this rule, DHS estimated the fees to be collected for new applications for adjustment of status from T and U nonimmigrants and their eligible family members. After that, DHS estimated fees from associated applications that are required such as biometrics, and others that are likely to occur in direct connection with applications for adjustment, such as employment authorization or travel authorization. DHS is in the process of updating these cost estimates.

The anticipated benefits of these expenditures include: Continued assistance to trafficked victims and their families, increased investigation and prosecution of traffickers in persons, and the elimination of abuses caused by trafficking activities.

Benefits that may be attributed to the implementation of this rule are expected to be:

1. An increase in the number of cases brought forward for investigation and/or prosecution;

2. Heightened awareness of trafficking-in-persons issues by the law enforcement community; and

3. Enhanced ability to develop and work cases in trafficking in persons cross-organizationally and multi-jurisdictionally, which may begin to influence changes in trafficking patterns.

Risks: Congress created the U nonimmigrant status (''U visa'') to provide immigration protection to crime victims who assist in the investigation and prosecution of those crimes. Although there are no specific data on alien crime victims, statistics maintained by the Department of Justice have shown that aliens, especially those aliens without legal status, are often reluctant to help in the investigation or prosecution of crimes. U visas are intended to help overcome this reluctance and aid law enforcement accordingly.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/12/08	73 FR 75540
Interim Final Rule Effective.	01/12/09	
Interim Final Rule Comment Period End.	02/10/09	
Interim Final Rule	09/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Federal, Local, State.

Additional Information: CIS No. 2134–01. Transferred from RIN 1115–AG21.

Agency Contact: Laura M. Dawkins, Chief, Regulatory Coordination Division, Department of Homeland Security, U.S. Citizenship and Immigration Services, Suite 1200, 20 Massachusetts Avenue NW., Washington, DC 20529, *Phone:* 202 272–1470, *Fax:* 202 272–1480, *Email:* *laura.dawkins@uscis.dhs.gov*.

RIN: 1615–AA60

DHS—USCIS

56. New Classification for Victims of Criminal Activity; Eligibility for the U Nonimmigrant Status

Priority: Other Significant.

Legal Authority: 5 U.S.C. 552; 5 U.S.C. 552a; 8 U.S.C. 1101; 8 U.S.C. 1101 note; 8 U.S.C. 1102

CFR Citation: 8 CFR part 103; 8 CFR part 204; 8 CFR part 212; 8 CFR part 214; 8 CFR part 299.

Legal Deadline: None.

Abstract: This rule sets forth application requirements for a new nonimmigrant status. The U classification is for non-U.S. Citizen/Lawful Permanent Resident victims of certain crimes who cooperate with an investigation or prosecution of those crimes. There is a limit of 10,000 principals per year.

This rule establishes the procedures to be followed in order to petition for the U nonimmigrant classifications. Specifically, the rule addresses the essential elements that must be demonstrated to receive the nonimmigrant classification, procedures that must be followed to make an application, and evidentiary guidance to assist in the petitioning process. Eligible victims will be allowed to remain in the United States. The Trafficking Victims Protection Reauthorization Act of 2008, Public Law 110–457, made amendments to the U nonimmigrant status provisions of the Immigration and Nationality Act. The Department of Homeland Security will issue another interim final rule to make the changes required by the legislation.

Statement of Need: This rule provides requirements and procedures for aliens seeking U nonimmigrant status. U nonimmigrant classification is available to alien victims of certain criminal activity who assist government officials in the investigation or prosecution of that criminal activity. The purpose of the U nonimmigrant classification is to strengthen the ability of law enforcement agencies to investigate and prosecute such crimes as domestic violence, sexual assault, and trafficking in persons, while offering protection to alien crime victims in keeping with the humanitarian interests of the United States.

Summary of Legal Basis: Congress created the U nonimmigrant classification in the Battered Immigrant Women Protection Act of 2000 (BIWPA). Congress intended to strengthen the ability of law enforcement agencies to investigate and prosecute cases of domestic violence, sexual assault, trafficking of aliens, and other crimes, while offering protection to victims of such crimes. Congress also sought to encourage law enforcement officials to better serve immigrant crime victims.

Alternatives: DHS has identified four alternatives, the first being chosen for the rule:

1. USCIS would adjudicate petitions on a first in, first out basis. Petitions received after the limit has been reached would be reviewed to determine whether or not they are approvable, but for the numerical cap. Approvable petitions that are reviewed after the numerical cap has been reached would be placed on a waiting list and written notice sent to the petitioner. Priority on the waiting list would be based upon the date on which the petition is filed. USCIS would provide petitioners on the waiting list with interim relief until the start of the next fiscal year in the form of deferred action, parole, or a stay of removal.

2. USCIS would adjudicate petitions on a first in, first out basis, establishing a waiting list for petitions that are pending or received after the numerical cap has been reached. Priority on the waiting list would be based upon the date on which the petition was filed. USCIS would not provide interim relief to petitioners whose petitions are placed on the waiting list.

3. USCIS would adjudicate petitions on a first in, first out basis. However, new filings would be reviewed to identify particularly compelling cases for adjudication. New filings would be rejected once the numerical cap is reached. No official waiting list would be established; however, interim relief until the start of the next fiscal year would be provided for some compelling cases. If a case was not particularly compelling, the filing would be denied or rejected.

4. USCIS would adjudicate petitions on a first in, first out basis. However, new filings would be rejected once the numerical cap is reached. No waiting list would be established nor would interim relief be granted.

Anticipated Cost and Benefits: DHS estimated the total annual cost of this interim rule to petitioners to be $6.2 million in the IFR published in 2007. This cost included the biometric services fee, the opportunity cost of time needed to submit the required forms, the opportunity cost of time required for a visit to a USCIS Application Support Center, and the cost of traveling to an Application Support Center. DHS is currently in the process of updating our cost estimates since U nonimmigrant visa applicants are no longer required to pay the biometric service fee.

This rule will strengthen the ability of law enforcement agencies to investigate and prosecute such crimes as domestic violence, sexual assault, and trafficking in persons, while offering protection to alien crime victims in keeping with the humanitarian interests of the United States.

Risks: In the case of witness tampering, obstruction of justice, or perjury, the interpretive challenge for USCIS was to determine whom the BIWPA was meant to protect, given that these criminal activities are not targeted against a person. Accordingly it was determined that a victim of witness tampering, obstruction of justice, or perjury is an alien who has been directly and proximately harmed by the perpetrator of one of these three crimes, where there are reasonable grounds to conclude that the perpetrator principally committed the offense as a means: (1) To avoid or frustrate efforts to investigate, arrest, prosecute, or otherwise bring him or her to justice for other criminal activity; or (2) to further his or her abuse or exploitation of, or undue control over, the alien through manipulation of the legal system.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/17/07	72 FR 53013
Interim Final Rule Effective.	10/17/07	
Interim Final Rule Comment Period End.	11/17/07	
Interim Final Rule	09/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Federal, Local, State.

Additional Information: Transferred from RIN 1115–AG39.

Agency Contact: Laura M. Dawkins, Chief, Regulatory Coordination Division, Department of Homeland Security, U.S. Citizenship and Immigration Services, Suite 1200, 20 Massachusetts Avenue NW., Washington, DC 20529, *Phone:* 202 272–1470, *Fax:* 202 272–1480, *Email:* *laura.dawkins@uscis.dhs.gov.*

RIN: 1615–AA67

DHS—USCIS

57. Provisional Unlawful Presence Waivers of Inadmissibility for Certain Immediate Relatives

Priority: Economically Significant. Major under 5 U.S.C. 801.

Legal Authority: 5 U.S.C. 301; 5 U.S.C. 552; 5 U.S.C. 552a; 8 U.S.C. 1101; 8 U.S.C. 1103; 8 U.S.C. 1304; 8 U.S.C. 1182 and note; 8 U.S.C. 1184; 8 U.S.C. 1187; 8 U.S.C. 1223; 8 U.S.C. 1225; 8 U.S.C. 1226; 8 U.S.C. 1227; 8 U.S.C. 1255; 8 U.S.C. 1304; 8 U.S.C. 1356; 8 U.S.C. 1185 and note (section 7209 of Pub. L. 108–458); 31 U.S.C. 9701; Pub. L. 107–296, 116 Stat 2135 (6 U.S.C. 1 *et seq.*); EO 12356, 47 FR 14874, 47 FR 15557; 3 CFR 1982 Comp p 166; 8 CFR 2; sec 212.1(q) also issued under sec 702, Pub. L. 110–229, 122 Stat 754, 854

CFR Citation: 8 CFR part 103; 8 CFR part 212.

Legal Deadline: None.

Abstract: On April 2, 2012, the Department of Homeland Security (DHS) published a proposed rule at 77 FR 19902 to amend its regulations to allow certain immediate relatives of U.S. citizens who are physically present in the United States to request provisional unlawful presence waivers under section 212(a)(9)(B)(v) of the Immigration and Nationality Act of 1952 (INA); 8 U.S.C. 1182(a)(9)(B)(v) in anticipation of immigrant visa processing abroad. The final rule implements the provisional unlawful presence waiver process, and finalizes clarifying amendments to other provisions in part 212 of title 8 of the Code of Federal Regulations. Based on the final rule, individuals who are immediate relatives of U.S. citizens who are physically present in the United States and are seeking immigrant visas through consular processing abroad will be able to apply for provisional unlawful presence waivers while in the United States. These changes will significantly reduce the length of time U.S. citizens are separated from their immediate relatives who are consular processing abroad and reduce the degree of interchange between DOS and USCIS, creating greater efficiencies for both the U.S. Government and most applicants.

Statement of Need: Currently, certain spouses, children, and parents of U.S. citizens (immediate relatives) who are in the United States are not eligible to apply for lawful permanent resident (LPR) status while in the United States. These immediate relatives must travel abroad to obtain an immigrant visa from the Department of State (DOS) and, in many cases, also must request from DHS a waiver of the inadmissibility as a result of their unlawful presence in the United States. These immediate relatives cannot apply for the waiver until after their immigrant visa interviews and must remain outside of the United States, separated from their U.S. citizen spouses, parents, or children while their waiver applications are adjudicated by USCIS. In some cases, waiver application processing can take well over 1 year, prolonging the separation of these immediate relatives from their U.S. citizen spouses, parents, and children. In addition, the action

required for these immediate relatives to obtain LPR status in the United States—departure from the United States to apply for an immigrant visa at a DOS consulate abroad—is the very action that triggers the unlawful presence inadmissibility grounds under section 212(a)(9)(B)(i) of the INA; 8 U.S.C. 1182(a)(9)(B)(i). As a result, many immediate relatives who may qualify for an immigrant visa are reluctant to proceed abroad to seek an immigrant visa.

In addition, the action required for these immediate relatives to obtain LPR status in the United States (i.e., departure from the United States to apply for an immigrant visa at a DOS consulate abroad) is the very action that triggers the unlawful presence inadmissibility grounds under section 212(a)(9)(B)(i) of the INA; 8 U.S.C. 1182(a)(9)(B)(i).

Summary of Legal Basis: The Secretary of Homeland Security (Secretary)'s authority to promulgate this final rule is found in the Homeland Security Act of 2002, Public Law 107–296, section 102, 116 Stat. 2135, 6 U.S.C. 112, and section 103 of the INA, 8 U.S.C. 1103, which give the Secretary the authority to administer and enforce the immigration and nationality laws. The Secretary's discretionary authority to waive the ground of inadmissibility for unlawful presence can be found in INA section 212(a)(9)(B)(v), 8 U.S.C. 1182(a)(9)(B)(v). The regulation governing certain inadmissibility waivers is 8 CFR 212.7. The fee schedule for provisional unlawful presence waiver applications is found at 8 CFR 103.7(b)(1)(i)(AA).

Anticipated Cost and Benefits: This final rule is expected to result in a reduction in the time that U.S. citizens are separated from their alien immediate relatives, thus reducing the financial and emotional hardship for these families. In addition, the Federal Government should achieve increased efficiencies in processing immigrant visas for individuals subject to the unlawful presence inadmissibility bars under section 212(a)(9)(B) of the INA; 8 U.S.C. 1182(a)(9)(B).

Estimates of the preliminary costs of the rule were developed assuming that current demand is constrained because of concerns that families may endure lengthy separations under the current system. Due to uncertainties as to the degree of the current constraint of demand, DHS used a range of constraint levels with corresponding increases in demand to estimate the costs. In the proposed rule, 77 FR 19913, DHS estimated that the discounted total ten-year cost of this rule would range from approximately $100.6 million to approximately $303.8 million at a seven percent discount rate. Compared with the current waiver process, this rule requires that provisional waiver applicants submit biometric information. Included in the total cost estimate is the cost of collecting biometrics, which we estimated in the proposed rule to range from approximately $28 million to approximately $42.5 million discounted at seven percent over ten years. In addition, as this rule significantly streamlines the current process, DHS expects that additional applicants will apply for the provisional waiver as compared to the current waiver process. To the extent that this rule induces new demand for immediate relative visas, additional immigration benefit forms, such as the Petition for Alien Relative, Form I–130, will be filed compared to the pre-rule baseline. These additional forms will involve fees being paid by applicants to the Federal Government for form processing and additional opportunity costs of time being incurred by applicants to provide the information required by the forms. The cost estimate in the proposed rule also includes the impact of this induced demand, which we estimate will range from approximately $72.6 million to approximately $261.3 million discounted at seven percent over ten years. DHS is currently drafting the final rule in response to comments, and preparing final cost estimates.

Timetable:

Action	Date	FR Cite
NPRM	04/02/12	77 FR 19902
NPRM Comment Period End.	06/01/12	
Final Action	12/00/12	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Additional Information: Includes Retrospective Review under EO 13563.

URL for More Information: *www.regulations.gov.*

URL for Public Comments: *www.regulations.gov.*

Agency Contact: Mark Phillips, Chief, Residence and Naturalization Division, Department of Homeland Security, U.S. Citizenship and Immigration Services, Office of Policy and Strategy, 20 Massachusetts Avenue NW., Suite 1100, Washington, DC 20529, *Phone:* 202 272–1470, *Fax:* 202 272–1480, *Email:* *mark.phillips@uscis.dhs.gov.*

Related RIN: Related to 1615–ZB10.

RIN: 1615–AB99

DHS—U.S. COAST GUARD (USCG)

Proposed Rule Stage

58. Transportation Worker Identification Credential (TWIC); Card Reader Requirements

Priority: Other Significant.

Legal Authority: 33 U.S.C. 1226; 33 U.S.C. 1231; 46 U.S.C. ch 701; 50 U.S.C. 191 and 192; EO 12656

CFR Citation: 33 CFR, subchapter H.

Legal Deadline: Final, Statutory, August 20, 2010, SAFE Port Act, codified at 46 U.S.C. 70105(k).

The final rule is required 2 years after the commencement of the pilot program.

Abstract: The Coast Guard is establishing electronic card reader requirements for maritime facilities and vessels to be used in combination with TSA's Transportation Worker Identification Credential. Congress enacted several statutory requirements within the Security and Accountability For Every (SAFE) Port Act of 2006 to guide regulations pertaining to TWIC readers, including the need to evaluate TSA's final pilot program report as part of the TWIC reader rulemaking. During the rulemaking process, we will take into account the final pilot data and the various conditions in which TWIC readers may be employed. For example, we will consider the types of vessels and facilities that will use TWIC readers, locations of secure and restricted areas, operational constraints, and need for accessibility. Recordkeeping requirements, amendments to security plans, and the requirement for data exchanges (i.e., Canceled Card List) between TSA and vessel or facility owners/operators will also be addressed in this rulemaking.

Statement of Need: The Maritime Transportation Security Act (MTSA) of 2002 explicitly required the issuance of a biometric transportation security card to all U.S. merchant mariners and to workers requiring unescorted access to secure areas of MTSA-regulated facilities and vessels. On May 22, 2006, the Transportation Security Administration (TSA) and the Coast Guard published a notice of proposed rulemaking (NPRM) to carry out this statute, proposing a Transportation Worker Identification Credential (TWIC) Program where TSA conducts security threat assessments and issues identification credentials, while the Coast Guard requires integration of the TWIC into the access control systems of vessels, facilities, and Outer Continental Shelf facilities. Based on comments received during the public comment period, TSA and the Coast Guard split

the TWIC rule. The final TWIC rule, published in January of 2007, addressed the issuance of the TWIC and use of the TWIC as a visual identification credential at access control points. The ANPRM, published in March of 2009, proposed a risk-based approach to TWIC reader requirements and included proposals to classify MTSA-regulated vessels and facilities into one of three risk groups, based on specific factors related to TSI consequence, and apply TWIC reader requirements for vessels and facilities in conjunction with their relative risk-group placement.

This rulemaking is necessary to comply with the SAFE Port Act and to complete the implementation of the TWIC Program in our ports. By requiring electronic card readers at vessels and facilities, the Coast Guard will further enhance port security and improve access control measures.

Summary of Legal Basis: The statutory authorities for the Coast Guard to prescribe, change, revise, or amend these regulations are provided under 33 U.S.C. 1226, 1231; 46 U.S.C. chapter 701; 50 U.S.C. 191, 192; Executive Order 12656, 3 CFR 1988 Comp., p. 585; 33 CFR 1.05–1, 6.04–11, 6.14, 6.16, and 6.19; Department of Homeland Security Delegation No. 0170.1.

Alternatives: The implementation of TWIC reader requirements is mandated by the SAFE Port Act. The Coast Guard is currently considering several regulatory alternatives regarding how to implement the TWIC reader requirements. These alternatives will be further explored in the NPRM.

Anticipated Cost and Benefits: The main cost drivers of this proposal are the acquisition and installation of TWIC readers and the maintenance of the affected entity's TWIC reader system. Costs, which we would distribute over a phased-in implementation period, consist predominantly of the costs to purchase, install, and integrate approved TWIC readers to their current physical access control system. Recurring annual costs will be driven by costs associated with canceled card list updates, opportunity cost associated with delays and replacement of TWICs that cannot be read, and maintenance of the affected entity's TWIC reader system. At this time, we are still developing our estimates for the impacts of this proposed rule.

The benefits of the rulemaking include the enhancement of the security of vessel ports and other facilities by ensuring that only individuals who hold valid TWICs are granted unescorted access to secure areas at those locations. It will also implement the 2002 MTSA transportation security card requirements, thereby ensuring compliance with those statutes.

Risks: USCG used risk-based decision-making to develop this proposed rule.

Timetable:

Action	Date	FR Cite
ANPRM	03/27/09	74 FR 13360
Notice of Public Meeting.	04/15/09	74 FR 17444
ANPRM Comment Period End.	05/26/09	
Notice of Public Meeting Comment Period End.	05/26/09	
NPRM	02/00/13	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: None.

Additional Information: The docket number for this rulemaking is USCG–2007–28915. The docket can be found at *www.regulations.gov*.

URL for More Information: www.regulations.gov.

URL for Public Comments: www.regulations.gov.

Agency Contact: LCDR Loan O'Brien, Project Manager, Department of Homeland Security, U.S. Coast Guard, Commandant, (CG–FAC–2), 2100 Second Street SW., STOP 7581, Washington, DC 20593–7581, *Phone:* 202 372–1133, *Email: loan.t.o'brien@uscg.mil.*

Related RIN: Related to 1625–AB02.

RIN: 1625–AB21

DHS—USCG

Final Rule Stage

59. Implementation of the 1995 Amendments to the International Convention on Standards of Training, Certification, and Watchkeeping (STCW) for Seafarers, 1978

Priority: Other Significant.

Legal Authority: 46 U.S.C. 2103; 46 U.S.C. chs. 71 and 73; DHS Delegation No. 0170.1

CFR Citation: 46 CFR part 10; 46 CFR part 11; 46 CFR part 12; 46 CFR part 15.

Legal Deadline: None.

Abstract: The International Maritime Organization (IMO) comprehensively amended the International Convention on Standards of Training, Certification, and Watchkeeping (STCW) for Seafarers, 1978, in 1995 and 2010. The 1995 amendments came into force on February 1, 1997. This project implements those amendments by revising current rules to ensure that the United States complies with their requirements on: The training of merchant mariners, the documenting of their qualifications, and watch-standing and other arrangements aboard seagoing merchant ships of the United States. In addition, the Coast Guard has identified the need for additional changes to the interim rule issued in 1997. This project supports the Coast Guard's broad role and responsibility of maritime safety. It also supports the roles and responsibilities of the Coast Guard of reducing deaths and injuries of crew members on domestic merchant vessels and eliminating substandard vessels from the navigable waters of the United States.

The Coast Guard published an NPRM on November 17, 2009, and Supplemental NPRM (SNPRM) on March 23, 2010.

At a June 2010 diplomatic conference, the IMO adopted additional amendments to the STCW convention which change the minimum training requirements for seafarers. In response to feedback and to the adoption of those amendments, the Coast Guard developed a second Supplemental NPRM to incorporate the 2010 Amendments into the 1990 interim rule.

Statement of Need: The Coast Guard proposed to amend its regulations to implement changes to its interim rule published on June 26, 1997. These proposed amendments go beyond changes found in the interim rule and seek to more fully incorporate the requirements of the International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers, 1978, as amended (STCW), in the requirements for the credentialing of United States merchant mariners. The new changes are primarily substantive and: (1) Are necessary to continue to give full and complete effect to the STCW Convention; (2) Incorporate lessons learned from implementation of the STCW through the interim rule and through policy letters and NVICs; and (3) Attempt to clarify regulations that have generated confusion.

Summary of Legal Basis: The authority for the Coast Guard to prescribe, change, revise, or amend these regulations is provided under 46 U.S.C. 2103 and 46 U.S.C. chapters 71 and 73; and Department of Homeland Security Delegation No. 0170.1.

Alternatives: For each proposed change, the Coast Guard has considered various alternatives. We considered using policy statements, but they are not enforceable. We also considered taking no action, but this does not support the Coast Guard's fundamental safety and security mission. Additionally, we considered comments made during our 1997 rulemaking to formulate our

alternatives. When we analyzed issues, such as license progression and tonnage equivalency, the alternatives chosen were those that most closely met the requirements of STCW.

Anticipated Cost and Benefits: In the SNPRM, we estimated the annualized cost of this rule over a 10-year period to be $32.8 million per year at a 7 percent discount rate. We estimate the total 10-year cost of this rulemaking to be $230.7 million at a 7 percent discount rate.

The changes in anticipated costs since the publication of 2009 NPRM are due to the 2010 amendments to the STCW Convention: Medical examinations and endorsements, leadership and management skills, engine room management training, tankerman endorsements, safety refresher training, and able seafarer deck and engine certification requirements. However, there would be potential savings from the costs of training requirements as the Coast Guard would accept various methods for demonstrating competence, including the on-the-job training and preservation of the ''hawsepipe'' programs.

We anticipate the primary benefit of this rulemaking is to ensure that the U.S. meets its obligations under the STCW Convention. Another benefit is an increase in vessel safety and a resulting decrease in the risk of shipping casualties.

Risks: No risks.

Timetable:

Action	Date	FR Cite
Notice of Meeting	08/02/95	60 FR 39306
Supplemental NPRM Comment Period End.	09/29/95	
Notice of Inquiry ..	11/13/95	60 FR 56970
Comment Period End.	01/12/96	
NPRM	03/26/96	61 FR 13284
Notice of Public Meetings.	04/08/96	61 FR 15438
NPRM Comment Period End.	07/24/96	
Notice of Intent	02/04/97	62 FR 5197
Interim Final Rule	06/26/97	62 FR 34505
Interim Final Rule Effective.	07/28/97	
NPRM	11/17/09	74 FR 59353
NPRM Comment Period End.	02/16/10	
Supplemental NPRM.	03/23/10	75 FR 13715
Supplemental NPRM.	08/01/11	76 FR 45908
Public Meeting Notice.	08/02/11	76 FR 46217
Supplemental NPRM Comment Period End.	09/30/11	
Final Rule	04/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

International Impacts: This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

Additional Information: The docket number for this rulemaking is USCG–2004–17914. The docket is located at *www.regulations.gov*. The old docket number is CGD 95–062. Includes Retrospective Review under E.O. 13563.

URL for More Information: *www.regulations.gov.*

URL for Public Comments: *www.regulations.gov.*

Agency Contact: Mark Gould, Project Manager, CG–5221, Department of Homeland Security, U.S. Coast Guard, 2100 Second Street SW., STOP 7126, Washington, DC 20593–7126, *Phone:* 202 372–1409.

RIN: 1625–AA16

DHS—USCG

60. Vessel Requirements for Notices of Arrival and Departure, and Automatic Identification System

Priority: Other Significant.

Legal Authority: 33 U.S.C. 1223; 33 U.S.C. 1225; 33 U.S.C. 1231; 46 U.S.C. 3716; 46 U.S.C. 8502 and ch 701; sec 102 of Pub. L. 107–295; EO 12234

CFR Citation: 33 CFR part 62; 33 CFR part 66; 33 CFR part 160; 33 CFR part 161; 33 CFR part 164; 33 CFR part 165.

Legal Deadline: None.

Abstract: This rulemaking would expand the applicability for Notice of Arrival and Departure (NOAD) and Automatic Identification System (AIS) requirements. These expanded requirements would better enable the Coast Guard to correlate vessel AIS data with NOAD data, enhance our ability to identify and track vessels, detect anomalies, improve navigation safety, and heighten our overall maritime domain awareness.

The NOAD portion of this rulemaking could expand the applicability of the NOAD regulations by changing the minimum size of vessels covered below the current 300 gross tons, require a notice of departure when a vessel is departing for a foreign port or place, and mandate electronic submission of NOAD notices to the National Vessel Movement Center. The AIS portion of this rulemaking would expand current AIS carriage requirements for the population identified in the Safety of Life at Sea (SOLAS) Convention and the Marine Transportation Marine Transportation Security Act (MTSA) of 2002.

Statement of Need: There is no central mechanism in place to capture vessel, crew, passenger, or specific cargo information on vessels less than or equal to 300 gross tons (GT) intending to arrive at or depart from U.S. ports unless they are arriving with certain dangerous cargo (CDC) or at a port in the 7th Coast Guard District; nor is there a requirement for vessels to submit notification of departure information. The lack of NOAD information of this large and diverse population of vessels represents a substantial gap in our maritime domain awareness (MDA). We can minimize this gap and enhance MDA by expanding NOAD applicability to vessels greater than 300 GT, all foreign commercial vessels and all U.S. commercial vessels coming from a foreign port, and further enhance (and corroborate) MDA by tracking those vessels (and others) with AIS. This information is necessary in order to expand our MDA and provide Nation maritime safety and security.

Summary of Legal Basis: This rulemaking is based on congressional authority provided in the Ports and Waterways Safety Act (see 33 U.S.C. 1223(a)(5), 1225, 1226, and 1231) and section 102 of the Maritime Transportation Security Act of 2002 (codified at 46 U.S.C. 70114).

Alternatives: Our goal is to extend our MDA and to identify anomalies by correlating vessel NOAD data with AIS data. NOAD and AIS information from a greater number of vessels, as proposed in this rulemaking, would expand our MDA. We considered expanding NOAD and AIS to even more vessels, but we determined that we needed additional legislative authority to expand AIS beyond what we propose in this rulemaking, and that it was best to combine additional NOAD expansion with future AIS expansion. Although not in conjunction with a proposed rule, the Coast Guard sought comment regarding expansion of AIS carriage to other waters and other vessels not subject to the current requirements (68 FR 39369, Jul. 1, 2003; USCG 2003–14878; see also 68 FR 39355). Those comments were reviewed and considered in drafting this rule and are available in this docket. To fulfill our statutory obligations, the Coast Guard needs to receive AIS reports and NOADs from vessels identified in this rulemaking that currently are not required to provide this information. Policy or other nonbinding statements by the Coast Guard addressed to the owners of these vessels would not

produce the information required to sufficiently enhance our MDA to produce the information required to fulfill our Agency obligations.

Anticipated Cost and Benefits: This rulemaking will enhance the Coast Guard's regulatory program by making it more effective in achieving the regulatory objectives, which, in this case, is improved MDA. We provide flexibility in the type of AIS system that can be used, allowing for reduced cost burden. This rule is also streamlined to correspond with Customs and Border Protection's APIS requirements, thereby reducing unjustified burdens. We are further developing estimates of cost and benefit that were published in 2008. In the 2008 NPRM, we estimated that both segments of the proposed rule would affect approximately 42,607 vessels. The total number of domestic vessels affected is approximately 17,323 and the total number of foreign vessels affected is approximately 25,284. We estimated that the 10-year total present discounted value or cost of the proposed rule to U.S. vessel owners is between $132.2 and $163.7 million (7 and 3 percent discount rates, respectively, 2006 dollars) over the period of analysis.

The Coast Guard believes that this rule, through a combination of NOAD and AIS, would strengthen and enhance maritime security. The combination of NOAD and AIS would create a synergistic effect between the two requirements. Ancillary or secondary benefits exist in the form of avoided injuries, fatalities, and barrels of oil not spilled into the marine environment. In the 2008 NPRM, we estimated that the total discounted benefit (injuries and fatalities) derived from 68 marine casualty cases analyzed over an 8-year data period from 1996 to 2003 for the AIS portion of the proposed rule is between $24.7 and $30.6 million using $6.3 million for the value of statistical life (VSL) at 7 percent and 3 percent discount rates, respectively. Just based on barrels of oil not spilled, we expect the AIS portion of the proposed rule to prevent 22 barrels of oil from being spilled annually.

The Coast Guard may revise costs and benefits for the final rule to reflect changes resulting from public comments.

Risks: Considering the economic utility of U.S. ports, waterways, and coastal approaches, it is clear that a terrorist incident against our U.S. Maritime Transportation System (MTS) would have a direct impact on U.S. users and consumers and could potentially have a disastrous impact on global shipping, international trade, and the world economy. By improving the ability of the Coast Guard both to identify potential terrorists coming to the United States while the terrorists are far from our shores and to coordinate appropriate responses and intercepts before the vessel reaches a U.S. port, this rulemaking would contribute significantly to the expansion of MDA, and consequently is instrumental in addressing the threat posed by terrorist actions against the MTS.

Timetable:

Action	Date	FR Cite
NPRM	12/16/08	73 FR 76295
Notice of Public Meeting.	01/21/09	74 FR 3534
Notice of Second Public Meeting.	03/02/09	74 FR 9071
NPRM Comment Period End.	04/15/09	
Notice of Second Public Meeting Comment Period End.	04/15/09	
Final Rule	04/00/13	

Regulatory Flexibility Analysis Required: Undetermined.

Small Entities Affected: Businesses.

Government Levels Affected: None.

Additional Information: We have indicated in past notices and rulemaking documents, and it remains the case, that we have worked to coordinate implementation of AIS MTSA requirements with the development of our ability to take advantage of AIS data (68 FR 39355 and 39370, Jul. 1, 2003).

The docket number for this rulemaking is USCG–2005–21869. The docket can be found at *www.regulations.gov*.

URL for More Information: www.regulations.gov.

URL for Public Comments: www.regulations.gov.

Agency Contact: LCDR Michael D. Lendvay, Program Manager, Office of Commercial Vessel, Foreign and Offshore Vessel Activities Div. (CG–CVC–2), Department of Homeland Security, U.S. Coast Guard, 2100 Second Street SW., STOP 7581, Washington, DC 20593–7581, *Phone:* 202 372–1234, *Email: michael.d.lendvay@uscg.mil.*

Jorge Arroyo, Project Manager, Office of Navigation Systems (CG–5531), Department of Homeland Security, U.S. Coast Guard, 2100 Second Street SW., STOP 7683, Washington, DC 20593–7683, *Phone:* 202 372–1563, *Email: jorge.arroyo@uscg.mil.*

Related RIN: Related to 1625–AA93, Related to 1625–AB28.

RIN: 1625–AA99

DHS—USCG

61. Offshore Supply Vessels of at Least 6000 GT ITC

Priority: Other Significant. Major status under 5 U.S.C. 801 is undetermined.

Legal Authority: Pub. L. 111–281, sec 617

CFR Citation: Not Yet Determined.

Legal Deadline: Other, Statutory, January 1, 2012, Coast Guard Authorization Act of 2010.

Abstract: The Coast Guard Authorization Act of 2010 removed the size limit on offshore supply vessels (OSVs). The Act also directed the Coast Guard to issue, as soon as is practicable, a regulation to implement section 617 of the Act and to ensure the safe carriage of oil, hazardous substances, and individuals in addition to the crew on vessels of at least 6,000 gross tonnage as measured under the International Convention on Tonnage Measurement of Ships (6,000 GT ITC). Accordingly, the Coast Guard's rule will address design, manning, carriage of personnel, and related topics for OSVs of at least 6,000 GT ITC. This rulemaking will meet the requirements of the Act and will support the Coast Guard's mission of marine safety, security, and stewardship.

Statement of Need: In section 617 of Public Law 111–281, Congress removed OSV tonnage limits and instructed the Coast Guard to promulgate regulations to implement the amendments and authorities of section 617. Additionally, Congress directed the Coast Guard to ensure the safe carriage of oil, hazardous substances, and individuals in addition to the crew on OSVs of at least 6,000 GT ITC.

Summary of Legal Basis: The statutory authority to promulgate these regulations is found in section 617(f) of Public Law 111–281.

Alternatives: The Coast Guard Authorization Act removed OSV tonnage limits and the Coast Guard will examine alternatives during the development of the regulatory analysis.

Anticipated Cost and Benefits: The Coast Guard is currently developing a regulatory impact analysis of regulations that ensure the safe carriage of oil, hazardous substances, and individuals in addition to the crew on OSVs of at least 6,000 GT ITC. A potential benefit of this rulemaking is the ability of industry to expand and take advantage of new commercial opportunities in the building of larger OSVs.

Risks: No risks.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/13	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: None.

URL for More Information: *www.regulations.gov.*

URL for Public Comments: *www.regulations.gov.*

Agency Contact: Thomas L. Neyhart, Program Manager (CG–ENG–1), Department of Homeland Security, U.S. Coast Guard, 2100 Second Street SW., STOP 7126, Washington, DC 20593–7126, *Phone:* 202 372–1360, *Email:* *thomas.l.neyhart@uscg.mil.*

RIN: 1625–AB62

DHS—U.S. CUSTOMS AND BORDER PROTECTION (USCBP)

Final Rule Stage

62. Changes to the Visa Waiver Program To Implement the Electronic System for Travel Authorization (ESTA) Program

Priority: Economically Significant. Major under 5 U.S.C. 801.

Legal Authority: 8 U.S.C. 1103; 8 U.S.C. 1187

CFR Citation: 8 CFR 217.5.

Legal Deadline: None.

Abstract: CBP issued an interim final rule, which implemented the Electronic System for Travel Authorization (ESTA) for aliens who travel to the United States under the Visa Waiver Program (VWP) at air or sea ports of entry. Under the rule, VWP travelers must provide certain biographical information to CBP electronically before departing for the United States. This advance information allows CBP to determine before their departure whether these travelers are eligible to travel to the United States under the VWP and whether such travel poses a security risk. The interim final rule also fulfilled the requirements of section 711 of the Implementing recommendations of the 9/11 Commission Act of 2007 (9/11 Act). In addition to fulfilling a statutory mandate, the rule serves the twin goals of promoting border security and legitimate travel to the United States. By modernizing the VWP, the ESTA increases national security and to provide for greater efficiencies in the screening of international travelers by allowing for vetting of subjects of potential interest well before boarding, thereby reducing traveler delays at the ports of entry. CBP requested comments on all aspects of the interim final rule and plans to issue a final rule after completion of the comment analysis.

Statement of Need: Section 711 of the 9/11 Act requires the Secretary of Homeland Security, in consultation with the Secretary of State, to develop and implement a fully automated electronic travel authorization system to collect biographical and other information in advance of travel to determine the eligibility of the alien to travel to the United States, and to determine whether such travel poses a law enforcement or security risk. CBP issued the ESTA interim final rule to fulfill these statutory requirements.

Under the interim final rule, VWP travelers are now required to provide certain information to CBP electronically before departing for the United States. VWP travelers who receive travel authorization under ESTA are not required to complete the paper Form I–94W when arriving on a carrier that is capable of receiving and validating messages pertaining to the traveler's ESTA status as part of the traveler's boarding status. By automating the I–94W process and establishing a system to provide VWP traveler data in advance of travel, CBP is able to determine the eligibility of citizens and eligible nationals from VWP countries to travel to the United States and to determine whether such travel poses a law enforcement or security risk, before such individuals begin travel to the United States. ESTA provides for greater efficiencies in the screening of international travelers by allowing CBP to identify subjects of potential interest before they depart for the United States, thereby increasing security and reducing traveler delays upon arrival at U.S. ports of entry.

Summary of Legal Basis: The ESTA program is based on congressional authority provided under section 711 of the Implementing Recommendations of the 9/11 Commission Act of 2007 and section 217 of the Immigration and Nationality Act (INA).

Alternatives: When developing the interim final rule, CBP considered three alternatives to this rule:

1. The ESTA requirements in the rule, but with a $1.50 fee per each travel authorization (more costly).
2. The ESTA requirements in the rule, but with only the name of the passenger and the admissibility questions on the I–94W form (less burdensome).
3. The ESTA requirements in the rule, but only for the countries entering the VWP after 2009 (no new requirements for VWP, reduced burden for newly entering countries).

CBP determined that the rule provides the greatest level of enhanced security and efficiency at an acceptable cost to traveling public and potentially affected air carriers.

Anticipated Cost and Benefits: The purpose of ESTA is to allow DHS and CBP to establish the eligibility of certain foreign travelers to travel to the United States under the VWP, and whether the alien's proposed travel to the United States poses a law enforcement or security risk. Upon review of such information, DHS will determine whether the alien is eligible to travel to the United States under the VWP.

Costs to Air & Sea Carriers

CBP estimated that eight U.S.-based air carriers and eleven sea carriers will be affected by the rule. An additional 35 foreign-based air carriers and five sea carriers will be affected. CBP concluded that costs to air and sea carriers to support the requirements of the ESTA program could cost $137 million to $1.1 billion over the next 10 years depending on the level of effort required to integrate their systems with ESTA, how many passengers they need to assist in applying for travel authorizations, and the discount rate applied to annual costs.

Costs to Travelers

ESTA will present new costs and burdens to travelers in VWP countries who were not previously required to submit any information to the U.S. Government in advance of travel to the United States. Travelers from Roadmap countries who become VWP countries will also incur costs and burdens, though these are much less than obtaining a nonimmigrant visa (category B1/B2), which is currently required for short-term pleasure or business to travel to the United States. CBP estimated that the total quantified costs to travelers will range from $1.1 billion to $3.5 billion depending on the number of travelers, the value of time, and the discount rate. Annualized costs are estimated to range from $133 million to $366 million.

Benefits

As set forth in section 711 of the 9/11 Act, it was the intent of Congress to modernize and strengthen the security of the Visa Waiver Program under section 217 of the Immigration and Nationality Act (INA, 8 U.S.C. 1187) by simultaneously enhancing program security requirements and extending visa-free travel privileges to citizens and eligible nationals of eligible foreign countries that are partners in the war on terrorism.

By requiring passenger data in advance of travel, CBP may be able to

determine, before the alien departs for the United States, the eligibility of citizens and eligible nationals from VWP countries to travel to the United States under the VWP, and whether such travel poses a law enforcement or security risk. In addition to fulfilling a statutory mandate, the rule serves the twin goals of promoting border security and legitimate travel to the United States. By modernizing the VWP, ESTA is intended to both increase national security and provide for greater efficiencies in the screening of international travelers by allowing for the screening of subjects of potential interest well before boarding, thereby reducing traveler delays based on potentially lengthy processes at U.S. ports of entry.

CBP concluded that the total benefits to travelers could total $1.1 billion to $3.3 billion over the period of analysis. Annualized benefits could range from $134 million to $345 million.

In addition to these benefits to travelers, CBP and the carriers should also experience the benefit of not having to administer the I–94W except in limited situations. While CBP has not conducted an analysis of the potential savings, it should accrue benefits from not having to produce, ship, and store blank forms. CBP should also be able to accrue savings related to data entry and archiving. Carriers should realize some savings as well, though carriers will still have to administer the I–94 for those passengers not traveling under the VWP and the Customs Declaration forms for all passengers aboard the aircraft and vessel.

Timetable:

Action	Date	FR Cite
Interim Final Action.	06/09/08	73 FR 32440
Interim Final Rule Effective.	08/08/08	
Interim Final Rule Comment Period End.	08/08/08	
Notice—Announcing Date Rule Becomes Mandatory.	11/13/08	73 FR 67354
Final Action	08/00/13	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: None.

International Impacts: This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

Additional Information: http://www.cbp.gov/xp/cgov/travel/id_visa/esta/.

URL for More Information: www.regulations.gov.

URL for Public Comments: www.regulations.gov.

Agency Contact: Suzanne Shepherd, Director, Electronic System for Travel Authorization, Department of Homeland Security, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Washington, DC 20229, *Phone:* 202 344–2073, *Email: suzanne.m.shepherd@cbp.dhs.gov.*

Related RIN: Related to 1651–AA83.

RIN: 1651–AA72

DHS—TRANSPORTATION SECURITY ADMINISTRATION (TSA)

Proposed Rule Stage

63. Security Training for Surface Mode Employees

Priority: Economically Significant. Major under 5 U.S.C. 801.

Legal Authority: 49 U.S.C. 114; Pub. L. 110–53, secs 1408, 1517, and 1534

CFR Citation: 49 CFR part 1520; 49 CFR part 1570; 49 CFR part 1580; 49 CFR part 1582 (New); 49 CFR part 1584 (New).

Legal Deadline: Final, Statutory, November 1, 2007, Interim Rule for public transportation agencies is due 90 days after date of enactment.

Final, Statutory, February 3, 2008, Rule for railroads and over-the-road buses are due 6 months after date of enactment.

Final, Statutory, August 3, 2008, Rule for public transportation agencies is due 1 year after date of enactment.

According to sec. 1408 of Public Law 110–53, Implementing Recommendations of the 9/11 Commission Act of 2007 (Aug. 3, 2007; 121 Stat. 266), interim final regulations for public transportation agencies are due 90 days after the date of enactment (Nov. 1, 2007), and final regulations are due 1 year after the date of enactment of this Act. According to sec. 1517 of the same Act, final regulations for railroads and over-the-road buses are due no later than 6 months after the date of enactment.

Abstract: The Transportation Security Administration (TSA) intends to propose a new regulation to improve the security of freight railroads, public transportation, passenger railroads, and over-the-road buses in accordance with the Implementing Recommendations of the 9/11 Commission Act of 2007. This rulemaking will propose general requirements for the owner/operators of a freight railroad, public transportation system, passenger railroad, and an over-the-road bus operation determined by TSA to be high-risk to develop and implement a security training program to prepare security-sensitive employees, including frontline employees identified in sections 1402 and 1501 of the Act, for potential security threats and conditions. The rulemaking will also propose extending the security coordinator and reporting security incident requirements applicable to rail operators under current 49 CFR part 1580 to the non-rail transportation components of covered public transportation agencies. In addition, the rulemaking will also propose requiring the affected over-the-road bus owner/operators to identify security coordinators and report security incidents, similar to the requirements for rail in current 49 CFR 1580. The regulation will take into consideration any current security training requirements or best practices.

Statement of Need: A security training program for freight railroads, public transportation agencies and passenger railroads, and over-the-road bus operations is proposed to prepare freight railroad security-sensitive employees, public transportation, passenger railroad security-sensitive employees, and over-the-road bus security-sensitive employees for potential security threats and conditions.

Summary of Legal Basis: 49 U.S.C. 114; sections 1408, 1517, and 1534 of Public Law 110–53, Implementing Recommendations of the 9/11 Commission Act of 2007 (Aug. 3, 2007; 121 Stat. 266).

Alternatives: TSA is required by statute to publish regulations requiring security training programs for these owner/operators. As part of its notice of proposed rulemaking, TSA will seek public comment on the alternative ways in which the final rule could carry out the requirements of the statute.

Anticipated Cost and Benefits: TSA will estimate the costs that the freight railroad systems, public transportation agencies, passenger railroads, and over-the-road bus (OTRB) entities covered by this proposed rule would incur following its implementation. These costs will include estimates for the following elements: (1) Creating or modifying a security training program and submitting it to TSA; (2) Training (initial and recurrent) all security-sensitive employees; (3) Maintaining records of employee training; (4) Being available for inspections; (5) As applicable, providing information on security coordinators and alternates; and (6) As applicable, reporting security concerns. TSA will also estimate the costs TSA itself would expect to incur with the implementation of this rule.

TSA has not quantified benefits. TSA, however, expects that the primary benefit of the Security Training NPRM will be the enhancement of the United States surface transportation security by reducing the vulnerability of freight railroad systems, public transportation agencies, passenger railroads, and over-the-road bus entities to terrorist activity through the training of security-sensitive employees. TSA uses a break-even analysis to assess the trade-off between the beneficial effects of the Security Training NPRM and the costs of implementing the rulemaking. This break-even analysis uses scenarios extracted from the TSA Transportation Sector Security Risk Assessment (TSSRA) to determine the degree to which the Security Training NPRM must reduce the overall risk of a terrorist attack in order for the expected benefits of the NPRM to justify the estimated costs. For its analyses, TSA uses scenarios with varying levels of risk, but only details the consequence estimates. To maintain consistency, TSA developed the analyses with a method similar to that used for the break-even analyses conducted in earlier DHS rules.

After estimating the total consequence of each scenario by monetizing lives lost, injuries incurred, and capital replacement and clean-up, TSA will use this figure and the annualized cost of the NPRM for freight rail, public transportation, passenger rail, and OTRB owner/operators to calculate a breakeven annual likelihood of attack.

Risks: The Department of Homeland Security aims to prevent terrorist attacks within the United States and to reduce the vulnerability of the United States to terrorism. By providing for security training for personnel, TSA intends in this rulemaking to reduce the risk of a terrorist attack on this transportation sector.

Timetable:

Action	Date	FR Cite
NPRM	07/00/13	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Local.

URL for More Information: *www.regulations.gov*.

URL for Public Comments: *www.regulations.gov*.

Agency Contact: Scott Gorton, Manager, Freight Rail Security Branch, Department of Homeland Security, Transportation Security Administration, Office of Security Policy and Industry Engagement, TSA–28, HQ, E10–423N, 601 South 12th Street, Arlington, VA 20598–6028, *Phone:* 571 227–1251, *Fax:* 571 227–2930, *Email*: *scott.gorton@tsa.dhs.gov*.

Steve Sprague, Highway Passenger, Infrastructure and Licensing Branch Chief; Highway and Motor Carrier Programs, Department of Homeland Security, Transportation Security Administration, Office of Security Policy and Industry Engagement, TSA–28, HQ, E, 601 South 12th Street, Arlington, VA 20598–6028, *Phone:* 571 227–1468, *Email:* *steve.sprague@tsa.dhs.gov*.

Dominick S. Caridi Director, Regulatory and Economic Analysis, Department of Homeland Security, Transportation Security Administration, Office of Security Policy and Industry Engagement, TSA–28, HQ, E10–419N, 601 South 12th Street, Arlington, VA 20598–6028, *Phone:* 571 227–2952, *Fax:* 703 603–0404, *Email:* *dominick.caridi@tsa.dhs.gov*.

David Kasminoff, Senior Counsel, Regulations and Security Standards Division, Department of Homeland Security, Transportation Security Administration, Office of the Chief Counsel, TSA–2, HQ, E12–310N, 601 South 12th Street, Arlington, VA 20598–6002, *Phone:* 571 227–3583, *Fax:* 571 227–1378, *Email:* *david.kasminoff@tsa.dhs.gov*.

Traci Klemm, Senior Counsel, Regulations and Security Standards Division, Department of Homeland Security, Transportation Security Administration, Office of the Chief Counsel, TSA–2, E12–335N, 601 South 12th Street, Arlington, VA 20598–6002, *Phone:* 571 227–3596, *Email:* *traci.klemm@tsa.dhs.gov*.

Related RIN: Related to 1652–AA56, Merged with 1652–AA57, Merged with 1652–AA59.

RIN: 1652–AA55

DHS—TSA

64. Standardized Vetting, Adjudication, and Redress Services

Priority: Economically Significant. Major under 5 U.S.C. 801.

Unfunded Mandates: Undetermined.

Legal Authority: 49 U.S.C. 114; Pub. L. 110–53, secs 1411, 1414, 1520, 1522, 1602; 6 U.S.C. 469

CFR Citation: Not Yet Determined.

Legal Deadline: None.

Abstract: The Transportation Security Administration (TSA) intends to propose new regulations to revise and standardize the procedures, adjudication criteria, and fees for most of the security threat assessments (STA) of individuals for which TSA is responsible. In accordance with the Implementing Recommendations of the 9/11 Commission Act of 2007 (9/11 Act), the scope of the rulemaking will include transportation workers from all modes of transportation who are required to undergo an STA in other regulatory programs, including certain aviation workers and frontline employees for public transportation agencies and railroads.

In addition, TSA will propose fees to cover the cost of the STAs and credentials for some personnel. TSA plans to improve efficiencies in processing STAs and streamline existing regulations by simplifying language and removing redundancies.

As part of this proposed rule, TSA will propose revisions to the Alien Flight Student Program (AFSP) regulations. TSA published an interim final rule for ASFP on September 20, 2004. TSA regulations require aliens seeking to train at Federal Aviation Administration-regulated flight schools to complete an application and undergo an STA prior to beginning flight training. There are four categories under which students currently fall; the nature of the STA depends on the student's category. TSA is considering changes to the AFSP that would improve the equity among fee payers and enable the implementation of new technologies to support vetting.

Statement of Need: Through this rulemaking, TSA proposes to carry out statutory mandates to perform security threat assessments (STA) of certain transportation workers pursuant to the 9/11 Act. Also, TSA proposes to fully satisfy 6 U.S.C. 469, which requires TSA to fund security threat assessment and credentialing activities through user fees. The proposed rulemaking would increase transportation security by enhancing identification and immigration verification standards, providing for more thorough vetting, improving the reliability and consistency of the vetting process, and increasing fairness to vetted individuals by providing more robust redress and reducing redundant STA requirements.

Summary of Legal Basis: 49 U.S.C. 114(f): Under the Aviation and Transportation Security Act (ATSA) (Pub. L. 170–71, Nov. 19, 2001, 115 Stat. 597), TSA assumed responsibility to oversee the vetting of certain aviation workers. See 49 U.S.C. 44936.

Under the Maritime Transportation Security Act (MTSA), (Pub. L. 107–295, sec. 102, Nov. 25, 2002, 116 Stat. 2064), codified at 46 U.S.C. 70105, TSA vets certain merchant mariners and individuals who require unescorted

access to secure areas of vessels and maritime facilities.

Under the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act) (Pub. L. 107–56, Oct. 25, 2001, 115 Stat. 272), TSA vets individuals seeking hazardous materials endorsements (HME) to commercial driver's licenses (CDL) issued by the States.

In the Implementing Recommendation of the 9/11 Commission Act of 2007 (Pub. L. 110–53, Aug. 3, 2007, 121 Stat. 266), Congress directed TSA to vet additional populations of transportation workers, including certain public transportation and railroad workers.

In 6 U.S.C. 469, Congress directed TSA to fund vetting and credentialing programs through user fees.

Alternatives: TSA considered a number of viable alternatives to lessen the impact of the proposed regulations on entities deemed ''small'' by the Small Business Administration (SBA) standards. This included: (1) Extending phone pre-enrollment to populations eligible to enroll via the Web; and (2) changing the current delivery and activation process and instituting centralized activation of biometric credentials that allow applicants to receive their credentials through the mail rather than returning to the enrollment center to pick up the credential. These alternatives are discussed in detail in the rule and regulatory evaluation.

Anticipated Cost and Benefits: TSA conducted a regulatory evaluation to estimate the costs regulated entities, individuals, and TSA would incur to comply with the requirements of the NPRM. The NPRM would impose new requirements for some individuals, codify existing requirements not included in the Code of Federal Regulations (CFR), and modify current STA requirements for many transportation workers. The primary benefit of the NPRM would be that it will improve TSA's vetting product, process, and structure by improving STAs, increasing equity, decreasing reliance on appropriated funds, and improving reusability of STAs and mitigating redundant STAs.

TSA has not quantified benefits. TSA uses a break-even analysis to assess the trade-off between the beneficial effects of the NPRM and the costs of implementing the rulemaking. This break-even analysis uses scenarios from the TSA Transportation Sector Security Risk Assessment (TSSRA) to determine the degree to which the NPRM must reduce the overall risk of a terrorist attack in order for the expected benefits of the NPRM to justify the estimated costs. For its analyses, TSA uses scenarios with varying levels of risk, but only details the consequence estimates. To maintain consistency, TSA developed the analyses with a method similar to that used for the break-even analyses conducted in earlier DHS rules. After estimating the total consequences of each scenario by monetizing lives lost, injuries incurred, capital replacement, and clean-up, TSA will use this figure and the annualized cost of the NPRM to calculate the frequency of attacks averted in order for the NPRM to break even.

TSA estimates that the total savings to the alien flight students, over a 5-year period, will be $18,107 at a 7 percent discount rate.

Timetable:

Action	Date	FR Cite
NPRM	07/00/13	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Undetermined.

Federalism: Undetermined.

Additional Information: Includes Retrospective Review under E.O. 13563.

Agency Contact: George J. Petersen, Acting Division Director Programs, Department of Homeland Security, Transportation Security Administration, Office of Security Policy and Industry Engagement, TSA–28, HQ, E3–416N, 601 South 12th Street, Arlington, VA 20598–6028, *Phone:* 571 227–2215, *Fax:* 571 227–1374, *Email: george.petersen@tsa.dhs.gov.*

Dominick S. Caridi, Director, Regulatory and Economic Analysis, Department of Homeland Security, Transportation Security Administration, Office of Security Policy and Industry Engagement, TSA–28, HQ, E10–419N, 601 South 12th Street, Arlington, VA 20598–6028, *Phone:* 571 227–2952, *Fax:* 703 603–0404, *Email: dominick.caridi@tsa.dhs.gov.*

John Vergelli, Attorney, Regulations and Security Standards Division, Department of Homeland Security, Transportation Security Administration, DHS, TSA, Office of the Chief Counsel, TSA–2, HQ, E12–309N, 601 South 12th Street, Arlington, VA 20598–6002, *Phone:* 571 227–4416, *Fax:* 571 227–1378, *Email: john.vergelli@tsa.dhs.gov.*

Related RIN: Related to 1652–AA35.

RIN: 1652–AA61

DHS—TSA

65. • Passenger Screening Using Advanced Imaging Technology

Priority: Economically Significant. Major under 5 U.S.C. 801.

Legal Authority: 49 U.S.C. 44925

CFR Citation: 49 CFR 1540.107.

Legal Deadline: NPRM, Judicial, March 31, 2013, TSA issue an NPRM by the end of March 2013. In the July 15, 2011, decision described below, the U.S. Court of Appeals for the District Columbia Circuit directed TSA promptly to proceed to conduct notice and comment rulemaking.

Abstract: This Notice of Proposed Rulemaking (NPRM) is being issued to comply with the decision rendered by the U.S. Court of Appeals for the District Columbia Circuit in Electronic Privacy Information Center (EPIC) v. U.S. Department of Homeland Security (DHS) on July 15, 2011, 653 F.3d 1 (D.C. Cir. 2011). The Court directed TSA to conduct notice and comment rulemaking on the use of advanced imaging technology (AIT) in the primary screening of passengers. As a result, the Transportation Security Administration (TSA) proposes to amend its civil aviation regulations to clarify that screening and inspection of an individual conducted to control access to the sterile area of an airport or to an aircraft may include the use of AIT.

Statement of Need: TSA is proposing regulations to respond to the decision of the U.S. Court of Appeals for the District of Columbia Circuit in EPIC v. DHS 653 F.3d 1 (D.C. Cir. 2011).

Summary of Legal Basis: In its decision in EPIC v. DHS 653 F.3d 1 (DC Cir. 2011), the Court of Appeals for the District of Columbia Circuit found that TSA failed to justify its failure to conduct notice and comment rulemaking and remanded to TSA for further proceedings.

Alternatives: In the NPRM, TSA requests comment on several alternatives to AIR screening.

Anticipated Cost and Benefits: TSA is currently evaluating the costs and benefits of this proposed rule.

Risks: DHS aims to prevent terrorist attacks and to reduce the vulnerability of the United States to terrorism. By screening passengers with AIT, TSA will reduce the risk that a terrorist will smuggle a non-metallic threat on board an aircraft.

Timetable:

Action	Date	FR Cite
NPRM	03/00/13	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: None.

Agency Contact: Adam D. Freimanis, Portfolio Branch Manager, Passenger Screening Program, Department of Homeland Security, Transportation Security Administration, Office of Security Capabilities, TSA–16, HQ, 601 South 12th Street, Arlington, VA 20598–6016, *Phone:* 571 227–2952, *Fax*: 571 227–1931, *Email: adam.freimanis@tsa.dhs.gov.*

Dominick S. Caridi, Director, Regulatory and Economic Analysis, Department of Homeland Security, Transportation Security Administration, Office of Security Policy and Industry Engagement, TSA–28, HQ, E10–419N, 601 South 12th Street, Arlington, VA 20598–6028, *Phone:* 571 227–2952, *Fax:* 703 603–0404, *Email: dominick.caridi@tsa.dhs.gov.*

Linda L. Kent, Assistant Chief Counsel, Regulations and Security Standards Division, Department of Homeland Security, Transportation Security Administration, Office of the Chief Counsel, TSA–2, HQ, E12–126S, 601 South 12th Street, Arlington, VA 20598–6002, *Phone:* 571 227–2675, *Fax:* 571 227–1381, *Email: linda.kent@tsa.dhs.gov.*

RIN: 1652–AA67

DHS—TSA

Final Rule Stage

66. Aircraft Repair Station Security

Priority: Other Significant. Major under 5 U.S.C. 801.

Legal Authority: 49 U.S.C. 114; 49 U.S.C. 44924

CFR Citation: 49 CFR part 1554.

Legal Deadline: Final, Statutory, August 8, 2004, Rule within 240 days of the date of enactment of Vision 100.

Final, Statutory, August 3, 2008, Rule within 1 year after the date of enactment of 9/11 Commission Act. Section 611(b)(1) of Vision 100—Century of Aviation Reauthorization Act (Pub. L. 108–176; Dec. 12, 2003; 117 Stat. 2490), codified at 49 U.S.C. 44924, requires that TSA issue ''final regulations to ensure the security of foreign and domestic aircraft repair stations.'' Section 1616 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. 110–531; Aug. 3, 2007; 21 Stat. 266) requires TSA issue a final rule on foreign repair station security.

Abstract: The Transportation Security Administration (TSA) proposed to add a new regulation to improve the security of domestic and foreign aircraft repair stations, as required by the section 611 of Vision 100—Century of Aviation Reauthorization Act and section 1616 of the 9/11 Commission Act of 2007. The regulation proposed general requirements for security programs to be adopted and implemented by certain repair stations certificated by the Federal Aviation Administration (FAA). A notice of proposed rulemaking (NPRM) was published in the **Federal Register** on November 18, 2009, requesting public comments to be submitted by January 19, 2010. The comment period was extended to February 19, 2010, at the request of the stakeholders to allow the aviation industry and other interested entities and individuals additional time to complete their comments.

TSA has coordinated its efforts with the FAA throughout the rulemaking process to ensure that the final rule does not interfere with FAA's ability or authority to regulate part 145 repair station safety matters.

Statement of Need: The Transportation Security Administration (TSA) is proposing regulations to improve the security of domestic and foreign aircraft repair stations. The NPRM proposed to require certain repair stations that are certificated by the Federal Aviation Administration to adopt and carry out a security program. The proposal will codify the scope of TSA's existing inspection program. The proposal also provides procedures for repair stations to seek review of any TSA determination that security measures are deficient.

Summary of Legal Basis: Section 611(b)(1) of Vision 100—Century of Aviation Reauthorization Act (Pub. L. 108–176; Dec. 12, 2003; 117 Stat. 2490), codified at 49 U.S.C. 44924, requires the TSA to issue ''final regulations to ensure the security of foreign and domestic aircraft repair stations'' within 240 days from date of enactment of Vision 100. Section 1616 of Public Law 110–53, Implementing Recommendations of the 9/11 Commission Act of 2007 (Aug. 3, 2007; 121 Stat. 266) requires that the FAA may not certify any foreign repair stations if the regulations are not issued within 1 year after the date of enactment of the 9/11 Commission Act unless the repair station was previously certificated or is in the process of certification.

Alternatives: TSA is required by statute to publish regulations requiring security programs for aircraft repair stations. As part of its notice of proposed rulemaking, TSA sought public comment on the numerous alternative ways in which the final rule could carry out the requirements of the statute.

Anticipated Cost and Benefits: TSA anticipates costs to aircraft repair stations mainly related to the establishment of security programs, which may include adding such measures as access controls, a personnel identification system, security awareness training, the designation of a security coordinator, employee background verification, and contingency plan.

The NPRM estimated the total 10-year undiscounted cost of the program at $403 million. The cost of the program, discounted at 7 percent, is $285 million. Security coordinator and training costs represent the largest portions of the program.

TSA has not quantified benefits. However, a major line of defense against an aviation-related terrorist act is the prevention of explosives, weapons, and/or incendiary devices from getting on board a plane. To date, efforts have been primarily related to inspection of baggage, passengers, and cargo, and security measures at airports that serve air carriers. With this rule, attention is given to aircraft that are located at repair stations and to aircraft parts that are at repair stations to reduce the likelihood of an attack against aviation and the country. Since repair station personnel have direct access to all parts of an aircraft, the potential exists for a terrorist to seek to commandeer or compromise an aircraft when the aircraft is at one of these facilities. Moreover, as TSA tightens security in other areas of aviation, repair stations increasingly may become attractive targets for terrorist organizations attempting to evade aviation security protections currently in place.

TSA uses a break-even analysis to assess the trade-off between the beneficial effects of the final rule and the costs of implementing the rulemaking. This break-even analysis uses three attack scenarios to determine the degree to which the final rule must reduce the overall risk of a terrorist attack in order for the expected benefits of the final rule to justify the estimated costs. For its analyses, TSA uses scenarios with varying levels of risk, but only details the consequence estimates. To maintain consistency, TSA developed the analyses with a method similar to that used for the break-even analyses conducted in earlier DHS rules. After estimating the total consequences of each scenario by monetizing lives lost, injuries incurred, and capital replacement, TSA will use this figure and the annualized cost of the final rule to calculate the frequency of attacks averted in order for the final rule to break even.

Risks: The Department of Homeland Security aims to prevent terrorist attacks within the United States and to reduce the vulnerability of the United States to terrorism. By requiring security programs for certain aircraft repair stations, TSA will focus on preventing unauthorized access to repair work and to aircraft to prevent sabotage or hijacking.

Timetable:

Action	Date	FR Cite
Notice—Public Meeting; Request for Comments.	02/24/04	69 FR 8357
Report to Congress.	08/24/04	
NPRM	11/18/09	74 FR 59873
NPRM Comment Period End.	01/19/10	
NPRM Comment Period Extended.	12/29/09	74 FR 68774
NPRM Extended Comment Period End.	02/19/10	
Final Rule	03/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

URL for More Information: www.regulations.gov.

URL for Public Comments: www.regulations.gov.

Agency Contact: Celio Young, Program Manager, Repair Stations, Department of Homeland Security, Transportation Security Administration, Office of Transportation Sector Network Management, General Aviation Division, TSA–28, HQ, E5, 601 South 12th Street, Arlington, VA 20598–6028, *Phone:* 571 227–3580, *Fax:* 571 227–1362, *Email: celio.young@tsa.dhs.gov.*

Dominick S. Caridi, Director, Regulatory and Economic Analysis, Department of Homeland Security, Transportation Security Administration, Office of Security Policy and Industry Engagement, TSA–28, HQ, E10–419N, 601 South 12th Street, Arlington, VA 20598–6028, *Phone:* 571 227–2952, *Fax:* 703 603–0404, *Email: dominick.caridi@tsa.dhs.gov.*

Linda L. Kent, Assistant Chief Counsel, Regulations and Security Standards Division, Department of Homeland Security, Transportation Security Administration, Office of the Chief Counsel, TSA–2, HQ, E12–126S, 601 South 12th Street, Arlington, VA 20598–6002, *Phone:* 571 227–2675, *Fax:* 571 227–1381, *Email: linda.kent@tsa.dhs.gov.*

RIN: 1652–AA38

DHS—U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (USICE)

Proposed Rule Stage

67. Adjustments to Limitations on Designated School Official Assignment and Study by F–2 and M–2 Nonimmigrants

Priority: Other Significant. Major status under 5 U.S.C. 801 is undetermined.

Legal Authority: 8 U.S.C. 1101 to 1103; 8 U.S.C. 1182; 8 U.S.C. 1184

CFR Citation: 8 CFR 214.2(f)(15); 8 CFR 214.3(a); 8 CFR part 214.

Legal Deadline: None.

Abstract: The proposed rule would revise 8 CFR parts 214.2 and 214.3. First, it would provide additional flexibility to schools in determining the number of designated school officials (DSOs) to nominate for the oversight of the school's campuses where international students are enrolled. Current regulation limits the number of DSOs to 10 per school, or 10 per campus in a multi-campus school. Second, the proposed rule would permit F–2 and M–2 spouses and children accompanying academic and vocational nonimmigrant students with F–1 or M–1 nonimmigrant status to enroll in study at an SEVP-certified school so long as any study remains less than a full course of study.

Statement of Need: The Department of Homeland Security proposes to amend its regulations under the Student and Exchange Visitor Program to improve management of international student programs and increase opportunities for study by spouses and children of nonimmigrant students. The proposed rule would grant school officials more flexibility in determining the number of designated school officials (DSOs) to nominate for the oversight of campuses. The rule also would provide greater incentive for international students to study in the United States by permitting accompanying spouses and children of academic and vocational nonimmigrant students with F–1 or M–1 nonimmigrant status to enroll in less than a full course of study at an SEVP-certified school.

Anticipated Cost and Benefits: The anticipated costs of the NPRM derive from the existing requirements for the training and reporting to DHS of additional DSOs. The primary benefits of the NPRM are providing flexibility to schools in the number of DSOs allowed and providing greater incentive for international students to study in the United States by permitting accompanying spouses and children of academic and vocational nonimmigrant students in F–1 or M–1 status to enroll in study at a SEVP-certified school so long as they are not engaged in a full course of study.

Timetable:

Action	Date	FR Cite
NPRM	03/00/13	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: None.

Agency Contact: Katherine H. Westerlund, Acting Unit Chief, SEVP Policy, Student and Exchange Visitor Program, Department of Homeland Security, U.S. Immigration and Customs Enforcement, Potomac Center North, 500 12th Street SW., STOP 5600, Washington, DC 20536–5600, *Phone:* 703 603–3414, *Email: katherine.h.westerlund@ice.dhs.gov.*

Related RIN: Previously reported as 1615–AA19.

RIN: 1653–AA63

DHS—USICE

68. • Standards To Prevent, Detect and Respond to Sexual Abuse and Assault in Confinement Facilities (Section 610 Review)

Priority: Other Significant.

Legal Authority: 5 U.S.C. 301; 5 U.S.C. 552; 5 U.S.C. 552a; 8 U.S.C. 1103; 8 U.S.C. 1182; * * *

CFR Citation: 6 CFR part 115.

Legal Deadline: None.

Abstract: The Department of Homeland Security (DHS) proposes to issue regulations setting detention standards to prevent, detect, and respond to sexual abuse and assault in DHS confinement facilities.

Statement of Need: The purpose of this rulemaking is to propose regulations setting standards to prevent, detect, and respond to sexual abuse in Department of Homeland Security (DHS) confinement facilities. The proposed standards build on current U.S. Immigration and Customs Enforcement (ICE) Performance Based National Detention Standards (PBNDS) and other DHS detention policies, and respond to the President's May 17, 2012 Memorandum, ''Implementing the Prison Rape Elimination Act,'' which directs all agencies with Federal confinement facilities to work with the Attorney General to propose rules or procedures setting standards to prevent, detect, and respond to sexual abuse in confinement facilities.

Anticipated Cost and Benefits: The NPRM would impose standards to prevent, detect, and respond to sexual abuse and assault in DHS confinement

facilities. These facilities consist of immigration detention facilities and holding facilities. The proposed standards would impose new requirements for some facilities and codify current requirements for other facilities. Such standards will require Federal, State, and local agencies, as well as private entities that operate confinement facilities, to incur costs in implementing and complying with those standards. The primary benefit of the NPRM would be improvements to the prevention, detection, and response to sexual abuse and assault. DHS will follow DOJ methodology for monetizing the value of preventing sexual abuse incidents, which includes consideration for costs of medical and mental health care treatment as well as pain, suffering, and diminished quality of life, among other factors. DHS will use a break-even analysis to assess the trade-off between the beneficial effects of the NPRM and the costs of implementing the rulemaking. The break-even analysis uses the monetized estimates of incidents avoided to determine the degree to which the NPRM must reduce the annual incidence of sexual abuse for the costs of compliance to break even with the monetized benefits of the standards. This does not include non-monetizable benefits of sexual abuse avoidance. The NPRM will include a Regulatory Impact Assessment.

Timetable:

Action	Date	FR Cite
NPRM	12/00/12	
NPRM Comment Period End.	02/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Governmental Jurisdictions.

Government Levels Affected: Federal, Local, State.

Agency Contact: Alexander Hartman, Regulatory Coordinator, Department of Homeland Security, U.S. Immigration and Customs Enforcement, 500 12th Street SW., Washington, DC 20536, *Phone:* 202 732–6202, *Email: alexander.hartman@ice.dhs.gov.*

RIN: 1653–AA65

BILLING CODE 9110–9B–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Statement of Regulatory Priorities

The Regulatory Plan for the Department of Housing and Urban Development (HUD) for Fiscal Year (FY) 2013 highlights the most significant regulatory initiatives that HUD seeks to complete during the upcoming fiscal year. As the federal agency that serves as the nation's housing agency, committed to addressing the housing needs of Americans, promoting economic and community development, and enforcing the nation's fair housing laws, HUD plays a significant role in the lives of families and communities throughout America. Through its programs, HUD works to strengthen the housing market and protect consumers; meet the need for quality affordable rental homes; utilize housing as a platform for improving quality of life; and build inclusive and sustainable communities free from discrimination.

It is HUD's mission to promote non-discrimination and ensure fair and equal housing opportunities for all. In its Annual Performance Plan for Fiscal Years 2012–2013, HUD committed to creating places throughout the nation that effectively connect people to jobs, transportation, quality public schools, and other amenities—''geographies of opportunity.'' In this regard, HUD's Regulatory Plan for FY2013 focuses on strengthening, through regulation, a statutory requirement that will help HUD achieve this goal—affirmatively furthering fair housing.

Priority: Providing Communities of Opportunity for All

America's fundamental ideal that hard work and determination will open the doors to opportunity has been unevenly realized because access to opportunity has been affected by factors that are not tied to the choices or actions of an individual or family. Despite genuine progress and a landscape of communities transformed in the more than 40 years since the Fair Housing Act was enacted, the ZIP code children grow up in too often remains a strong predictor of their life course. From its inception, the Fair Housing Act (and subsequent laws reaffirming its principles) not only outlawed discrimination but also set out steps that needed to be taken proactively to overcome the legacy of segregation. The ongoing promise of equal opportunity remains as critical now as it ever has been, especially as diversity increasingly becomes a part of the lives of all Americans. HUD is committed to helping build a stronger and more secure economy that works for the middle class and those aspiring to join the middle class, through access, opportunity and fairness, and HUD can do this by strengthening the statutory mandate to affirmatively further fair housing.

HUD proposes to bring the obligation to affirmatively further fair housing into the 21st century by emphasizing access and opportunity in addition to helping eliminate discrimination and segregation. Even further, HUD's proposal embraces new tools that are now available and lessons learned from extensive local experience to help guide communities in fulfilling the original promise of the Fair Housing Act.

Regulatory Action: Affirmatively Furthering Fair Housing—A New Approach

To better fulfill the statutory obligation to affirmatively further fair housing, HUD proposes to replace the existing requirement to undertake an analysis of impediments with a fair housing assessment and planning process that will aid HUD program participants in improving access to opportunity and advancing the ability for all families to make true housing choices. To facilitate this new approach, HUD will provide states, local governments, insular areas, and public housing agencies (PHAs), as well as the communities they serve with data on patterns of integration and segregation; racially and ethnically concentrated areas of poverty; access to neighborhood opportunity through categories such as education, employment, low-poverty, transportation, and environmental health, among others; disproportionate housing needs based on the classes protected under the Fair Housing Act; data on individuals with disabilities and families with children; and discrimination. From these data, program participants will evaluate their present environment to assess fair housing issues, identify the primary determinants that account for those issues, and set forth fair housing priorities and goals. The benefit of this approach is that these priorities and goals will then better inform program participant's strategies and actions by improving the integration of the assessment of fair housing through enhanced coordination with current planning exercises. This proposed rule further commits HUD to greater engagement and better guidance for program participants in fulfilling their obligation to affirmatively further fair housing.

Aggregate Costs and Benefits

Executive Order 12866, as amended, requires the agency to provide its best estimate of the combined aggregate costs and benefits of all regulations included in the agency's Regulatory Plan that will be made effective in calendar year 2011. HUD expects that the neither the total

economic costs nor the total efficiency gains will exceed $100 million.

Priority Regulations in HUD's FY 2013 Regulatory Plan

HUD—OFFICE OF THE SECRETARY

Proposed Rule Stage

Communities of Opportunity for All Through Affirmatively Furthering Fair Housing

Priority: Significant.

Legal Authority: 42 U.S.C. 3600–3620; 42 U.S.C. 3535(d)

CFR Citation: 24 CFR part 5.

Legal Deadline: None.

Abstract: Through this rule, HUD proposes to provide HUD program participants with more effective means to affirmatively further the purposes and policies of the Fair Housing Act, which is Title VIII of the Civil Rights Act of 1968. The Fair Housing Act not only prohibits discrimination but, in conjunction with other statutes, directs HUD's program participants to take steps proactively to overcome historic patterns of segregation, promote fair housing choice, and foster inclusive communities of opportunity for all. To promote more effective fair housing planning and assist every program participant meet requirements related to affirmatively furthering fair housing, HUD proposes in this rule to address directly concerns about the current fair housing planning process by making a number of key changes. These include: (1) A new fair housing assessment and planning tool, referred to as an assessment of fair housing, which will replace the current analysis of impediments, (2) the provision of nationally uniform data that will be the predicate for and help frame program participants' assessment activities, (3) meaningful and focused direction regarding the purpose of the assessment of fair housing and the standards by which it will be evaluated, (4) a more direct link between the assessment of fair housing and subsequent program participant planning products—the consolidated plan and the Public Housing Agency (PHA) Plan—that ties fair housing planning into the priority setting, commitment of resources, and specification of activities to be undertaken, and (5) a new HUD review procedure based on clear standards that facilitates the provision of technical assistance and reinforces the value and importance of fair housing planning activities.

Statement of Need: As recognized by HUD, program participants, civil rights advocates, the U.S. Government Accountability Office (GAO), and others, the fair housing elements of current housing and community development planning are not as effective as they could be, do not incorporate leading innovations in sound planning practice, and do not sufficiently promote the effective use of limited public resources to affirmatively further fair housing. The approach proposed by the rule addresses these issues and strengthens affirmatively furthering fair housing implementation. It does so by providing data to program participants related to fair housing planning, clarifying the goals of the affirmatively furthering fair housing process, and instituting a more effective mechanism for HUD's review and oversight of fair housing planning. The proposed rule does not mandate specific outcomes for the planning process. Instead, recognizing the importance of local decision-making, the rule proposes to establish basic parameters and help guide public sector housing and community development planning and investment decisions to fulfill their obligation to affirmatively further fair housing.

Summary of Legal Basis: The Fair Housing Act (Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3601–3619), enacted into law on April 11, 1968, declares that it is ''the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States.'' (See 42 U.S.C. 3601.) Accordingly, the Fair Housing Act prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions because of race, color, religion, sex, familial status, national origin, or handicap. (See 42 U.S.C. 3601 *et seq.* Also note that ''handicap'' is the original term used in the statute.) Section 808(e)(5) of the Fair Housing Act (42 U.S.C. 3608(e)(5)) requires that HUD programs and activities be administered in a manner affirmatively to further the policies of the Fair Housing Act. The Act leaves it to the Secretary to define the precise scope of the affirmatively furthering fair housing obligation for HUD's program participants.

Alternatives: HUD has approached the obligation to affirmatively further fair housing in various ways, and this proposed rule is intended in particular to improve fair housing planning by more directly linking it to the housing and community development planning processes currently undertaken by program participants as a condition of their receipt of HUD funds. At the jurisdictional planning level, HUD requires program participants receiving Community Development Block Grant (CDBG), HOME Investment Partnerships (HOME), Emergency Solutions Grants (ESG), and Housing Opportunities for Persons With AIDS (HOPWA) formula funding to undertake an analysis to identify impediments to fair housing choice within the jurisdiction, take appropriate actions to overcome the effects of any impediments, and keep records on such efforts. Likewise, PHAs must commit, as part of their planning process for PHA Plans and Capital Fund Plans, to examine their programs or proposed programs, identify any impediments to fair housing choice within those programs, address those impediments in a reasonable fashion in view of the resources available, work with jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing that require PHA involvement, maintain records reflecting those analyses and actions, and operate programs in a manner that is consistent with the applicable jurisdiction's consolidated plan. Over the past several years, HUD has reviewed the efficacy of these mechanisms to fulfill the affirmatively furthering fair housing mandate and has concluded that the analysis of impediment process can be a more meaningful a tool to integrate fair housing into the program participants' existing planning efforts.

Anticipated Cost and Benefits: HUD does not expect a large aggregate change in compliance costs for program participants as a result of the rule. As a result of increased emphasis on affirmatively furthering fair housing within the planning process, there may be increased compliance costs for some program participants, while for others the improved process and goal-setting, combined with HUD's provision of the foundational data, is likely to decrease compliance costs. Program participants are currently required to engage in outreach and collect data in order to meet the obligation to affirmatively further fair housing. There are some elements of the proposed rule that would increase compliance costs, but others would decrease such costs. HUD estimates net annual compliance costs in the range of $3 to $9 million.

Further, HUD believes the rule has the potential for substantial benefit for program participants and the communities they serve. The rule would improve the fair housing planning process by providing greater clarity to the steps that program participants undertake to meaningfully affirmatively further fair housing, and at the same time provide better resources for

program participants to use in taking such steps. Through this rule, HUD commits to provide states, local governments, PHAs, the communities they serve, and the general public with local and regional data on patterns of integration, racially and ethnically concentrated areas of poverty, access to opportunity in select domains, and disproportionate housing needs based on protected class. From these data, program participants should be better able to evaluate their present environment to assess fair housing issues, identify the primary determinants that account for those issues, and set forth fair housing priorities and goals and document these activities.

Risks: This rule poses no risk to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	4/00/2013	
NPRM Comment Period End.		
Final Action.		

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: No.

Agency Contact: Patrick Pontius, Office of Policy Development and Research, U.S. Department of Housing and Urban Development, *Phone:* 202–402–3273.

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DEPARTMENT OF THE INTERIOR (DOI)

Statement of Regulatory Priorities

The Department of the Interior (DOI) is the principal Federal steward of our Nation's public lands and resources, including many of our cultural treasures. DOI serves as trustee to Native Americans and Alaska native trust assets and is responsible for relations with the island territories under United States jurisdiction. The Department manages more than 500 million acres of Federal lands, including 397 park units, 560 wildlife refuges, and approximately 1.7 billion of submerged offshore acres. These areas include natural resources that are essential for America's industry—oil and gas, coal, and minerals such as gold and uranium. On public lands and the Outer Continental Shelf, Interior provides access for renewable and conventional energy development and manages the protection and restoration of surface mined lands.

The Department protects and recovers endangered species; protects natural, historic, and cultural resources; manages water projects that are a lifeline and economic engine for many communities in the West; manages forests and fights wildfires; manages Federal energy resources; regulates surface coal mining operations; reclaims abandoned coal mines; educates children in Indian schools; and provides recreational opportunities for over 400 million visitors annually in the Nation's national parks, public lands, national wildlife refuges, and recreation areas.

The DOI will continue to review and update its regulations and policies to ensure that they are effective and efficient, and that they promote accountability and sustainability. The DOI will emphasize regulations and policies that:

- Promote environmentally responsible, safe, and balanced development of renewable and conventional energy on our public lands and the Outer Continental Shelf (OCS);
- Use the best available science to ensure that public resources are protected, conserved, and used wisely;
- Preserve America's natural treasures for future generations;
- Improve the nation-to-nation relationship with American Indian tribes;
- Promote partnerships with States, tribes, local governments, other groups, and individuals to achieve common goals; and
- Promote transparency, fairness, accountability, and the highest ethical standards while maintaining performance goals.

Major Regulatory Areas

The DOI bureaus implement congressionally mandated programs through their regulations. Some of these regulatory programs include:

- Developing onshore and offshore energy, including renewable, mineral, oil and gas, and other energy resources;
- Regulating surface coal mining and reclamation operations on public and private lands;
- Managing migratory birds and preserving marine mammals and endangered species;
- Managing dedicated lands, such as national parks, wildlife refuges, National Landscape Conservation System lands, and American Indian trust lands;
- Managing public lands open to multiple use;
- Managing revenues from American Indian and Federal minerals;
- Fulfilling trust and other responsibilities pertaining to American Indians and Alaska Natives;
- Managing natural resource damage assessments; and
- Managing assistance programs.

Regulatory Policy

The DOI's regulatory programs seek to operate programs transparently, efficiently, and cooperatively while maximizing protection of our land, resources, and environment in a fiscally responsible way by:

(1) Protecting Natural, Cultural, and Heritage Resources

The Department's mission includes protecting and providing access to our Nation's natural and cultural heritage and honoring our trust responsibilities to tribes. We are committed to this mission and to applying laws and regulations fairly and effectively. Our priorities include protecting public health and safety, restoring and maintaining public lands, protecting threatened and endangered species, ameliorating land- and resource-management problems on public lands, and ensuring accountability and compliance with Federal laws and regulations.

(2) Sustainably Using Energy, Water, and Natural Resources

Since the beginning of the Obama Administration, the Department has focused on renewable energy issues and has established priorities for environmentally responsible development of renewable energy on public lands and the OCS. Industry has started to respond by investing in the development of wind farms off the Atlantic seacoast and solar, wind, and geothermal energy facilities throughout the West. Power generation from these new energy sources produces virtually no greenhouse gases and, when done in an environmentally responsible manner, harnesses with minimum impact abundant renewable energy. The Department will continue its intra- and inter-departmental efforts to move forward with the environmentally responsible review and permitting of renewable energy projects on public lands, and will identify how its regulatory processes can be improved to facilitate the responsible development of these resources.

The Secretary issued his first Secretarial Order on March 11, 2009, making renewable energy on public lands and the OCS top priorities at the Department. These remain top priorities. In implementing these priorities through its regulations, the

Department will continue to create jobs and contribute to a healthy economy while protecting our signature landscapes, natural resources, wildlife, and cultural resources.

(3) Empowering People and Communities

The Department strongly encourages public participation in the regulatory process and will continue to actively engage the public in the implementation of priority initiatives. Throughout the Department, individual bureaus and offices are ensuring that the American people have an active role in managing our Nation's public lands and resources.

For example, every year the FWS establishes migratory bird hunting seasons in partnership with flyway councils composed of State fish and wildlife agencies. The FWS also holds a series of public meetings to give other interested parties, including hunters and other groups, opportunities to participate in establishing the upcoming season's regulations. Similarly, the BLM uses Resource Advisory Councils to provide advice on the management of public lands and resources. These citizen based groups provide an opportunity for individuals from all backgrounds and interests to have a voice in the management of public lands.

In October 2010, NPS published an interim final rule with request for comments revising the former regulations for management of demonstrations and the sale or distribution of printed matter in most areas of the National Park System to allow a small-group exception to permit requirements. In essence, under specific criteria, demonstrations and the sale or distribution of printed matter involving 25 or fewer persons may be held in designated areas, without first obtaining a permit; i.e. making it easier for individuals and small groups to express their views. The NPS has analyzed the comments and expects to publish a final rule in early 2013.

Retrospective Review of Regulations

President Obama's Executive Order 13563 directs agencies to make the regulatory system work better for the American public. Regulations should ''* * * protect public health, welfare, safety, and our environment while promoting economic growth, innovation, competitiveness, and job creation.'' DOI's plan for retrospective regulatory review identifies specific efforts to relieve regulatory burdens, add jobs to the economy, and make regulations work better for the American public while protecting our environment and resources. The DOI plan seeks to strengthen and maintain a culture of retrospective review by consolidating all regulatory review requirements [1] into DOI's annual regulatory plan. When opportunities arise to improve our regulations, we try to respond quickly. For example, some small businesses recently raised a concern about inspection fees required for imports and exports of wildlife by certain licensed businesses. Our regulations set forth the fees that are required to be paid at the time of inspection of imports and exports of wildlife. In 2009, we implemented a new user fee system intended to recover the costs of the compliance portion of the wildlife inspection program. In summer 2012, the Service learned that we may have placed an undue economic burden on businesses that exclusively trade in small volumes of low-value, non-Federally protected wildlife parts and products. To address this issue, we immediately issued an interim rule (October 26, 2012—77 FR 65321), implementing a program that exempts certain businesses from the designated port base inspection fees as an interim measure while the Service reassesses its current user fee system.

In examining its current regulatory requirements, DOI has also taken a hybrid regulatory approach, incorporating flexible, performance based standards with existing regulatory requirements where possible to strengthen safety and environmental protection across the onshore and offshore oil and natural gas industry while minimizing additional burdens on the economy. The Department routinely meets with stakeholders to solicit feedback and gather input on how to incorporate performance based standards. For example, in September, DOI personnel participated with staff from the Environmental Protection Agency, the U.S. Coast Guard, and the Department of Transportation in a stakeholder meeting sponsored by the Occupational Health and Safety Administration specifically to receive input on the inclusion of performance based standards as a regulatory approach. DOI has received helpful public input through this process and will continue to participate in this effort with relevant interagency partners as part of its retrospective regulatory review.

Pursuant to section 6 of Executive Order 13563 ''Improving Regulation and Regulatory Review'' (Jan. 18, 2011), the following Regulatory Identifier Numbers (RINs) have been identified as associated with retrospective review and analysis in the Department's final retrospective review of regulations plan. Some of the entries on this list may be completed actions, which do not appear in the *Regulatory Plan.* However, more information can be found about these completed rulemakings in past publications of the unified Agenda on reginfo.gov in the Completed Actions section for that agency. These rulemakings can also be found on regulations.gov.

Bureau	RIN	Title	Description	Significantly reduce burdens on small business?
Office of Natural Resources Revenue (ONRR).	1012–AA13	Oil and Gas Royalty Valuation.	DOI is exploring a simplified market-based approach to arrive at the value of oil and gas for royalty purposes that could dramatically reduce accounting and paperwork requirements and costs on industry and better ensure proper royalty valuation by creating a more transparent royalty calculation method.	Yes.

[1] DOI conducts regulatory review under numerous statutes, Executive orders, memoranda, and policies, including but not limited to the Regulatory Flexibility Act of 1980 (RFA), the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Executive Orders 12866 and 13563, and the DOI Departmental Manual.

Bureau	RIN	Title	Description	Significantly reduce burdens on small business?
Fish and Wildlife Service (FWS).	1018–AX44	Critical Habitat Boundary Descriptions.	FWS published a final rule on May 1, 2012 (77 FR 25611), that minimizes the requirements for written descriptions of critical habitat boundaries in favor of map and Internet-based descriptions. This rule will make the process of designating critical habitat more user-friendly for affected parties, the public as a whole, and the Services, as well as more efficient and cost effective.	Yes.
FWS	1018–AX85	ESA Section 7 Consultation Process; Incidental Take Statements.	Court decisions rendered over the last decade regarding the adequacy of incidental take statements have prompted us, along with the National Marine Fisheries Service (NOAA, Commerce), to consider clarifying our regulations concerning two aspects of issuance of incidental take statements during section 7 consultation under the Endangered Species Act. The proposed regulatory changes will specifically address the use of surrogates to express the limit of exempted take and how to determine when deferral of an incidental take exemption is appropriate. This is a joint rulemaking with NOAA.	No.
FWS	1018–AX86	Regulations Governing Designation of Critical Habitat Under Section 4 of the ESA.	The proposed rule would amend existing regulations governing the designation of critical habitat under section 4 of the Endangered Species Act. A number of factors, including litigation and the Services' experience over the years in interpreting and applying the statutory definition of critical habitat, have highlighted the need to clarify or revise the current regulations. This is a joint rulemaking with NOAA.	No.
FWS	1018–AX87	Policy for Designation of Critical Habitat Under Section 4 of the Endangered Species Act.	This proposed policy would articulate the purpose of critical habitat, provide a clear interpretation of the statutory definition of ''critical habitat,'' and describe a comprehensive approach for designating critical habitat under section 4 of the Endangered Species Act. This policy would help provide clarity and consistency in the designation of critical habitat in an effort to ensure that the purposes of the Endangered Species Act are fully met. We will seek public review and comment on the proposed policy. This is a joint policy with NOAA.	No.
FWS	1018–AX88	ESA Section 7 Consultation Regulations; Definition of ''Destruction or Adverse Modification'' of Critical Habitat.	The proposed rule would amend the existing regulations governing section 7 consultation under the Endangered Species Act to revise the definition of ''destruction or adverse modification'' of critical habitat. The current regulatory definition has been invalidated by the courts for being inconsistent with the language of the Endangered Species Act. We therefore need to propose a revised definition and seek public review and comment This is a joint rulemaking with NOAA.	No.
Bureau of Indian Affairs (BIA).	1076–AE73	Leasing and Rights of Way.	To encourage and speed up economic development in Indian Country, the Department through the BIA, undertook a sweeping reform of antiquated, ''one-size-fits-all'' Federal leasing regulations for the 56 million surface acres the Federal government holds in trust for Tribes and individual Indians. The final leasing rule was published on December 5, 2012, and provides greater transparency and firm deadlines for BIA review and approval of lease documents; gives greater deference to Indian tribes in leasing approval and enforcement decisions; and removes unnecessary burdens, including deleting the requirement for BIA review of permits, which some view as unjustified and excessively burdensome.	Yes.

Bureau	RIN	Title	Description	Significantly reduce burdens on small business?
National Park Service (NPS), FWS, Bureau of Land Mgt. (BLM), and Bureau of Reclamation (BOR), and BIA.	1024–AD30	Commercial Filming on Public Lands.	This joint effort between the National Park Service (NPS), Fish and Wildlife Service (FWS), Bureau of Land Management (BLM), Bureau of Reclamation (BOR), and Bureau of Indian Affairs (BIA) will create consistent regulations and a unified DOI fee schedule for commercial filming and still photography on public land. It will provide the commercial filming industry with a predictable fee for using Federal lands, while earning the Government a fair return for the use of that land.	Yes.

DOI bureaus work to make our regulations easier to comply with and understand. Our regulatory process ensures that bureaus share ideas on how to reduce regulatory burdens while meeting the requirements of the laws they enforce and improving their stewardship of the environment and resources. Results include:

- Effective stewardship of our Nation's resources in a way that is responsive to the needs of small businesses;
- Increased benefits per dollars spent by carefully evaluating the economic effects of planned rules; and
- Improved compliance and transparency by use of plain language in our regulations and guidance documents.

Bureaus and Offices Within DOI

The following provides an overview of some of the major regulatory priorities that individual bureaus and offices within DOI will undertake.

Bureau of Indian Affairs

The Bureau of Indian Affairs (BIA) administers and manages 55 million acres of surface land and 57 million acres of subsurface minerals held in trust by the United States for Indians and Indian tribes, provides services to approximately 1.9 million Indians and Alaska Natives, and maintains a government-to-government relationship with the 566 federally recognized Indian tribes. The BIA's mission is to enhance the quality of life, to promote economic opportunity, and to carry out the responsibility to protect and improve the trust assets of American Indians, Indian tribes, and Alaska Natives, as well as to provide quality education opportunities to students in Indian schools.

In the coming year, BIA will continue its focus on improved management of trust responsibilities with each regulatory review and revision. BIA will also continue to promote economic development in Indian communities by ensuring the regulations support, rather than hinder, productive land management. In addition, BIA will focus on updating Indian education regulations and on other regulatory changes to increase transparency in support of the President's Open Government Initiative.

In the coming year, BIA's regulatory priorities are to:

- Develop regulations to meet the Indian trust reform goals for rights-of-ways across Indian land.
- Develop regulatory changes necessary for improved Indian education.

BIA is reviewing regulations that require the Bureau of Indian Education to follow 23 different State adequate yearly progress (AYP) standards to determine whether a uniform standard would better meet the needs of students at Bureau-funded schools. With regard to undergraduate education, BIE is reviewing regulations that address grants to tribally controlled community colleges and other Indian education regulations. These reviews will identify provisions that need to be updated to comply with applicable statutes and ensure that the proper regulatory framework is in place to support students of Bureau-funded schools.

- Develop regulatory changes to reform the process for Federal acknowledgment of Indian tribes.

Over the years, BIA has received significant comments from American Indian groups and members of Congress on the Federal acknowledgment process. Most of these comments claim that the current process is cumbersome and overly restrictive. The BIA is reviewing the Federal acknowledgment regulations to determine how regulatory changes may streamline the acknowledgment process and clarify criteria by which an Indian group is examined.

- Finalize regulations establishing uniform Buy Indian acquisition procedures.

BIA currently exercises authority provided by the Buy Indian Act to set-aside acquisitions for services and products for Indian economic enterprises, under certain circumstances allowed under the Federal Acquisition Regulations. This rule would standardize BIA procedures for implementing the Buy Indian Act.

- Revise regulations to reflect updated statutory provisions and increase transparency.

BIA is making a concentrated effort to improve the readability and precision of its regulations. Because trust beneficiaries often turn to the regulations for guidance on how a given BIA process works, BIA is ensuring that each revised regulation is written as clearly as possible and accurately reflects the current organization of the Bureau. The Bureau is also simplifying language and eliminating obsolete provisions. The Bureau recently completed a major overhaul of regulations governing residential, business, and wind and solar resource leasing on Indian land to reflect updated laws and increase user-friendliness. In the coming year, the Bureau also plans to review regulations regarding rights-of-way (25 CFR 169); Indian Reservation Roads (25 CFR 170); and certain regulations specific to the Osage Nation.

The Bureau of Land Management

The BLM manages the 245-million-acre National System of Public Lands, located primarily in the western States, including Alaska, and the 700-million-acre subsurface mineral estate located throughout the Nation. In doing so, the BLM manages such varied uses as energy and mineral development, outdoor recreation, livestock grazing, and forestry and woodlands products. BLM's complex multiple-use mission affects the lives of millions of Americans, including those who live near and visit the public lands, as well as those who benefit from the commodities, such as minerals, energy, or timber, produced from the lands' rich

resources. In undertaking its management responsibilities, the BLM seeks to conserve our public lands' natural and cultural resources and sustain the health and productivity of the public lands for the use and enjoyment of present and future generations. In the coming year, BLM's highest regulatory priorities include:

• Revising antiquated hydraulic fracturing regulations.

BLM's existing regulations applicable to hydraulic fracturing were promulgated over twenty years ago and do not reflect modern technology. In seeking to modernize its requirements and ensure the protection of our Nation's public lands, the BLM has proposed a rule that would provide disclosure to the public of chemicals used in hydraulic fracturing on public land and Indian land, strengthen regulations related to well-bore integrity, and address issues related to flowback water.

• Updating onshore oil and gas operating standards.

Onshore orders establish requirements and minimum standards and provide standard operating procedures for oil and gas operations. The orders are binding on operating rights owners and operators of Federal and Indian (except the Osage Nation) oil and gas leases and on all wells and facilities on State or private lands committed to Federal agreements. The BLM is responsible for ensuring that oil or gas produced and sold from Federal or Indian leases is accurately measured for quantity and quality. The volume and quality of oil or gas sold from leases is key to ensuring that the American public is receiving a fair return from operators for the right to extract public resources. BLM is focusing on revising existing Onshore Orders Number 3, 4, and 5 to adopt new industry standards to reflect current operating procedures used by industry. These existing Onshore Orders would also be revised to require that proper verification and accounting practices are implemented consistently. A new Onshore Order Number 9 would cover the prevention of waste and beneficial use of the oil and gas resource to ensure that proper royalties are paid on oil and gas removed from Federal and Trust lands.

• Competitive leasing process for solar and wind rights-of-way.

The BLM is preparing a proposed rule that would establish an efficient competitive process for leasing public lands for solar and wind energy development. The amended regulations would establish competitive bidding procedures for lands within designated solar and wind energy development leasing areas, define qualifications for potential bidders, and structure the financial arrangements necessary for the process. The proposed rule would enhance the BLM's ability to capture fair market value for the use of public lands, ensure fair access to leasing opportunities for renewable energy development, and foster the growth and development of the renewable energy sector of the economy.

The Bureau of Ocean Energy Management (BOEM)

The Bureau of Ocean Energy Management (BOEM) is the resource manager for the conventional and renewable energy and mineral resources on the Outer Continental Shelf (OCS). Protecting the environment, while ensuring the safe development of the nation's offshore energy and marine mineral resources, is a critical part of BOEM's mission. The Bureau, as with all Federal agencies, must consider the potential environmental impacts from exploring and extracting these resources. It fosters development of the OCS for both conventional and renewable energy and mineral resources in an efficient and effective manner that ensures fair market value for the rights conveyed. BOEM's near-term regulatory agenda will cover a number of issues, including:

Clarifying its functional responsibilities in light of the recent re-organization of offshore energy functions: A new proposed rule will reorganize the BOEM regulations in a more logical manner and better clarify the functional responsibilities of the agency with respect to OCS lessee and operators and provides supporting changes to ensure regulatory compliance.

Modernizing leasing regulations: BOEM is developing a final rule to update and streamline the existing OCS leasing regulations to better reflect policy priorities including incentivizing diligent development. For example, the rule will implement a two term leasing process, whereby leases are issued subject to a requirement that drilling commences within a specific time period or else reverts back to the government.

Updating BOEM's air quality program in light of expanded statutory authority: DOI has jurisdiction over air emissions from OCS sources operating on certain portions of the OCS. As part of the FY 2012 Appropriations bill, Congress increased DOI authority in this area by transferring responsibility for monitoring OCS air quality off the north coast of Alaska from the Environmental Protection Agency to the Department of the Interior. In light of new authorities, BOEM is undertaking a full review of its air quality program in order to ensure that regulations are best suited to achieve the statutory mandate of requiring offshore activities compliance with EPA's National Ambient Air Quality Standards (NAAQS), to the extent that those activities significantly affect the air quality of a State.

Enhancing regulatory efficiency for BOEM's offshore renewables program: Two specific rulemakings would respond to recommendations submitted to BOEM following independent technical reviews of existing requirements: (1) A recommendation from a Transportation Research Board report to develop specific wind turbine design standards; and (2) a recommendation from a Technology Assessment and Research Program report to clarify the role of Certified Verification Agents in the BOEM permitting process. In addition, the proposed regulations would clarify requirements associated with lessee notification to BOEM of a discovery of potential archaeological resource(s) and revise renewables rules to improve procedural and administrative efficiencies, reduce regulatory burdens and streamline operations.

Promoting financial assurance and risk management: BOEM is responsible for the Financial Assurance and Risk Management (FARM) program, designed to ensure lessees and operators on the OCS do not engage in activities that could generate an undue financial risk to the Government. FARM and bonding regulations have not been updated in many years and no longer accurately reflect current industry financial monitoring and controls. In addition, reliable and comprehensive cost data are neither accessible nor widely available in the offshore industry, and so new data collection efforts are suggested to improve future bonding formulas and to ensure that levels remain properly calibrated. BOEM has established a series of task forces to review these issues and will prepare a series of updates to the regulations, once this effort is completed. This is likely a medium-to-longer-term effort. Also related to risk and financial assurance, BOEM is undertaking a rulemaking to adjust limits of liability for damages from offshore facilities under the Oil Pollution Act of 1990, to reflect increases in the Consumer Price Index since the enactment of that statute and to ensure the environment is protected in the event of an offshore incident.

Formally addressing the use of OCS sand, gravel, and shell resources: BOEM is developing regulations to formally

address the use of OCS sand, gravel, or shell resources for shore protection, beach replenishment, wetlands restoration, or in construction projects funded by the Federal government.

The Bureau of Safety and Environmental Enforcement

BSEE was formally established in October 2011, as part of a major reorganization of the Department of the Interior's offshore regulatory structure. At its core, the Bureau's mission is to compel safety, emergency preparedness, environmental responsibility and appropriate development and conservation of offshore oil and natural gas resources. BSEE's regulatory priorities are guided by the newly developed BSEE FY 2012–2015 Strategic Plan, which includes two strategic goals to focus the Bureau's priorities in fulfillment of its mission:

• Regulate, enforce, and respond to OCS development using the full range of authorities, policies, and tools to compel safety and environmental responsibility and appropriate development of offshore oil and natural gas resources.

• Build and sustain the organizational, technical, and intellectual capacity within and across BSEE's key functions—capacity that keeps pace with OCS industry technology improvements, innovates in regulation and enforcement, and reduces risk through systemic assessment and regulatory and enforcement actions.

The Three-Year Strategic Plan reflects the intent of BSEE to build a bureau capable of keeping pace with the rapidly advancing technologies employed by the industry, building and sustaining its organizational, technical, and intellectual capacity, and instilling a commitment to safe practices at all levels of offshore operations, at all times. Additionally, the strategic plan incorporates BSEE's approach to address numerous recommendations contained in Government Accountability Office, Office of Inspector General (OIG), and other external reports.

• The BSEE has identified the following four areas of regulatory priorities: (1) Compliance; (2) Oil Spill Response; (3) Safety and Environmental Management Systems (SEMS); and (4) Managing and Mitigating Risk. Among the specific regulatory priorities that will be BSEE's priorities over the course of the next year are: Compliance

BSEE will finalize revisions of its rule on production safety systems and expand the use of lifecycle analysis of critical equipment. This rule addresses issues such as subsurface safety devices, safety device testing, and expands the requirements for operating production systems on the OCS.

• Oil Spill Response.

BSEE will update regulations for offshore oil spill response planning and preparedness. This rule will incorporate lessons learned from the 2010 Deepwater Horizon spill, improved preparedness capability standards, and applicable research findings. This regulatory update will establish standards that drive owners, lessees, and operators to use all applicable tools in a system-based plan that demonstrates the ability to respond to oil spills quickly and effectively.

• Safety and Environmental Management Systems (SEMS).

BSEE will propose additional revisions to the current SEMS rule. BSEE will collaborate extensively with the U.S. Coast Guard on this rule to further enhance the development of industry safety systems that will reduce the risk of offshore oil and gas operations.

• Managing and Mitigating Risk.

BSEE will develop a proposal to modernize requirements for blowout prevention systems to address potential risks associated with existing systems and enhance the safety of well operations.

BSEE will propose a rule to assess leading and lagging performance indicators to identify risks and near-miss incidents on the OCS. The current incident reporting regulations focus on reporting only accidents associated with offshore operations. This proposed rule will support the bureau's risk assessment activities and identify trends or potential hazards involving causes for equipment failures, procedures, people, or safety management systems.

Office of Natural Resources Revenue

The Office of Natural Resources Revenue (ONRR) collects, accounts for, and disburses revenues from Federal offshore energy and mineral leases and from onshore mineral leases on Federal and Indian lands. The program operates nationwide and is primarily responsible for timely and accurate collection, distribution, and accounting for revenues associated with mineral and energy production.

ONRR's regulatory plan priorities for the upcoming year include:

• Simplify valuation regulations.

ONRR plans to simplify the regulations at 30 CFR part 1206 for establishing the value for royalty purposes of: (1) Oil and natural gas produced from Federal leases; and (2) coal and geothermal resources produced from Federal and Indian leases. Additionally, the proposed rules would consolidate sections of the regulations common to all minerals, such as definitions and instructions regarding how a payor should request a valuation determination. ONRR published Advance Notices of Proposed Rulemaking (ANPRMs) to initiate the rulemaking process and to obtain input from interested parties.

• Finalize debt collection regulations.

ONRR is preparing regulations governing collection of delinquent royalties, rentals, bonuses, and other amounts due under Federal and Indian oil, gas, and other mineral leases. The regulations would include provisions for administrative offset and would clarify and codify the provisions of the Debt Collection Act of 1982, and the Debt Collection Improvement Act of 1996.

• Continue to meet Indian trust responsibilities.

ONRR has a trust responsibility to accurately collect and disburse oil and gas royalties on Indian lands. ONRR will increase royalty certainty by addressing oil valuation for Indian lands through a negotiated rulemaking process involving key stakeholders.

Office of Surface Mining Reclamation and Enforcement

The Office of Surface Mining Reclamation and Enforcement (OSM) was created by the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Under SMCRA, OSM has two principal functions—the regulation of surface coal mining and reclamation operations and the reclamation and restoration of abandoned coal mine lands. In enacting SMCRA, Congress directed OSM to ''strike a balance between protection of the environment and agricultural productivity and the Nation's need for coal as an essential source of energy.'' In response to its statutory mandate, OSM has sought to develop and maintain a stable regulatory program that is safe, cost-effective, and environmentally sound. A stable regulatory program ensures that the coal mining industry has clear guidelines for operation and reclamation, and that citizens know how the program is being implemented.

OSM's Federal regulatory program sets minimum requirements for obtaining a permit for surface and underground coal mining operations, sets performance standards for those operations, requires reclamation of lands and waters disturbed by mining, and requires enforcement to ensure that the standards are met. OSM is the primary regulatory authority for SMCRA

enforcement until a State or Indian tribe develops its own regulatory program, which is no less effective than the Federal program. When a State or Indian tribe achieves ''primacy,'' it assumes direct responsibility for permitting, inspection, and enforcement activities under its federally approved regulatory program. The regulatory standards in Federal program states and in primacy states are essentially the same with only minor, non-substantive differences. Today, 24 States have primacy, including 23 of the 24 coal producing States. OSM's regulatory priorities for the coming year will focus on:

• Stream Protection.

Protect streams and related environmental resources from the adverse effects of surface coal mining operations; and

• Coal Combustion Residues.

Establish Federal standards for the beneficial use of coal combustion residues on active and abandoned coal mines.

U.S. Fish and Wildlife Service

The mission of the U.S. Fish and Wildlife Service (FWS) is to work with others to conserve, protect, and enhance fish, wildlife, and plants and their habitats for the continuing benefit of the American people. FWS also helps ensure a healthy environment for people by providing opportunities for Americans to enjoy the outdoors and our shared natural heritage.

FWS fulfills its responsibilities through a diverse array of programs that:

• Protect and recover endangered and threatened species;

• Monitor and manage migratory birds;

• Restore native aquatic populations and nationally significant fisheries;

• Enforce Federal wildlife laws and regulate international trade;

• Conserve and restore wildlife habitat such as wetlands;

• Help foreign governments conserve wildlife through international conservation efforts;

• Distribute Federal funds to States, territories, and tribes for fish and wildlife conservation projects; and

• Manage the more than 150-million-acre National Wildlife Refuge System, which protects and conserves fish and wildlife and their habitats and allows the public to engage in outdoor recreational activities.

Over the course of the next year, FWS regulatory priorities will include:

• Regulations under the Endangered Species Act (ESA), including rules to list, delist, and reclassify species and designate critical habitat for certain listed species as set forth by the Multi-District Litigation, and rules to transform the processes for listing species and designating critical habitat:

▪ In regard to the ESA lists, we will issue rules to amend the format of the lists to make them more user-friendly for the public, to correct errors in regard to taxonomy, to include rules issued by the National Marine Fisheries Service for marine species, and to more clearly describe areas where listed species are protected.

▪ In regard to the designation of critical habitat for listed species, we will issue rules to revise the timeframe for our issuance of economic analyses pertaining to critical habitat designations, to clarify definitions of ''critical habitat'' and ''destruction or adverse modification,'' to improve our consultation process in regard to issuing incidental take statements, and otherwise make improvements to the process of critical habitat designation.

• Regulations under the Migratory Bird Treaty Act (MBTA), including rules to manage migratory bird populations, such as the annual migratory bird hunting regulations, and guidelines for protecting migratory birds while supporting renewable energy initiatives:

▪ To ensure proper administration of the MBTA, we will revise the list of migratory bird species based on new information. This list is vital to our regulation of activities, such as transport, sale, and import and export, of protected species. We will also propose to revise our regulations that are designed to prevent the wanton waste of migratory game birds to clarify that the hunting public must make reasonable efforts to retrieve birds that have been killed or injured.

▪ In an effort to promote renewable energy while carrying out our responsibility to protect certain species of birds, we will issue guidance that includes an iterative process for developers to use to avoid and minimize negative effects on eagles and their habitats resulting from the construction, operation, and maintenance of land-based wind energy facilities in the United States. In addition, we will finalize our proposal to revise our regulations for permits for nonpurposeful take of eagles. By proposing to extend the maximum term for programmatic permits to 30 years, as long as certain requirements are met, we will facilitate the development of renewable energy projects that are designed to be in operation for many decades.

▪ We will continue our efforts to empower State governments by adding States that meet our requirements to the list of States that are delegated authority to regulate falconry. We will also continue our efforts to protect wildlife and promote business by revising our regulations to approve additional formulations of nontoxic shot for use in hunting waterfowl.

• Regulations to carry out our responsibilities to administer the National Wildlife Refuge System (NWRS), such as the development of Comprehensive Conservation Plans, acquisition planning, and implementation of our ''Conserving the Future'' vision:

▪ We will issue a policy to guide Service employees to increase efficiency and effectiveness in achieving the mission of the NWRS through partnerships with Friends (Refuge volunteer or advocate) organizations. This policy will help us strengthen the Refuge system by giving Refuge managers across the country consistent guidance on ways to increase community involvement on Refuge lands.

▪ To further this effort of ensuring consistent administration of our Refuges, we will issue a proposed rule to ensure that all operators conducting oil or gas operations on NWRS lands do so in a manner that prevents or minimizes damage to the lands, visitor values, and management objectives.

▪ To help us build strong and lasting partnerships with self-governance Tribes and consortia, we propose a policy to respond to and negotiate with Tribes on their requests for annual funding agreements in implementing the provisions of title IV of the Indian Self-Determination and Education Assistance Act.

• Regulations to carry out the Convention on International Trade in Endangered Species of Wild Fauna and Flora to update the regulations and permit international trade:

▪ To provide clear guidance to U.S. importers and exporters of wildlife products, we will update our CITES regulations to incorporate provisions resulting from the 14th and 15th Conferences of the Parties to CITES. The revisions will help us more effectively promote species conservation and help those affected by CITES to understand how to conduct lawful international trade in wildlife and wildlife products.

▪ In regard to efforts to protect specific species, we will issue regulations regarding generic tigers (those not identifiable as members of the Bengal, Sumatran, Siberian, or Indochinese subspecies) the same level of protection that ''pure'' tigers have. We will also revise our regulations regarding the importation of ivory from African elephants to allow the

importation of ivory specimens for scientific and law enforcement purposes. This revision will ensure that our regulations do not prohibit activities that support the purposes of the ESA.

▪ We provide this summary in accordance with section 3(a) of Executive Order 13609 (''Promoting International Regulatory Cooperation'').

National Park Service

The NPS preserves unimpaired the natural and cultural resources and values within almost 400 units of the National Park System encompassing nearly 84 million acres of lands and waters for the enjoyment, education, and inspiration of this and future generations. The NPS also cooperates with partners to extend the benefits of natural and resource conservation and outdoor recreation throughout the United States and the world.

To achieve this mission the NPS adheres to the following guiding principles:

• *Excellent Service:* Providing the best possible service to park visitors and partners.

• *Productive Partnerships:* Collaborating with Federal, State, tribal, and local governments, private organizations, and businesses to work toward common goals.

• *Citizen Involvement:* Providing opportunities for citizens to participate in the decisions and actions of the National Park Service.

• *Heritage Education:* Educating park visitors and the general public about their history and common heritage.

• *Outstanding Employees:* Empowering a diverse workforce committed to excellence, integrity, and quality work.

• *Employee Development:* Providing developmental opportunities and training so employees have the ''tools to do the job'' safely and efficiently.

• *Wise Decisions:* Integrating social, economic, environmental, and ethical considerations into the decision-making process.

• *Effective Management:* Instilling a performance management philosophy that fosters creativity, focuses on results, and requires accountability at all levels.

• *Research and Technology:* Incorporating research findings and new technologies to improve work practices, products, and services.

Our regulatory priorities for the coming year include:

—Revising the existing regulation pertaining to Commercial Film and Related Activities.

This joint effort between the National Park Service (NPS), Fish and Wildlife Service (FWS), Bureau of Land Management (BLM), Bureau of Reclamation (BOR), and Bureau of Indian Affairs (BIA) will create consistent regulations and a unified DOI fee schedule for commercial filming and still photography on public land. It will provide the commercial filming industry with a predictable fee for using Federal lands, while earning the Government a fair return for the use of that land.

—Establishing new rules related to:

• Collection of Natural Products by Members of Federally Recognized Tribes for Traditional and Cultural Purposes

The rule will clarify the Park Superintendent's authority to permit American Indians and Alaska Natives to collect limited quantities of plant and mineral resources in parks for traditional cultural uses, practices, and activities.

• Managing Winter Use at Yellowstone NP.

The rule will retain for the 2012–2013 winter season the regulations and management framework that have been in place for the last three winter seasons (2009–2010, 2010–2011, 2011–2012).

• Managing Off Road Vehicle Use.

(1) A rule to designate routes and areas within Curecanti National Recreation Area where off-road vehicles (ORVs) and snowmobiles will be allowed within the recreation area. ORV use will primarily occur below the high water line of the Blue Mesa Reservoir. The rule also provides for designation of new snowmobile access points and designates snowmobile routes from the access points to the frozen surface of the Blue Mesa Reservoir.

(2) A rule to define applicable terms, designates driving routes, driving conditions, and establishes permit conditions for ORV use within Fire Island National Seashore.

(3) A rule to (i) designate trails in the Nabesna District of Wrangell-St. Elias National Preserve where ORVs may be used for recreational purposes; (ii) impose ORV size and weight restrictions; and (iii) close areas to ORV use for subsistence purposes in designated wilderness.

• Managing Bicycling.

NPS rules would designate bicycles routes and allow for management of bicycle use on designated routes at Chattahoochee NRA, Sleeping Bear Dunes National Lakeshore, and Lake Meredith NRA.

• Implementation of the Native American Graves Protection and Repatriation Act.

(1) A rule will correct inaccuracies or inconsistencies in the 43 CFR part 10 regulations, implementing the Native American Graves Protection and Repatriation Act, which have been identified by or brought to the attention of the Department of the Interior.

(2) A rule would establish a process for disposition of Unclaimed Human Remains and Funerary Objects discovered after November 16, 1990, on Federal or Indian Lands.

BILLING CODE 4310–10–P

DEPARTMENT OF JUSTICE (DOJ)

Statement of Regulatory Priorities

The mission of the Department of Justice is to enforce the law and defend the interests of the United States according to the law, to ensure public safety against threats foreign and domestic, to provide Federal leadership in preventing and controlling crime, to seek just punishment for those guilty of unlawful behavior, and to ensure fair and impartial administration of justice for all Americans. In carrying out its mission, the Department is guided by four core values: (1) equal justice under the law; (2) honesty and integrity; (3) commitment to excellence; and (4) respect for the worth and dignity of each human being. The Department of Justice is primarily a law-enforcement agency, not a regulatory agency; it carries out its principal investigative, prosecutorial, and other enforcement activities through means other than the regulatory process.

The regulatory priorities of the Department include initiatives in the areas of civil rights, criminal justice, and immigration. These initiatives are summarized below. In addition, several other components of the Department carry out important responsibilities through the regulatory process. Although their regulatory efforts are not separately discussed in this overview of the regulatory priorities, those components have key roles in implementing the Department's anti-terrorism and law enforcement priorities.

Civil Rights

Regulatory Plan Initiatives

The Department is including five disability nondiscrimination rulemaking initiatives in its Regulatory Plan: (1) Implementation of the ADA Amendments Act of 2008 in the ADA regulations (titles II and III); (2) Implementation of the ADA Amendments Act of 2008 in the Department's section 504 regulations; (3) Nondiscrimination on the Basis of Disability by Public Accommodations:

Movie Captioning and Audio Description; (4) Accessibility of Web Information and Services of State and Local Governments; and (5) Accessibility of Web Information and Services of Public Accommodations. The Department's other disability nondiscrimination rulemaking initiatives, while important priorities for the Department's rulemaking agenda, will be included in the Department's long-term actions for FY 2014. As will be discussed more fully below, these initiatives include: (1) Accessibility of Medical Equipment and Furniture; (2) Accessibility of Beds in Guestrooms with Mobility Features in Places of Lodging; (3) Next Generation 9–1–1 Services; and (4) Accessibility of Equipment and Furniture.

ADA Amendments Act. In September 2008, Congress passed the ADA Amendments Act, which revises the definition of ''disability'' to more broadly encompass impairments that substantially limit a major life activity. In FY 2013, the Department plans to propose amendments to both its title II and title III ADA regulations and its section 504 regulations to implement the ADA Amendments Act of 2008.

Captioning and Video Description in Movie Theaters. Title III of the ADA requires public accommodations to take ''such steps as may be necessary to ensure that no individual with a disability is treated differently because of the absence of auxiliary aids and services, unless the covered entity can demonstrate that taking such steps would cause a fundamental alteration or would result in an undue burden.'' 42 U.S.C. section 12182(b)(2)(A)(iii). Both open and closed captioning and audio recordings are examples of auxiliary aids and services that should be provided by places of public accommodations, 28 CFR section 36.303(b)(1)–(2). The Department stated in the preamble to its 1991 rule that ''[m]ovie theaters are not required * * * to present open-captioned films,'' 28 CFR part 36, app. C (2011), but it did not address closed captioning and video description in movie theaters.

Since 1991, there have been many technological advances in the area of closed captioning and video description for first-run movies. In June 2008, the Department issued a Notice of Proposed Rulemaking (NPRM) to revise the ADA title III regulation, 73 FR 34466, in which the Department stated that it was considering options for requiring that movie theater owners or operators exhibit movies that are captioned or that provide video (narrative) description. The Department issued an ANPRM on July 26, 2010, to obtain more information regarding issues raised by commenters; to seek comment on technical questions that arose from the Department's research; and to learn more about the status of digital conversion. In addition, the Department sought information regarding whether other technologies or areas of interest (e.g., 3D) have developed or are in the process of development that either would replace or augment digital cinema or make any regulatory requirements for captioning and video description more difficult or expensive to implement. The Department received approximately 1,171 public comments in response to its movie captioning and video description ANPRM. The Department is in the process of completing its review of these comments and expects to publish an NPRM addressing captioning and video description in movie theaters in FY 2013.

Web Site Accessibility. The Internet as it is known today did not exist when Congress enacted the ADA, yet today the World Wide Web plays a critical role in the daily personal, professional, civic, and business life of Americans. The ADA's expansive nondiscrimination mandate reaches goods and services provided by public accommodations and public entities using Internet Web sites. Being unable to access Web sites puts individuals at a great disadvantage in today's society, which is driven by a dynamic electronic marketplace and unprecedented access to information. On the economic front, electronic commerce, or ''e-commerce,'' often offers consumers a wider selection and lower prices than traditional, ''brick-and-mortar'' storefronts, with the added convenience of not having to leave one's home to obtain goods and services. For individuals with disabilities who experience barriers to their ability to travel or to leave their homes, the Internet may be their only way to access certain goods and services. Beyond goods and services, information available on the Internet has become a gateway to education, socializing, and entertainment.

The Internet is also dramatically changing the way that governmental entities serve the public. Public entities are increasingly providing their constituents access to government services and programs through their Web sites. Through government Web sites, the public can obtain information or correspond with local officials without having to wait in line or be placed on hold. They can also pay fines, apply for benefits, renew State-issued identification, register to vote, file taxes, request copies of vital records, and complete numerous other everyday tasks. The availability of these services and information online not only makes life easier for the public but also often enables governmental entities to operate more efficiently and at a lower cost.

The ADA's promise to provide an equal opportunity for individuals with disabilities to participate in and benefit from all aspects of American civic and economic life will be achieved in today's technologically advanced society only if it is clear to State and local governments, businesses, educators, and other public accommodations that their Web sites must be accessible. Consequently, the Department is considering amending its regulations implementing title II and title III of the ADA to require public entities and public accommodations that provide products or services to the public through Internet Web sites to make their sites accessible to and usable by individuals with disabilities.

In particular, the Department's ANPRM on Web site accessibility sought public comment regarding what standards, if any, it should adopt for Web site accessibility, whether the Department should adopt coverage limitations for certain entities, like small businesses, and what resources and services are available to make existing Web sites accessible to individuals with disabilities. The Department also solicited comments on the costs of making Web sites accessible and on the existence of any other effective and reasonably feasible alternatives to making Web sites accessible. The Department received approximately 440 public comments and is in the process of reviewing these comments. The Department anticipates publishing separate NPRMs addressing Web site accessibility pursuant to titles II and III of the ADA. The Department projects publishing the title II Web Site Accessibility NPRM in FY 2013 with the publication of the title III NPRM to follow in early FY 2014.

The final rulemaking initiatives from the 2010 ANPRMs are included in the Department's long-term priorities projected for the middle to latter part of FY 2014:

Next Generation 9–1–1. This ANPRM sought information on possible revisions to the Department's regulation to ensure direct access to Next Generation 9–1–1 (NG 9–1–1) services for individuals with disabilities. In 1991, the Department of Justice published a regulation to implement title II of the Americans with Disabilities Act of 1990 (ADA). That regulation requires public safety answering points (PSAPs) to provide

direct access to persons with disabilities who use analog telecommunication devices for the deaf (TTYs), 28 CFR 35.162. Since that rule was published, there have been major changes in the types of communications technology used by the general public and by people who have disabilities that affect their hearing or speech. Many individuals with disabilities now use the Internet and wireless text devices as their primary modes of telecommunications. At the same time, PSAPs are planning to shift from analog telecommunications technology to new Internet-Protocol (IP)-enabled NG 9–1–1 services that will provide voice and data (such as text, pictures, and video) capabilities. As PSAPs transition from the analog systems to the new technologies, it is essential people with communication disabilities will be able to use the new systems. Therefore, the Department published this ANPRM to begin to develop appropriate regulatory guidance for PSAPs that are making this transition. The Department is in the process of completing its review of the approximately 146 public comments it received in response to its NG 9–1–1 ANPRM and expects to publish an NPRM addressing accessibility of NG 9–1–1 in FY 2014.

Equipment and Furniture. Both title II and title III of the ADA require covered entities to make reasonable modifications in their programs or services to facilitate participation by persons with disabilities. In addition, covered entities are required to ensure that people are not excluded from participation because facilities are inaccessible or because the entity has failed to provide auxiliary aids. The use of accessible equipment and furniture is often critical to an entity's ability to provide a person with a disability equal access to its services. Changes in technology have resulted in the development and improved availability of accessible equipment and furniture that benefit individuals with disabilities. The 2010 ADA Standards include accessibility requirements for some types of fixed equipment (*e.g.,* ATMs, washing machines, dryers, tables, benches and vending machines) and the Department plans to look to these standards for guidance, where applicable, when it proposes accessibility standards for equipment and furniture that is not fixed. The ANPRM sought information about other categories of equipment, including beds in accessible guest rooms, and medical equipment and furniture. The Department received approximately 420 comments in response to its ANPRM and is in the process of reviewing these comments. The Department plans to publish in FY 2014 a separate NPRM pursuant to title III of the ADA on beds in accessible guest rooms and a more detailed ANPRM pursuant to titles II and III of the ADA that focuses solely on accessible medical equipment and furniture. The remaining items of equipment and furniture addressed in the 2010 ANPRM will be the subject of an NPRM that the Department anticipates publishing in late FY 2014.

Federal Habeas Corpus Review Procedures in Capital Cases

Pursuant to the USA PATRIOT Improvement and Reauthorization Act of 2005, on December 11, 2008, the Department promulgated a final rule to implement certification procedures for States seeking to qualify for the expedited Federal habeas corpus review procedures in capital cases under chapter 154 of title 28 of the United States Code. On February 5, 2009, the Department published in the **Federal Register** a notice soliciting further public comment on all aspects of the December 2008 final rule. As the Department reviewed the comments submitted in response to the February 2009 notice, it considered further the statutory requirements governing the regulatory implementation of the chapter 154 certification procedures. The Attorney General determined that chapter 154 reasonably could be construed to allow the Attorney General greater discretion in making certification determinations than the December 2008 regulations allowed. Accordingly, the Department published a notice in the **Federal Register** on May 25, 2010, proposing to remove the December 2008 regulations pending the completion of a new rulemaking process. The Department finalized the removal of the December 2008 regulations on November 23, 2010. The Department published an NPRM in the **Federal Register** on March 3, 2011, proposing a new rule and seeking public input on the certification procedure for chapter 154 and the standards the Attorney General will apply in making certification decisions. The comment period for the proposed new rule closed on June 1, 2011. The Department thereafter published a supplemental NPRM on February 13, 2012, which identified a number of possible changes the Department was considering based on comments received in response to the publication of the proposed rule. The comment period for the supplemental NPRM closed on March 14, 2012,

Criminal Law Enforcement

For the most part, the Department's criminal law enforcement components do not rely on the rulemaking process to carry out their assigned missions. The Federal Bureau of Investigation (FBI), for example, is responsible for protecting and defending the United States against terrorist and foreign intelligence threats, upholding and enforcing the criminal laws of the United States, and providing leadership and criminal justice services to Federal, State, municipal, and international agencies and partners. Only in very limited contexts does the FBI rely on rulemaking. For example, in FY 2013 the FBI expects to propose updating its National Instant Criminal Background Check System (NCIS) regulations to address the current prohibition on criminal justice agencies accessing the NICS to conduct background checks prior to the return of firearms.

Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) Initiatives. ATF issues regulations to enforce the Federal laws relating to the manufacture and commerce of firearms and explosives. ATF's mission and regulations are designed to, among other objectives, curb illegal traffic in, and criminal use of, firearms, and to assist State, local, and other Federal law enforcement agencies in reducing crime and violence. ATF will continue, as a priority during fiscal year 2013, to seek modifications to its regulations governing commerce in firearms and explosives. ATF plans to issue final regulations implementing the provisions of the Safe Explosives Act, title XI, subtitle C, of Public Law 107–296, the Homeland Security Act of 2002 (enacted Nov. 25, 2002).

Pursuant to Executive Order 13563 ''Improving Regulation and Regulatory Review,'' ATF has proposed a rulemaking proceeding to amend existing regulations and extend the term of import permits for firearms, ammunition, and defense articles from 1 year to 2 years. The additional time will allow importers sufficient time to complete the importation of an authorized commodity before the permit expires and eliminate the need for importers to submit new and duplicative import applications. ATF believes that extending the term of import permits will result in substantial cost and time savings for both ATF and industry.

ATF also has begun a rulemaking process that will lead to promulgation of a revised set of regulations (27 CFR part 771) governing the procedure and practice for proposed denial of

applications for explosives licenses or permits and proposed revocation of such licenses and permits.

Drug Enforcement Administration (DEA) Initiatives. DEA is the primary agency responsible for coordinating the drug law enforcement activities of the United States and also assists in the implementation of the President's National Drug Control Strategy. DEA implements and enforces Titles II and III of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and the Controlled Substances Import and Export Act (21 U.S.C. 801–971), as amended, and referred to as the Controlled Substances Act (CSA). DEA's mission is to enforce the CSA and its regulations and bring to the criminal and civil justice system those organizations and individuals involved in the growing, manufacture, or distribution of controlled substances and listed chemicals appearing in or destined for illicit traffic in the United States. DEA promulgates the CSA implementing regulations in title 21 of the Code of Federal Regulations (CFR), parts 1300 to 1321. The CSA and its implementing regulations are designed to prevent, detect, and eliminate the diversion of controlled substances and listed chemicals into the illicit market while ensuring a sufficient supply of controlled substances and listed chemicals for legitimate medical, scientific, research, and industrial purposes.

Pursuant to its statutory authority, DEA continuously evaluates new and emerging substances to determine whether such substances should be controlled under the CSA. During fiscal year 2013, in addition to initiating temporary scheduling actions to prevent immediate harm to the public safety, DEA will also consider petitions to schedule or reschedule various substances. Among other regulatory reviews and initiatives, DEA also plans to propose and finalize regulations implementing the Secure and Responsible Drug Disposal Act of 2010 (Pub. L. 111–273) to provide means for individuals to safely and securely dispose of controlled substances.

2013

Bureau of Prisons Initiatives. The Federal Bureau of Prisons issues regulations to enforce the Federal laws relating to its mission: To protect society by confining offenders in the controlled environments of prisons and community-based facilities that are safe, humane, cost-efficient, and appropriately secure, and that provide work and other self-improvement opportunities to assist offenders in becoming law-abiding citizens. During the next 12 months, in addition to other regulatory objectives aimed at accomplishing its mission, the Bureau will continue its ongoing efforts to: Streamline regulations, eliminating unnecessary language and improving readability; improve disciplinary procedures through a revision of the subpart relating to the disciplinary process; reduce the introduction of contraband through various means, such as clarifying drug and alcohol surveillance testing programs; protect the public from continuing criminal activity committed within prison; and enhance the Bureau's ability to more closely monitor the communications of high-risk inmates.

Immigration

On March 1, 2003, pursuant to the Homeland Security Act of 2002 (HSA), the responsibility for immigration enforcement and for providing immigration-related services and benefits, such as naturalization and work authorization, was transferred from the Justice Department's Immigration and Naturalization Service (INS) to the Department of Homeland Security (DHS). However, the immigration judges and the Board of Immigration Appeals (Board) in the Executive Office for Immigration Review (EOIR) remain part of the Department of Justice. The immigration judges adjudicate approximately 400,000 cases each year to determine whether aliens should be removed from the United States or should be granted some form of relief from removal. The Board has jurisdiction over appeals from the decisions of immigration judges, as well as other matters. Accordingly, the Attorney General has a continuing role in the conduct of removal hearings, the granting of relief from removal, and custody determinations regarding the detention of aliens pending completion of removal proceedings. The Attorney General also is responsible for civil litigation and criminal prosecutions relating to the immigration laws.

In several pending rulemaking actions, the Department is working to revise and update the regulations relating to removal proceedings in order to improve the efficiency and effectiveness of the hearings. In furtherance of these goals, the Department is drafting a regulation to improve the recognition and accreditation process for organizations and representatives that appear in immigration proceedings. With the assistance of DHS, the Department is also drafting a regulation pursuant to the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 to implement procedures that take into account the specialized needs of unaccompanied alien children in removal proceedings. In addition, the Department is considering regulatory action to address mental incompetency issues in removal proceedings. Moreover, the Department is finalizing a regulation requiring attorneys and accredited representatives to register electronically with EOIR, as an initial step in a multi-year, multi-phased initiative to make the transition to an electronic case access and filing system. Finally, in response to Executive Order 13653, the Department is retrospectively reviewing EOIR's regulations to eliminate regulations that unnecessarily duplicate DHS's regulations and update outdated references to the pre-2002 immigration system.

Retrospective Review of Existing Regulations

Pursuant to section 6 of Executive Order 13563 ''Improving Regulation and Regulatory Review'' (Jan. 18, 2011), the following Regulatory Identifier Numbers (RINs) have been identified as associated with retrospective review and analysis in the Department's final retrospective review of regulations plan. Some of these entries on this list may be completed actions, which do not appear in *The Regulatory Plan.* However, more information can be found about these completed rulemakings in past publications of the Unified Agenda on Reginfo.gov in the Completed Actions section for that agency. These rulemakings can also be found on Regulations.gov. The final Justice Department plan can be found at: *http://www.justice.gov/open/doj-rr-final-plan.pdf.*

RIN	Title	Description
1140–AA42	Importation of Arms, Ammunition and Implements of War and Machine Guns, Destructive Devices, and Certain Other Firearms; Extending the Term of Import Permits''.	The regulations in 27 CFR 447 and 479 generally provide that firearms, ammunition, and defense articles may not be imported into the United States except pursuant to a permit. Section 447.43 provides that import permits are valid for one year from their issuance date. ATF will consider whether these regulations could be revised to achieve the same regulatory objective in a manner that is less burdensome for both industry and ATF. This rulemaking could reduce paperwork burdens on the small entities that apply for these permits by as much as half.
1125–AA71	Retrospective Regulatory Review Under E.O. 13563 of 8 CFR Parts 1003, 1103, 1211, 1212, 1215, 1216, 1235.	Advance notice of future rulemaking concerning appeals of DHS decisions (8 CFR part 1103), documentary requirements for aliens (8 CFR parts 1211 and 1212), control of aliens departing from the United States (8 CFR part 1215), procedures governing conditional permanent resident status (8 CFR part 1216), and inspection of individuals applying for admission to the United States (8 CFR part 1235). A number of attorneys, firms, and organizations in immigration practice are small entities. EOIR believes this rule will improve the efficiency and fairness of adjudications before EOIR by, for example, eliminating duplication, ensuring consistency with the Department of Homeland Security's regulations in chapter I of title 8 of the CFR, and delineating more clearly the authority and jurisdiction of each agency.

Executive Order 13609—Promoting International Regulatory Cooperation

The Department is not currently engaged in international regulatory cooperation activities that are reasonably anticipated to lead to significant regulations.

DOJ—CIVIL RIGHTS DIVISION (CRT)

Proposed Rule Stage

69. Implementation of the ADA Amendments Act of 2008 (Title II and Title III of the ADA)

Priority: Other Significant.

Legal Authority: Pub. L. 110–325; 42 U.S.C. 12134(a); 42 U.S.C. 12186(b)

CFR Citation: 28 CFR part 35; 28 CFR part 36.

Legal Deadline: None.

Abstract: This rule would propose to amend the Department's regulations implementing title II and title III of the Americans with Disabilities Act (ADA), 28 CFR part 35 and 28 CFR part 36, to implement changes to the ADA enacted in the ADA Amendments Act of 2008, Public Law 110–325, 122 Stat. 3553 (Sept. 25, 2008). The ADA Amendments Act took effect on January 1, 2009.

The ADA Amendments Act amended the Americans with Disabilities Act, 42 U.S.C. 12101, *et seq.,* to clarify terms within the definition of disability and to establish standards that must be applied to determine if a person has a covered disability. These changes are intended to mitigate the effects of the Supreme Court's decisions in Sutton v. United Airlines, 527 U.S. 471 (1999), and Toyota Motor Manufacturing v. Williams, 534, U.S. 184 (2002). Specifically, the ADA Amendments Act (1) adds illustrative lists of ''major life activities,'' including ''major bodily functions,'' that provide more examples of covered activities and covered conditions than are now contained in agency regulations (sec. 3[2]); (2) clarifies that a person who is ''regarded as'' having a disability does not have to be regarded as being substantially limited in a major life activity (sec. 3[3]); and (3) adds rules of construction regarding the definition of disability that provide guidance in applying the term ''substantially limits'' and prohibit consideration of mitigating measures in determining whether a person has a disability (sec. 3[4]).

Statement of Need: This rule is necessary to bring the Department's ADA regulations into compliance with the ADA Amendments Act of 2008, which became effective on January 1, 2009. In addition, this rule is necessary to make the Department's ADA title II and title III regulations consistent with the ADA title I regulations issued on March 25, 2011 by the Equal Employment Opportunity Commission (EEOC) incorporating the ADA Amendments Act definition of disability.

Summary of Legal Basis: The summary of the legal basis of authority for this regulation is set forth above in the abstract.

Alternatives: Because this NPRM implements statutory changes to the ADA, there are no appropriate alternatives to issuing this NPRM.

Anticipated Cost and Benefits: The Department's preliminary analysis indicates that the proposed rule would not be ''economically significant,'' that is, the rule will not have an annual effect on the economy of $100 million, or adversely affect in a material way the economy, a sector of the economy, the environment, public health or safety or State, local or tribal governments or communities. In this NPRM, the Department will be soliciting public comment in response to its preliminary analysis.

Risks: The ADA authorizes the Attorney General to enforce the ADA and to promulgate regulations implementing the law's requirements. Failure to update the Department's regulations to conform to statutory changes and to be consistent with the EEOC regulations under title I of the ADA will interfere with the Department's enforcement efforts and lead to confusion about the law's requirements among entities covered by titles I, II and III of the ADA, as well as members of the public.

Timetable:

Action	Date	FR Cite
NPRM	03/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Businesses, Governmental Jurisdictions.

Government Levels Affected: Local, State

Federalism: Undetermined.

Agency Contact: Gregory B. Friel, Acting Chief, Department of Justice, Civil Rights Division, Disability Rights Section, 950 Pennsylvania Ave. NW., Washington, DC 20031, *Phone:* 800 514–0301, *Fax:* 202 307–1198.

RIN: 1190–AA59

DOJ—CRT

70. Implementation of the ADA Amendments Act of 2008 (Section 504 of the Rehabilitation Act of 1973)

Priority: Other Significant.

Legal Authority: Pub. L. 110–325; 29 U.S.C. 794 (sec 504 of the Rehabilitation Act of 1973, as amended); EO 12250 (45 FR 72955; 11/04/1980)

CFR Citation: 28 CFR part 39; 28 CFR part 41; 28 CFR part 42, subpart G.

Legal Deadline: None.

Abstract: This rule would propose to amend the Department's regulations implementing section 504 of the Rehabilitation Act of 1973, as amended, 28 CFR part 39 and part 42, subpart G, and its regulation implementing Executive Order 12250, 28 CFR part 41, to reflect statutory amendments to the definition of disability applicable to section 504 of the Rehabilitation Act, which were enacted in the ADA Amendments Act of 2008, Public Law 110–325, 122 Stat. 3553 (Sep. 25, 2008). The ADA Amendments Act took effect on January 1, 2009.

The ADA Amendments Act revised 29 U.S.C. section 705, to make the definition of disability used in the nondiscrimination provisions in title V of the Rehabilitation Act consistent with the amended ADA requirements. These amendments (1) add illustrative lists of ''major life activities,'' including ''major bodily functions,'' that provide more examples of covered activities and covered conditions than are now contained in agency regulations (sec. 3[2]); (2) clarify that a person who is ''regarded as'' having a disability does not have to be regarded as being substantially limited in a major life activity (sec. 3[3]); and (3) add rules of construction regarding the definition of disability that provide guidance in applying the term ''substantially limits'' and prohibit consideration of mitigating measures in determining whether a person has a disability (sec. 3[4]).

The Department anticipates that these changes will be published for comment in a proposed rule within the next 12 months. During the drafting of these revisions, the Department will also review the currently published rules to ensure that any other legal requirements under the Rehabilitation Act have been properly addressed in these regulations.

Statement of Need: This rule is necessary to bring the Department's prior section 504 regulations into compliance with the ADA Amendments Act of 2008, which became effective on January 1, 2009.

Summary of Legal Basis: The summary of the legal basis of authority for this regulation is set forth above in the abstract.

Alternatives: Because this NPRM implements statutory changes to the Section 504 definition of disability, there are no appropriate alternatives to issuing this NPRM.

Anticipated Cost and Benefits: The Department has determined that this rule would not be ''economically significant,'' that is, that the rule will not have an annual effect on the economy of $100 million, or adversely affect in a material way the economy, a sector of the economy, the environment, public health or safety or State, local or tribal governments or communities. In this NPRM, the Department will be soliciting public comment in response to its preliminary analysis.

Risks: Failure to update the Department's Section 504 regulations to conform to statutory changes will interfere with the Department's enforcement efforts and lead to confusion about the law's requirements among entities that receive federal financial assistance from the Department or who participate in its federally conducted programs.

Timetable:

Action	Date	FR Cite
NPRM	11/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Businesses, Governmental Jurisdictions.

Government Levels Affected: Local, State.

Federalism: Undetermined.

Agency Contact: Gregory B. Friel, Acting Chief, Department of Justice, Civil Rights Division, Disability Rights Section, 950 Pennsylvania Ave. NW., Washington, DC 20031, *Phone:* 800 514–0301, *Fax:* 202 307–1198.

RIN: 1190–AA60

DOJ—CRT

71. Nondiscrimination on the Basis of Disability; Movie Captioning and Video Description

Priority: Other Significant.

Legal Authority: 42 U.S.C. 12101, *et seq.*

CFR Citation: 28 CFR part 36.

Legal Deadline: None.

Abstract: Following its advance notice of proposed rulemaking published on July 26, 2010, the Department plans to publish a proposed rule addressing the requirements for captioning and video description of movies exhibited in movie theatres under title III of the Americans with Disabilities Act of 1990 (ADA). Title III prohibits discrimination on the basis of disability in the activities of places of public accommodation (private entities whose operations affect commerce and that fall into one of twelve categories listed in the ADA). 42 U.S.C. 12181–12189. Title III makes it unlawful for places of public accommodation, such as movie theaters, to discriminate against individuals with disabilities in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation (42 U.S.C. 12182[a]). Moreover, title III prohibits places of public accommodation from affording an unequal or lesser service to individuals or classes of individuals with disabilities than is offered to other individuals (42 U.S.C. 12182(b)(1)(A)(ii)). Title III requires places of public accommodation to take ''such steps as may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently because of the absence of auxiliary aids and services, such as captioning and video description, unless the entity can demonstrate that taking such steps would fundamentally alter the nature of the good, service, facility, privilege, advantage, or accommodation being offered or would result in an undue burden,'' (42 U.S.C. 12182(b)(2)(A)(iii)).

Statement of Need: A significant-and increasing-proportion of Americans have hearing or vision disabilities that prevent them from fully and effectively understanding movies without captioning or audio description. For persons with hearing and vision disabilities, the unavailability of captioned or audio-described movies inhibits their ability to socialize and fully take part in family outings and deprives them of the opportunity to meaningfully participate in an important aspect of American culture. Many individuals with hearing or vision disabilities who commented on the Department's 2010 ANPRM remarked that they have not been able to enjoy a commercial movie unless they watched it on TV, or that when they took their

children to the movies they could not understand what they were seeing or discuss what was happening with their children. Today, more and more movies are produced with captions and audio description. However, despite the underlying ADA obligation, the advancement of digital technology and the availability of captioned and audio-described films, many movie theaters are still not exhibiting captioned or audio-described movies, and when they do exhibit them, they are only for a few showings of a movie, and usually at off-times. Recently, a number of theater companies have committed to provide greater availability of captioning and audio description. In some cases, these have been nationwide commitments; in other cases it has only been in a particular state or locality. A uniform federal ADA requirement for captioning and audio description is necessary to ensure that access to movies for persons with hearing and vision disabilities is not dictated by the individual's residence or the presence of litigation in their locality. In addition, the movie theater industry is in the process of converting its movie screens to use digital technology, and the Department believes that it will be extremely helpful to provide timely guidance on the ADA requirements for captioning and audio description so that the industry may factor this into its conversion efforts and minimize costs.

Summary of Legal Basis: The summary of the legal basis of authority for this regulation is set forth above in the abstract.

Alternatives: The Department will consider any public comments that propose achievable alternatives that will still accomplish the goal of providing access to movies for persons with hearing and vision disabilities. However, the Department believes that the baseline alternative of not providing such access would be inconsistent with the provisions of Title III of the ADA.

Anticipated Cost and Benefits: The Department's preliminary analysis indicates that the proposed rule would not be ''economically significant,'' that is, that the rule will not have an annual effect on the economy of $100 million, or adversely affect in a material way the economy, a sector of the economy, the environment, public health or safety or State, local or tribal governments or communities. In the NPRM, the Department will be soliciting public comment in response to its preliminary analysis regarding the costs imposed by the rule.

Risks: Without the proposed changes to the Department's Title III regulation, persons with hearing and vision disabilities will continue to be denied access to movies shown in movie theaters and movie theater owners and operators will not understand what they are required to do in order to provide auxiliary aids and services to patrons with hearing and vision disabilities.

Timetable:

Action	Date	FR Cite
ANPRM	07/26/10	75 FR 43467
ANPRM Comment Period End.	01/24/11	
NPRM	05/00/13	

Regulatory Flexibility Analysis Required: Undetermined.

Small Entities Affected: Businesses.

Government Levels Affected: None.

Agency Contact: Gregory B. Friel, Acting Chief, Department of Justice, Civil Rights Division, Disability Rights Section, 950 Pennsylvania Ave. NW., Washington, DC 20031, *Phone:* 800 514–0301, *Fax:* 202 307–1198.

RIN: 1190–AA63

DOJ—CRT

72. Nondiscrimination on the Basis of Disability: Accessibility of Web Information and Services of State and Local Governments

Priority: Economically Significant. Major status under 5 U.S.C. 801 is undetermined.

Legal Authority: 42 U.S.C. 12101, *et seq.*

CFR Citation: 28 CFR part 35.

Legal Deadline: None.

Abstract: The Department published an ANPRM on July 26, 2010, RIN 1190–AA61, that addressed issues relating to proposed revisions of both the title II and title III ADA regulations in order to provide guidance on the obligations of covered entities to make programs, services and activities offered over the Web accessible to individuals with disabilities.

The Department has now divided the rulemakings in the next step of the rulemaking process so as to proceed with separate notices of proposed rulemakings for title II and title III. The title III rulemaking on Web accessibility will continue under RIN 1190–AA61 and the title II rulemaking will continue under the new RIN 1190–AA65. This rulemaking will provide specific guidance to State and local governments in order to make services, programs, or activities offered to the public via the Web accessible to individuals with disabilities.

The ADA requires that State and local governments provide qualified individuals with disabilities equal access to their programs, services, or activities unless doing so would fundamentally alter the nature of their programs, services, or activities or would impose an undue burden. 42. U.S.C. 12132. The Internet as it is known today did not exist when Congress enacted the ADA; yet today the Internet is dramatically changing the way that governmental entities serve the public. Taking advantage of new technology, citizens can now use State and local government Web sites to correspond online with local officials; obtain information about government services; renew library books or driver's licenses; pay fines; register to vote; obtain tax information and file tax returns; apply for jobs or benefits; and complete numerous other civic tasks. These government Web sites are important because they allow programs and services to be offered in a more dynamic, interactive way in order to increase citizen participation; increase convenience and speed in obtaining information or services; reduce costs in providing information about government services and administering programs; reduce the amount of paperwork; and expand the possibilities of reaching new sectors of the community or offering new programs or services.

Many States and localities have begun to improve the accessibility of portions of their Web sites. However, full compliance with the ADA's promise to provide an equal opportunity for individuals with disabilities to participate in and benefit from all aspects of the programs, services, and activities provided by State and local governments in today's technologically advanced society will only occur if it is clear to public entities that their Web sites must be accessible. Consequently, the Department intends to publish a Notice of Proposed Rulemaking (NPRM) to amend its title II regulations to expressly address the obligations of public entities to make the Web sites they use to provide programs, activities, or services or information to the public accessible to and usable by individuals with disabilities under the legal framework established by the ADA. The proposed regulation will propose the scope of the obligation to provide accessibility when persons with disabilities access public Web sites, as well as propose the technical standards necessary to comply with the ADA.

Statement of Need: Many people with disabilities use ''assistive technology'' to enable them to use computers and access the Internet. Individuals who are blind or have low vision who cannot see

computer monitors may use screen readers—devices that speak the text that would normally appear on a monitor. People who have difficulty using a computer mouse can use voice recognition software to control their computers with verbal commands. People with other types of disabilities may use still other kinds of assistive technology. New and innovative assistive technologies are being introduced every day.

Web sites that do not accommodate assistive technology, for example, can create unnecessary barriers for people with disabilities, just as buildings not designed to accommodate people with disabilities prevent some individuals from entering and accessing services. Web designers may not realize how simple features built into a Web site will assist someone who, for instance, cannot see a computer monitor or use a mouse. In addition, in many cases, these Web sites do not provide captioning for videos or live events streamed over the web, leaving persons who are deaf or hard of hearing unable to access the information that is being provided. Although an increasing number of State and local governments are making efforts to provide accessible Web sites, because there are no specific ADA standards for Web site accessibility, these Web sites vary in actual usability.

Summary of Legal Basis: The ADA requires that State and local governments provide qualified individuals with disabilities equal access to their programs, services, or activities unless doing so would fundamentally alter the nature of their programs, services, or activities or would impose an undue burden. 42 U.S.C. 12132.

Alternatives: The Department intends to consider various alternatives for ensuring full access to Web sites of State and local governments and will solicit public comment addressing these alternatives.

Anticipated Cost and Benefits: The Department anticipates that this rule will be ''economically significant,'' that is, that the rule will have an annual effect on the economy of $100 million, or adversely affect in a material way the economy, a sector of the economy, the environment, public health or safety or State, local or tribal governments or communities. However, the Department believes that revising its title II rule to clarify the obligations of State and local governments to provide accessible Web sites will significantly increase the opportunities for citizens with disabilities to participate in, and benefit from, State and local government programs, activities, and services. It will also ensure that individuals have access to important information that is provided over the Internet, including emergency information. The Department also believes that providing accessible Web sites will benefit State and local governments as it will increase the numbers of citizens who can use these Web sites, and thus improve the efficiency of delivery of services to the public. In drafting this NPRM, the Department will attempt to minimize the compliance costs to State and local governments while ensuring the benefits of compliance to persons with disabilities.

Risks: If the Department does not revise its ADA title II regulations to address Web site accessibility, persons with disabilities in many communities will continue to be unable to access their State and local governmental services in the same manner available to citizens without disabilities, and in some cases will not be able to access those services at all.

Timetable:

Action	Date	FR Cite
ANPRM	07/26/10	75 FR 43460
ANPRM Comment Period End.	01/21/11	
NPRM	07/00/13	

Regulatory Flexibility Analysis Required: Undetermined.

Small Entities Affected: Governmental Jurisdictions.

Government Levels Affected: Local, State.

Federalism: Undetermined.

Additional Information: Split from RIN 1190–AA61.

Agency Contact: Gregory B. Friel, Acting Chief, Department of Justice, Civil Rights Division, Disability Rights Section, 950 Pennsylvania Ave. NW., Washington, DC 20031, *Phone:* 800 514–0301, *Fax:* 202 307–1198.

RIN: 1190–AA65

DOJ—CRT LONG-TERM ACTIONS

73. Nondiscrimination on the Basis of Disability; Accessibility of Web Information and Services of Public Accommodations

Priority: Economically Significant.

Legal Authority: 42 U.S.C. 12101, *et seq.*

CFR Citation: 28 CFR part 36.

Legal Deadline: None.

Abstract: The Department of Justice is considering proposed revisions to the regulation implementing title III of the Americans with Disabilities Act (ADA) in order to address the obligations of public accommodations to make goods, services, facilities, privileges, accommodations, or advantages they offer via the Internet, specifically at sites on the World Wide Web (Web), accessible to individuals with disabilities. The ADA requires that public accommodations provide individuals with full and equal enjoyment of their goods, services, facilities, privileges, advantages, and accommodations. 42. U.S.C. 12182. The Internet as it is known today did not exist when Congress enacted the ADA. Today the Internet, most notably the sites on the Web, plays a critical role in the daily personal, professional, and business life of most Americans. Increasingly, private entities of all types are providing goods and services to the public through Web sites that operate as places of public accommodation under title III of the ADA. Many Web sites of public accommodations, however, render use by individuals with disabilities difficult or impossible due to barriers posed by Web sites designed without accessible features.

Being unable to access Web sites puts individuals at a great disadvantage in today's society, which is driven by a global marketplace and unprecedented access to information. On the economic front, electronic commerce, or ''e-commerce,'' often offers consumers a wider selection and lower prices than traditional ''brick-and-mortar'' storefronts, with the added convenience of not having to leave one's home to obtain goods and services. Beyond goods and services, information available on the Internet has become a gateway to education. Schools at all levels are increasingly offering programs and classroom instruction through Web sites. Many colleges and universities offer degree programs online; some universities exist exclusively on the Internet. The Internet also is changing the way individuals socialize and seek entertainment. Social networks and other online meeting places provide a unique way for individuals to meet and fraternize. These networks allow individuals to meet others with similar interests and connect with friends, business colleagues, elected officials, and businesses. They also provide an effective networking opportunity for entrepreneurs, artists, and others seeking to put their skills and talents to use. Web sites also bring a myriad of entertainment and information options for internet users-from games and music to news and videos.

The ADA's promise to provide an equal opportunity for individuals with disabilities to participate in and benefit from all aspects of American civic and

economic life will be achieved in today's technologically advanced society only if it is clear to businesses, educators, and other public accommodations, that their Web sites must be accessible. Consequently, the Department is proposing to amend its title III regulation to expressly address the obligations of public accommodations to make the Web sites they use to provide their goods and services to the public accessible to and usable by individuals with disabilities under the legal framework established by the ADA. The proposed regulation will propose the scope of the obligation to provide accessibility when persons with disabilities attempt to access Web sites of public accommodations, as well as propose the technical standards necessary to comply with the ADA.

Statement of Need: Many people with disabilities use ''assistive technology'' to enable them to use computers and access the Internet. Individuals who are blind or have low vision who cannot see computer monitors may use screen readers-devices that speak the text that would normally appear on a monitor. People who have difficulty using a computer mouse can use voice recognition software to control their computers with verbal commands. People with other types of disabilities may use still other kinds of assistive technology. New and innovative assistive technologies are being introduced every day. Web sites that do not accommodate assistive technology, for example, can create unnecessary barriers for people with disabilities, just as buildings not designed to accommodate individuals with disabilities can prevent some individuals from entering and accessing services. Web designers may not realize how simple features built into a Web site will assist someone who, for instance, cannot see a computer monitor or use a mouse. In addition, in many cases, these Web sites do not provide captioning for videos or live events streamed over the web, leaving persons who are deaf or hard of hearing unable to access the information that is being provided.

Although the Department has been clear that the ADA applies to Web sites of private entities that meet the definition of ''public accommodations,'' inconsistent court decisions, differing standards for determining web accessibility, and repeated calls for Department action indicate remaining uncertainty regarding the applicability of the ADA to Web sites of entities covered by title III. For these reasons, the Department plans to propose to amendments to its regulation so as to make clear to entities covered by the ADA their obligations to make their Web sites accessible. Despite the need for action, the Department appreciates the need to move forward deliberatively. Any regulations the Department adopts must provide specific guidance to help ensure web access to individuals with disabilities without hampering innovation and technological advancement on the Web.

Summary of Legal Basis: The ADA requires that public accommodations provide individuals with full and equal enjoyment of their goods, services, facilities, privileges, advantages, and accommodations. 42. U.S.C. 12182. Increasingly, private entities of all types are providing goods and services to the public through Web sites that operate as places of public accommodation under title III of the ADA.

Alternatives: The Department intends to consider various alternatives for ensuring full access to Web sites of public accommodations and will solicit public comment addressing these alternatives.

Anticipated Cost and Benefits: The Department anticipates that this rule will be ''economically significant.'' The Department believes that revising its title III rule to clarify the obligations of public accommodations to provide accessible Web sites will significantly increase the opportunities of individuals with disabilities to access the variety of goods and services public accommodations offer on the web, while increasing the number of customers that access the Web sites to procure the goods and service offered by these public accommodations. In drafting this NPRM, the Department will attempt to minimize the compliance costs to public accommodations, while ensuring the benefits of compliance to persons with disabilities.

Risks: If the Department does not revise its ADA title III regulations to address Web site accessibility, persons with disabilities will continue to be unable to access the many goods and services of public accommodations available on the web to individuals without disabilities.

Timetable:

Action	Date	FR Cite
ANPRM	07/26/10	75 FR 43460
ANPRM Comment Period End.	01/24/11	
NPRM	12/00/13	

Regulatory Flexibility Analysis Required: Undetermined.

Small Entities Affected: Businesses.

Government Levels Affected: None.

Additional Information: See also RIN 1190–AA65 which was split from this RIN of 1190–AA61.

Agency Contact: Gregory B. Friel, Acting Chief, Department of Justice, Civil Rights Division, Disability Rights Section, 950 Pennsylvania Ave. NW., Washington, DC 20031, *Phone:* 800 514–0301, *Fax:* 202 307–1198.

RIN: 1190–AA61

BILLING CODE 4410–BP–P

DEPARTMENT OF LABOR

Fall 2012 Statement of Regulatory Priorities

The Department of Labor's fall 2012 agenda continues Secretary Solis' vision of *Good Jobs for Everyone.* It also renews the Labor Department's commitment to efficient and effective regulation through the review and modification of our existing regulations, consistent with Executive Order 13563 (''E.O. 13563'').

The Labor Department's vision of a ''good job'' includes jobs that:

- Increase workers' incomes and narrow wage and income inequality;
- Assure workers are paid their wages and overtime;
- Are in safe and healthy workplaces, and fair and diverse workplaces;
- Provide workplace flexibility for family and personal care-giving;
- Improve health benefits and retirement security for all workers; and,
- Assure workers have a voice in the workplace.

The Department continues to use a variety of mechanisms to achieve the goal of *Good Jobs for Everyone,* including increased enforcement actions, increased education and outreach, and regulatory actions that foster compliance. At the same time, the Department is enhancing the efficiency and effectiveness of its efforts through targeted regulatory actions designed to improve compliance and burden reduction initiatives. The Department's Plan/Prevent/Protect and Openness and Transparency compliance strategies and the implementation of E.O. 13563 create unifying themes that seek to foster a new calculus that strengthens protections for workers. By requiring employers and other regulated entities to take full ownership over their adherence to Department regulations and promoting greater openness and transparency for employers and workers alike, the Department seeks to significantly increase compliance. The increased effectiveness of this compliance strategy will enable the Department to achieve the *Good Jobs for Everyone* goal in a regulatory

environment that is more efficient and less burdensome.

Plan/Prevent/Protect Compliance Strategy: The regulatory actions that comprise the Department's Plan/Prevent/Protect strategy are designed to ensure employers and other regulated entities are in full compliance with the law every day, not just when Department inspectors come calling. The Plan/Prevent/Protect strategy was first announced with the Spring 2010 Regulatory Agenda. Employers, unions, and others who follow the Department's Plan/Prevent/Protect strategy will assure compliance with employment laws before Labor Department enforcement personnel arrive at their doorsteps. Most important, they will assure that workers get the safe, healthy, diverse, family-friendly, and fair workplaces they deserve. In the Fall 2012 Regulatory Agenda, the Occupational Safety and Health Administration (OSHA), Mine Safety and Health Administration (MSHA), and the Office of Federal Contract Compliance Programs (OFCCP) will all propose regulatory actions furthering the Department's implementation of the Plan/Prevent/Protect strategy.

Openness and Transparency—Tools for Achieving Compliance: Greater openness and transparency continues to be central to the Department's compliance and regulatory strategies. The fall 2012- regulatory plan demonstrates the Department's continued commitment to conducting the people's business with openness and transparency, not only as good Government and stakeholder engagement strategies, but as important means to achieve compliance with the employment laws administered and enforced by the Department. Openness and transparency will not only enhance agencies' enforcement actions but will encourage greater levels of compliance by the regulated community and enhance awareness among workers of their rights and benefits. When employers, unions, workers, advocates, and members of the public have greater access to information concerning workplace conditions and expectations, then we all become partners in the endeavor to create *Good Jobs for Everyone.*

Risk Reduction: The Department believes Plan/Prevent/Protect and increased Openness and Transparency will result in improvements to worker health and safety; fair pay, earned overtime compensation, secure benefits; fair, diverse and family-friendly environments that provide workplace flexibility for family and personal care-giving However, when the Department identifies specific hazards and risks to worker health, safety, security, or fairness, the Department will utilize its regulatory powers to limit the risk to workers. The Fall 2012 Regulatory Agenda includes examples of such regulatory initiatives to address such specific concerns, many of which are discussed in this document.

Retrospective Review of Existing Rules: The Fall 2012 Regulatory Agenda aims to achieve more efficient and less burdensome regulation through retrospective review of Labor Department regulations. On January 18, 2011, the President issued Executive Order (E.O.) 13563 entitled ''Improving Regulation and Regulatory Review.'' The E.O. aims to ''strike the right balance'' between what is needed to protect health, welfare, safety, and the environment for all Americans, and what is needed to foster economic growth, job creation, and competitiveness.

In August 2011, as part of a Government wide response to E.O. 13563, the Department published its Plan for Retrospective Analysis of Existing Rules, which identifies several burden-reducing review projects. On March 26, 2012 OSHA published the Hazard Communication/Globally Harmonized System for Classification and Labeling of Chemicals final rule. Cost savings for employers from productivity improvements arising from the rule were estimated to be $507.2 million annually. The estimated net benefits of the rule are $556 million annually. EBSA's Abandoned Plan Program, results in an estimated $500,000 savings, and expanding the program will provide substantial benefits to plans of sponsors in bankruptcy liquidation and bankruptcy trustees while imposing minimal costs ($64,000). These projects estimate monetized savings that would eliminate between roughly $580 to $790 million in annual regulatory burdens. Proposals such as OSHA's Standard Improvement Project—Phase IV (SIP IV) and Revocation of Certification Records are expected to produce additional savings. Several non-regulatory actions are expected to have similar results.

The Department is also taking action to eliminate regulations that are no longer effective or enforceable. This effort will include removal of the Job Training Partnership Act program requirements; attestation requirements by facilities using nonimmigrant aliens as registered nurses as implemented through the Immigration Nursing Relief Act of 1999; and, attestation requirements by employers using F–1 students in off-campus work as authorized by the supplementing sections of Immigration Act of 1990. It will also include removal of regulatory actions that are no longer enforceable, including labor certification process requirements for logging employment and non-H–2A agricultural employment. In total, this agenda includes 10 review projects—that is, more than 13 percent of all the Department's planned regulatory actions.

Pursuant to section 6 of E.O. 13563, the following Regulatory Identifier Numbers (RINs) are associated with the Department's Plan for Retrospective Analysis of Existing Rules. More information about completed rulemakings, which are no longer included in the plan, can be found on Reginfo.gov. The original August 2011 DOL Plan for Retrospective Analysis of Existing Rules and subsequent quarterly updates can be found at: *http://www.dol.gov/regulations/.*

Regulatory Identifier No.	Title of Rulemaking	Whether it is Expected to Significantly Reduce Burdens on Small Businesses
1218–AC34	Bloodborne Pathogens	No.
1218–AC77	Updating OSHA Standards Based on National Consensus Standards (Signage)	No.
1218–AC67	Standard Improvement Project—Phase IV (SIP IV)	Yes.
1218–AC75	Cranes and Derricks in Construction: Revision to Digger Derricks' Requirements	Yes.
1218–AC74	Review/Lookback of OSHA Chemical Standards	To Be Determined.
1218–AC80	Revocation of Certification Records	To Be Determined.
1219–AB72	Criteria and Procedures for Proposed Assessment of Civil Penalties (Part 100)	To Be Determined.
1250–AA05	Sex Discrimination Guidelines	To Be Determined.
1210–AB47	Amendment of Abandoned Plan Program	Yes.

Regulatory Identifier No.	Title of Rulemaking	Whether it is Expected to Significantly Reduce Burdens on Small Businesses
1205–AB59	Equal Employment Opportunity in Apprenticeship and Training, Amendment of Regulations	To Be Determined.
1205–AB62	Implementation of Total Unemployment Rate Extended Benefits Trigger and Rounding Rule	No.
1205–AB68	Job Training Partnership Act; Removal of JTPA	No, action will not increase burden to small businesses as regulatory provisions are no longer operative.
1205–AB65	Labor Certification Process for Logging Employment and Non-H–2A Agricultural Employment	No, action will not increase burden to small businesses as regulatory provisions are no longer operative.
1205–AB66	Attestations by Employers Using F–1 Students in Off-Campus Work	No, action will not increase burden to small businesses as regulatory provisions are no longer operative.
1205–AB67	Attestations by Facilities Using Nonimmigrant Aliens as Registered Nurses	No, action will not increase burden to small businesses as regulatory provisions are no longer operative.

Occupational Safety and Health Administration (OSHA)

OSHA's regulatory program is designed to help workers and employers identify hazards in the workplace, prevent the occurrence of injuries and adverse health effects, and communicate with the regulated community regarding hazards and how to effectively control them. Long-recognized health hazards and emerging hazards place American workers at risk of serious disease and death and are initiatives on OSHA's regulatory agenda. In addition to targeting specific hazards, OSHA is focusing on systematic processes that will modernize the culture of safety in America's workplaces and retrospective review projects that will update regulations and reduce burdens on regulated communities. OSHA's retrospective review projects under E.O.13563 include consideration of the Bloodborne Pathogens standard, updating consensus standards, phase IV of OSHA's standard improvement project (SIP IV), and reviewing various permissible exposure levels.

Plan/Prevent/Protect

• *Infectious Diseases:* OSHA is considering the need for regulatory action to address the risk to workers exposed to infectious diseases in healthcare and other related high-risk environments. OSHA is interested in all routes of infectious disease transmission in healthcare settings not already covered by its bloodborne pathogens standard (e.g. contact, droplet, and airborne) The agency is particularly concerned by studies that indicate that transmission of infectious diseases to both patients and healthcare workers may be occurring as a result of incomplete adherence to recognized, but voluntary, infection control measures. The agency is considering an approach that would combine elements of the Department's Plan/Prevent/Protect strategy with established infection control practices. The agency received strong stakeholder participation in response to its May 2010 request for information and July 2011 stakeholder meetings.

In 2007, the healthcare and social assistance sector as a whole had *16.5* million employees. Healthcare workplaces can range from small private practices of physicians to hospitals that employ thousands of workers. In addition, healthcare is increasingly being provided in other settings such as nursing homes, free-standing surgical and outpatient centers, emergency care clinics, patients' homes, and pre-hospitalization emergency care settings. OSHA is concerned with the movement of healthcare delivery from the traditional hospital setting, with its greater infrastructure and resources to effectively implement infection control measures, into more diverse and smaller workplace settings with less infrastructure and fewer resources, but with an expanding worker population.

• *Injury and Illness Prevention Program:* OSHA's Injury and Illness Prevention Program is the prototype for the Department's Plan/Prevent/Protect strategy. OSHA's first step in this important rulemaking was to hold stakeholder meetings. Stakeholder meetings were held in East Brunswick, NJ; Dallas, Texas; Washington, DC; and Sacramento, California, beginning in June 2010 and ending in August 2010. More than 200 stakeholders participated in these meetings, and in addition, nearly 300 stakeholders attended as observers. The proposed rule will explore requiring employers to provide their employees with opportunities to participate in the development and implementation of an injury and illness prevention program, including a systematic process to proactively and continuously address workplace safety and health hazards. This rule will involve planning, implementing, evaluating, and improving processes and activities that promote worker safety and health hazards. OSHA has substantial evidence showing that employers that have implemented similar injury and illness prevention programs have significantly reduced injuries and illnesses in their workplaces. The new rule would build on OSHA's existing Safety and Health Program Management Guidelines and lessons learned from successful

approaches and best practices that have been applied by companies participating in OSHA's Voluntary Protection Program and Safety and Health Achievement Recognition Program, and similar industry and international initiatives.

Openness and Transparency

• *Modernizing Recordkeeping:* OSHA held informal meetings to gather information from experts and stakeholders regarding the modification of its current injury and illness data collection system that will help the agency, employers, employees, researchers, and the public prevent workplace injuries and illnesses, as well as support President Obama's Open Government Initiative. Under the proposed rule, OSHA will explore requiring employers to electronically submit to the Agency data required by part 1904 (Recording and Reporting Occupational Injuries). The proposed rule will enable OSHA to conduct data collections ranging from the periodic collection of all part 1904 data from a handful of employers to the annual collection of summary data from many employers. OSHA learned from stakeholders that most large employers already maintain their part 1904 data electronically; as a result, electronic submission will constitute a minimal burden on these employers, while providing a wealth of data to help OSHA, employers, employees, researchers, and the public prevent workplace injuries and illnesses. The proposed rule also does not add to or change the recording criteria or definitions in part 1904. The proposed rule only modifies employers' obligations to transmit information from these records to OSHA.

• *Whistleblower Protection Regulations:* The ability of workers to speak out and exercise their legal rights without fear of retaliation is essential to many of the legal protections and safeguards that all Americans value. Whether the goal is the safety of our food, drugs, or workplaces, the integrity of our financial system, or the security of our transportation systems, whistleblowers have been essential to ensuring that our laws are fully and fairly executed. In the fall regulatory agenda, OSHA proposes to issue procedural rules that will establish consistent and transparent procedures for the filing of whistleblower complaints under eight statutes as discussed in the regulatory agenda. These procedural rules will strengthen OSHA's enforcement of its whistleblower program by providing specific timeframes and guidance for filing a complaint with OSHA, issuing a finding, avenues of appeal, and allowable remedies.

Risk Reduction

• *Silica:* In order to target one of the most serious hazards workers face, OSHA is proposing to address worker exposures to crystalline silica through the promulgation and enforcement of a comprehensive health standard. Exposure to silica causes silicosis, a debilitating respiratory disease, and may cause cancer, other chronic respiratory diseases, and renal and autoimmune disease as well. The seriousness of the health hazards associated with silica exposure is demonstrated by the large number of fatalities and disabling illnesses that continue to occur. Over 2 million workers are exposed to crystalline silica in general industry, construction, and maritime industries. Reducing these hazardous exposures through promulgation and enforcement of a comprehensive health standard will contribute to OSHA's goal of reducing occupational fatalities and illnesses. As a part of the Secretary's strategy for securing safe and healthy workplaces, MSHA will also utilize information provided by OSHA to undertake regulatory action related to silica exposure in mines.

• *Preventing Backover Injuries and Fatalities:* Workers across many industries face a serious hazard when vehicles perform backing maneuvers, especially vehicles with an obstructed view to the rear. OSHA is collecting information on this hazard and researching emerging technologies that may help to reduce this risk. NIOSH reports, for example, that one-half of the fatalities involving construction equipment occur while the equipment is backing. Backing accidents cause at least 60 occupational deaths per year. Emerging technologies that address the risks of backing operations include cameras, radar, and sonar—to help view or detect the presence of workers on foot in blind areas—and new monitoring technology, such as tag-based warning systems that use radio frequency (RFID) and magnetic field generators on equipment to detect electronic tags worn by workers. Along with MSHA, which is developing regulations concerning Proximity Detection Systems, and based on information collected and the Agency's review and research, the Agency may consider rulemaking as an appropriate measure to address this source of employee risk. The Agency published an RFI on March 27, 2012 seeking information from the public; the comment period ended on July 27, 2012.

• *Reinforced Concrete in Construction:* OSHA has published an RFI seeking information about the hazards associated with reinforcing operation in construction. Current rules regarding reinforcing steel and post-tensioning activities may not adequately address worker hazards in work related to post-tensioning and reinforcing steel. Both are techniques for reinforcing concrete and are generally used in commercial and industrial construction. OSHA currently has few rules which address the steel reinforcing and post-tensioning fields directly. The few rules that do exist are found in subpart Q—Concrete and Masonry Construction of 29 CFR 1926. OSHA IMIS data indicates that 31 workers died while performing work on or near post-tensioning operations or reinforcing steel between 2000 and 2009. The use of reinforced steel and post-tensioned poured in place concrete in commercial and industrial construction is expected to rise. Without adequate standards, the rate of accidents will likely rise as well. Currently, workers performing steel reinforcing suffer injuries caused by unsafe material handling, structural collapse, and impalement by protruding reinforcing steel dowels, among others. Employees involved in post-tensioning activities are at risk for incidents caused by the misuse of post-tensioning equipment and improper training.

Regulatory Review and Burden Reduction

• *Bloodborne Pathogens:* OSHA will undertake a review of the Bloodborne Pathogen Standard in accordance with the requirements of the Regulatory Flexibility Act, section 5 of Executive Order 12866, and E.O. 13563. The review will consider the continued need for the rule; whether the rule overlaps, duplicates, or conflicts with other Federal, State or local regulations; and the degree to which technology, economic conditions, or other factors may have changed since the rule was evaluated.

• *Updating OSHA Standards Based on National Consensus Standards—Signage:* Under section 6(a) of the OSH Act, during the first 2 years of the Act, the Agency was directed to adopt national consensus standards as OSHA standards. In the more than 40 years since these standards were adopted by OSHA, the organizations responsible for these consensus standards have issued updated versions of these standards. However, in most cases, OSHA has not revised its regulations to reflect later editions of the consensus standards. This project is part of a multi-year project to update OSHA standards that

are based on consensus standards. On June 22nd, OSHA published a Direct Final Rule (DFR) and Notice of Proposed Rulemaking (NPRM) addressing OSHA's Head Protection standards. The Agency received no significant adverse comment, and the standards went into effect September 20, 2012. On (insert date prior to October) OSHA published another DFR/NPRM Consensus Standard addressing signage.

• *Standard Improvement Project—Phase IV (SIP IV):* OSHA's Standards Improvement Projects (SIPs) are intended to remove or revise duplicative, unnecessary, and inconsistent safety and health standards. The Agency has published three earlier final standards to remove unnecessary provisions, thus reducing costs or paperwork burden on affected employers. The Agency believes that these standards have reduced the compliance costs and eliminated or reduced the paperwork burden for a number of its standards. The Agency only considers such changes to its standards so long as they do not diminish employee protections. The Agency initiated a fourth rulemaking effort to identify unnecessary or duplicative provisions or paperwork requirements that is focused primarily on revisions to its construction standards in 29 CFR 1926.

• *Cranes and Derricks in Construction: Revision to Digger Derricks' Requirements:* OSHA published its final Cranes and Derricks in Construction Standard in August 2010. Edison Electric Institute (EEI) filed a petition for review challenging several aspects of the standard, including the scope of the exemption for digger derricks. As part of the settlement agreement with EEI, OSHA agreed to publish a direct final rule expanding the scope of a partial exemption for work by digger derricks. In the direct final rule, OSHA will revise the scope provision on digger derricks as an exemption for all work done by digger derricks covered by subpart V of 29 CFR 1926. The change in scope will result in an estimated cost savings of $21.6 million annually.

• *Review-Lookback of OSHA Chemical Standards:* The majority of OSHA's Permissible Exposure Limits (PELs) were adopted in 1971 under section 6(a) of the OSH Act, and only a few have been successfully updated since that time. There is widespread agreement among industry, labor, and professional occupational safety and health organizations that OSHA's PELs are outdated and need revising in order to take into account newer scientific data that indicate that significant occupational health risks exist at levels below OSHA's current PELs. In 1989, OSHA issued a final standard that lowered PELs for over 200 chemicals and added PELs for 164. However, the final rule was challenged and ultimately vacated by the 11th Circuit Court of Appeals in 1991 citing deficiencies in OSHA's analyses. Since that time, OSHA has made attempts to examine its outdated PELs in light of the Court's 1991 decision. Most recently, OSHA sought input through a stakeholder meeting and web forum to discuss various approaches that might be used to address its outdated PELs. As part of the Department's Regulatory Review and Lookback Efforts, OSHA is developing a Request for Information (RFI), seeking input from the public to help the Agency identify effective ways to address occupational exposure to chemicals.

• *Confined Spaces in Construction:* In 1993, OSHA issued a rule to protect employees who enter confined spaces while engaged in general industry work (29 CFR 1910.146). This standard did not address confined space entry in construction. Pursuant to discussions with the United Steel Workers of America that led to a settlement agreement regarding the general industry standard, OSHA agreed to issue a proposed rule to protect construction workers in confined spaces. The proposed rule for confined spaces in construction was published in 2007, public hearings were held in 2008.

Mine Safety and Health Administration (MSHA)

The Mine Safety and Health Administration is the worker protection agency focused on the prevention of death, disease, and injury from mining and the promotion of safe and healthful workplaces for the Nation's miners. The Department believes that every worker has a right to a safe and healthy workplace. Workers should never have to sacrifice their lives for their livelihood, and all workers deserve to come home to their families at the end of their shift safe and whole. MSHA's approach to reducing workplace fatalities and injuries includes promulgating and enforcing mandatory health and safety standards. MSHA's retrospective review project under E.O.13563 addresses revising the process for proposing civil penalties.

Plan/Prevent/Protect

• *Proximity Detection Systems for Continuous Mining Machines in Underground Coal Mines:* MSHA published a proposed rule to address the danger that miners face when working near continuous mining machines in underground coal mines. MSHA has concluded, from investigations of accidents involving mobile equipment and other reports, that action was necessary to protect miners. From 1984 to 2012, there have been 32 fatalities resulting from pinning, crushing or striking accidents involving continuous mining machines. Proximity detection technology can prevent these types of accidents. Proximity detection systems can be installed on mining machinery to detect the presence of personnel or equipment within a certain distance of the machine. The rule would strengthen the protection for underground miners by reducing the potential for pinning, crushing, or striking hazards associated with working close to continuous mining machines.

• *Proximity Detection Systems for Mobile Machines in Underground Mines:* MSHA plans to publish a proposed rule to require underground coal mine operators to equip shuttle cars, coal hauling machines, continuous haulage systems, and scoops with proximity detection systems. Miners working near these machines face pinning, crushing, and striking hazards that have resulted, and continue to result, in accidents involving life threatening injuries and death. The proposal would strengthen protections for miners by reducing the potential for pinning, crushing, or striking accidents in underground mines.

Openness and Transparency

• *Pattern of Violations:* MSHA has determined that the existing pattern criteria and procedures contained in 30 CFR part 104 do not reflect the statutory intent for section 104(e) of the Federal Mine Safety and Health Act of 1977 (Mine Act). The legislative history of the Mine Act explains that Congress intended the pattern of violations to be an enforcement tool for operators who have demonstrated a disregard for the health and safety of miners. These mine operators, who have a chronic history of persistent significant and substantial (S&S) violations, needlessly expose miners to the same hazards again and again. This indicates a serious safety and health management problem at a mine. The goal of the pattern of violations final rule is to compel operators to manage health and safety conditions so that the root causes of S&S violations are found and fixed before they become a hazard to miners. The final rule would reflect statutory intent, simplify the pattern of violations

criteria, and improve consistency in applying the pattern of violations criteria. MSHA developed an online service that enables mine operators, miners, and others to monitor a mining operation to determine if the mine could be approaching a potential pattern of violations. The web tool contains the specific criteria that MSHA uses to review a mine for a potential pattern of violations. The pattern of violations monitoring tool promotes openness and transparency in government.

• *Notification of Legal Identity:* The existing requirements do not provide sufficient information for MSHA to identify all of the mine ''operators'' responsible for operator safety and health obligations under the Federal Mine Safety and Health Act of 1977, as amended. This proposed regulation would expand the information required to be submitted to MSHA to create more transparent and open records that would allow the Agency to better identify and focus on the most egregious or persistent violators and more effectively deter future violations by imposing penalties and other remedies on those violators.

Risk Reduction

• *Lowering Miners' Exposure to Coal Mine Dust, including Continuous Personal Dust Monitors:* MSHA will continue its regulatory action related to preventing Black Lung disease. Data from the NIOSH indicate increased prevalence of coal workers pneumoconiosis (CWP) ''clusters'' in several geographical areas, particularly in the Southern Appalachian Region. MSHA published a notice of proposed rulemaking to address continued risk to coal miners from exposure to respirable coal mine dust. This regulatory action is part of MSHA's Comprehensive Black Lung Reduction Strategy for reducing miners' exposure to respirable dust. This strategy includes enhanced enforcement, education and training, and health outreach and collaboration.

• *Regulatory Actions in Response to Recommendations Resulting From the Investigation of the Upper Big Branch Explosion:* On April 5, 2010, a massive coal dust explosion occurred a the Upper Big Branch Mine. Following the explosion, MSHA conducted its investigation under the authority of the Federal Mine Safety and Health Act of 1977, for the purpose of obtaining, using, and disseminating information relating to the causes of accidents. The accident report included recommendations for regulatory actions to prevent a recurrence of this type of accident. MSHA also conducted an internal review (IR) into the Agency's actions leading up to the explosion. The IR report also included recommendations for regulatory actions. In response to the recommendations, MSHA will address issues associated with rock dusting, ventilation, the operator's responsibility for certain mine examinations and certified persons.

• *Respirable Crystalline Silica Standard:* The Agency's regulatory actions also exemplify a commitment to protecting the most vulnerable populations while assuring broad-based compliance. Health hazards are pervasive in both coal and metal/nonmetal mines, including surface and underground mines and large and small mines. As mentioned previously, as part of the Secretary's strategy for securing safe and healthy workplaces, both MSHA and OSHA will be undertaking regulatory actions related to silica. Overexposure to crystalline silica can result in some miners developing silicosis, an irreversible but preventable lung disease, which ultimately may be fatal. In its proposed rule, MSHA plans to follow the recommendations of the Secretary of Labor's Advisory Committee on the Elimination of Pneumoconiosis Among Coal Mine Workers, the National Institute for Occupational Safety and Health (NIOSH), and other groups to address the exposure limit for respirable crystalline silica. As another example of intra-departmental collaboration, MSHA intends to consider OSHA's work on the health effects of occupational exposure to silica and OSHA's risk assessment in developing the appropriate standard for the mining industry.

Regulatory Review and Burden Reduction

• *Criteria and Procedures for Proposed Assessment of Civil Penalties (Part 100*): MSHA plans to publish a proposed rule to revise the process for proposing civil penalties. The assessment of civil penalties is a key component in MSHA's strategy to enforce safety and health standards. The Congress intended that the imposition of civil penalties would induce mine operators to be proactive in their approach to mine safety and health, and take necessary action to prevent safety and health hazards before they occur. MSHA believes that the procedures for assessing civil penalties can be revised to improve the efficiency of the Agency's efforts and to facilitate the resolution of enforcement issues.

Office of Federal Contract Compliance Programs (OFCCP)

Through the work of OFCCP, DOL ensures that contractors and subcontractors doing business with the Federal Government provide equal employment opportunity and take affirmative action to create fair and diverse workplaces. OFCCP also combats discrimination based on race, color, religion, sex, national origin, disability, or status as a protected veteran by ensuring that federal contractors recruit, hire, train, promote, terminate, and compensate workers in a nondiscriminatory manner. DOL, through OFCCP, protects workers, promotes diversity and enforces civil rights laws.

Plan/Prevent/Protect

• *Construction Contractor Affirmative Action Requirements:* OFCCP plans to publish a proposed rule that would enhance the effectiveness of the affirmative action programs of Federal and federally assisted construction contractors and subcontractors. The existing regulations provide that the Director is to issue goals and timetables for the utilization of minorities and women based on appropriate workforce, demographic or other relevant data. The existing minority goals for construction were issued in a 1980 based on 1970 Census data, the most current data available at the time. The goals for the utilization of women in the construction occupations were issued in 1978, and extended indefinitely in 1980, are were also developed using 1970 Census data. The proposed rule would remove these outdated goals and instead give contractors increased flexibility to assess their workforce and determine whether disparities in the utilization of women or the utilization of a particular racial or ethnic group in an on-site construction job group exist. The proposed rule would also provide contractors and subcontractors the tools to assess their progress and appropriately tailor their affirmative action plans. The proposed rule would strengthen affirmative action programs particularly in the areas of recruitment, training, and apprenticeships. The proposed rule would also allow contractors and subcontractors to focus on their affirmative action obligations earlier in the contracting process. OFCCP is coordinating with the Employment and Training Administration (ETA), which is developing a proposed regulation revising the equal opportunity regulatory framework under the National Apprenticeship Act.

Regulatory Review and Burden Reduction

• *Sex Discrimination Guidelines:* OFCCP proposes updating regulations setting forth contractors' obligations not to discriminate on the basis of sex under Executive Order 11246, as amended. The Sex Discrimination Guidelines, found at 41 CFR Part 60–20, have not been updated in more than 30 years and warrants a regulatory lookback. Since that time, the nature and extent of women's participation in the labor force and employer policies and practices have changed significantly. In addition, extensive changes in the law regarding sex-based employment discrimination have taken place. Title VII of the Civil Rights Act of 1964, which generally governs the law of sex-based employment discrimination, has been amended twice. The nondiscrimination requirement of the Sex Discrimination Guidelines also applies to contractors and subcontractors performing under federally assisted construction contracts. OFCCP will issue a Notice of Proposed Rulemaking to create sex discrimination regulations that reflect the current state of the law in this area.

Employee Benefits Security Administration (EBSA)

The Employee Benefits Security Administration (EBSA) is responsible for administering and enforcing the fiduciary, reporting and disclosure, and health coverage provisions of title I of the Employee Retirement Income Security Act of 1974 (ERISA). This includes recent amendments and additions to ERISA enacted in the Pension Protection Act of 2006, as well as new health coverage provisions under the Patient Protection and Affordable Care Act of 2010 (the Affordable Care Act). EBSA's regulatory plan initiatives are intended to improve health benefits and retirement security for workers in every type of job at every income level. EBSA is charged with protecting approximately 140 million Americans covered by an estimated 707,000 private retirement plans, 2.3 million health plans, and similar numbers of other welfare benefit plans, which together hold $6.7 trillion in assets.

EBSA will continue to issue guidance implementing the health reform provisions of the Affordable Care Act to help provide better quality health care for American workers and their families. EBSA's regulations reduce discrimination in health coverage, promote better access to quality coverage, and protect the ability of individuals and businesses to keep their current health coverage. Many regulations are joint rulemakings with the Departments of Health and Human Services and the Treasury.

Using regulatory changes to produce greater openness and transparency is an integral part of EBSA's contribution to a department-wide compliance strategy. These efforts will not only enhance EBSA's enforcement toolbox but will encourage greater levels of compliance by the regulated community and enhance awareness among workers of their rights and benefits. Several proposals from the EBSA agenda expand disclosure requirements, substantially enhancing the availability of information to employee benefit plan participants and beneficiaries and employers, and strengthening the retirement security of America's workers. EBSA's retrospective review project under E.O.13563 is Abandoned Plan Program amendments.

Risk Reduction

• *Health Reform Implementation:* Since the passage of health care reform, EBSA has helped put the employment-based health provisions into action. Working with HHS and Treasury, EBSA has issued regulations covering issues such as the elimination of preexisting condition exclusions for children under age 19, internal and external appeals of benefit denials, the extension of coverage for children up to age 26, and a ban on rescissions (which are retroactive terminations of health care coverage). These regulations will eventually impact up to 138 million Americans in employer-sponsored plans. EBSA will continue its work in this regard, to ensure a smooth implementation of the legislation's market reforms, minimizing disruption to existing plans and practices, and strengthening America's health care system.

• *Enhancing Participant Protections:* EBSA plans to re-propose amendments to its regulations to clarify the circumstances under which a person will be considered a ''fiduciary'' when providing investment advice to retirement plans and other employee benefit plans and participants and beneficiaries of such plans. The amendments would take into account current practices of investment advisers and the expectations of plan officials and participants who receive investment advice. This initiative is intended to assure retirement security for workers in all jobs regardless of income level by ensuring that financial advisers and similar persons are required to meet ERISA's standards of care when providing the investment advice that is relied upon by millions of plan sponsors and workers.

Promoting Openness and Transparency

In addition to its health care reform and participant protection initiatives discussed above, EBSA is pursuing a regulatory program that, as reflected in the Unified Agenda, is designed to encourage, foster, and promote openness, transparency, and communication with respect to the management and operations of pension plans, as well as participant rights and benefits under such plans. Among other things, EBSA will be issuing a final rule addressing the requirement that administrators of defined benefit pension plans annually disclose the funding status of their plan to the plan's participants and beneficiaries (RIN l210–AB18). In addition, EBSA will be finalizing amendments to the disclosure requirements applicable to plan investment options, including Qualified Default Investment Alternatives, to better ensure that participants understand the operations and risks associated with investments in target date funds (RIN 1210–AB38).

• *Lifetime Income Options:* EBSA in 2010 published a request for information concerning steps it can take by regulation, or otherwise, to encourage the offering of lifetime annuities or similar lifetime benefit distribution options for participants and beneficiaries of defined contribution plans. EBSA also held a hearing with the Department of the Treasury and Internal Revenue Service to further explore these possibilities. This initiative is intended to assure retirement security for workers in all jobs regardless of income level by helping to ensure that participants and beneficiaries have the benefit of their plan savings throughout retirement. EBSA now has established a public record which supports further consideration or action in a number of areas including pension benefit statements, participant education, and fiduciary guidance. With regard to pension benefit statements specifically, EBSA is developing an advance notice of proposed rulemaking under ERISA section 105 relating to the presentation of a participant's accrued benefits; i.e., the participant's account balance, as a lifetime income stream of payments, in addition to presenting the benefits as an account balance.

Regulatory Review and Burden Reduction

• *Abandoned Plan Program Amendment:* In 2006, the Department published regulations that facilitate the

termination and winding up of 401(k)-type retirement plans that have been abandoned by their plan sponsors. The regulation establishes a streamlined program under which plans are terminated with very limited involvement of EBSA regional offices. EBSA now has six years of experience with this program and believes certain changes would improve the overall efficiency of the program and increase its usage. EBSA expects that the cost burden reduction that will result from this initiative will be approximately $500,000, because the prompt, efficient termination of abandoned plans will eliminate future administrative expenses charged to the plans that otherwise would diminish plan assets. Moreover, by following the specific standards and procedures set forth in the rule, the Department expects that overall plan termination costs will be reduced due to increased efficiency.

EBSA intends to revise the regulations to expand the program to include plans of businesses in liquidation proceedings to reflect recent changes in the U.S. Bankruptcy Code. The Department believes that this expansion has the potential to substantially reduce burdens on these plans and bankruptcy trustees. Plans of businesses in liquidation currently do not have the option of using the streamlined termination and winding-up procedures under the program. This is true even though bankruptcy trustees, pursuant to the Bankruptcy Code, can have a legal duty to administer the plan. Thus, bankruptcy trustees, who often are unfamiliar with applicable fiduciary requirements and plan-termination procedures, presently have little in the way of a blueprint or guide for efficiently terminating and winding-up such plans. Expanding the program to cover these plans will allow eligible bankruptcy trustees to use the streamlined termination process to better discharge their obligations under the law. The use of streamlined procedures will reduce the amount of time and effort it would take ordinarily to terminate and wind up such plans. The expansion also will eliminate Government filings ordinarily required of terminating plans. Participation in the program will reduce the overall cost of terminating and winding-up such plans, which will result in larger benefit distributions to participants and beneficiaries in such plans. EBSA estimates that approximately 165 additional plans will benefit from the Amended Abandoned Plan Program allowing bankruptcy trustees to participate in the program. As explained above, the current Abandoned Plan Program results in an estimated $500,000 savings for plans terminated pursuant to that program, and we believe the amendment expanding the program will provide substantial benefits to plans of sponsors in Chapter 7 bankruptcy liquidation and bankruptcy trustees through the orderly termination of plans, less service provider fees, and preservation of assets for participants and beneficiaries, while imposing minimal costs ($64,000).

Office of Labor-Management Standards (OLMS)

The Office of Labor-Management Standards (OLMS) administers and enforces most provisions of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA). The LMRDA promotes labor-management transparency by requiring unions, employers, labor-relations consultants, and others to file reports, which are publicly available. The LMRDA includes provisions protecting union member rights to participate in their union's governance, to run for office and fully exercise their union citizenship, as well as procedural safeguards to ensure free and fair union elections. Besides enforcing these provisions, OLMS also ensures the financial accountability of unions, their officers and employees, through enforcement and voluntary compliance efforts. Because of these activities, OLMS better ensures that workers have a more effective voice in the governance of their unions, which in turn affords them a more effective voice in their workplaces. OLMS also administers Executive Order 13496, which requires Federal contractors to notify their employees concerning their rights to organize and bargain collectively under Federal labor laws.

Openness and Transparency

• *Persuader Agreements—Employer and Labor Relations Consultant Reporting under the LMRDA:* OLMS published a proposed regulatory initiative in June 2011, which is a transparency regulation intended to provide workers with information critical to their effective participation in the workplace. The proposed regulations would better implement the public disclosure objectives of the LMRDA in situations where an employer engages a consultant in order to persuade employees concerning their rights to organize and bargain collectively. Under LMRDA section 203, an employer must report any agreement or arrangement with a consultant to persuade employees concerning their rights to organize and collectively bargain, or to obtain certain information concerning activities of employees or a labor organization in connection with a labor dispute involving the employer. The consultant is also required to report such an agreement or arrangement with an employer. Statutory exceptions to these reporting requirements are set forth in LMRDA section 203(c), which provides, in part, that employers and consultants are not required to file a report by reason of the consultant's giving or agreeing to give ''advice'' to the employer. The Department in its proposal reconsidered the current policy concerning the scope of the ''advice'' exception. When workers have the necessary information about arrangements that have been made by their employer to persuade them whether or not to form, join, or assist a union, they are better able to make a more informed choice about representation.

Employment and Training Administration (ETA)

The Employment and Training Administration (ETA) administers and oversees programs that prepare workers for good jobs at good wages by providing high quality job training, employment, labor market information, and income maintenance services through its national network of One-Stop centers. The programs within ETA promote pathways to economic independence for individuals and families. Through several laws, ETA is charged with administering numerous employment and training programs designed to assist the American worker in developing the knowledge, skills, and abilities that are sought in the 21st century's economy.

Regulatory Review and Burden Reduction

• *Equal Employment Opportunity in Apprenticeship and Training, Amendment of Regulations:* The revision of the National Apprenticeship Act Equal Opportunity in Apprenticeship and Training (EEO) regulations is a critical element in the Department's vision to promote and expand registered apprenticeship opportunities in the 21st Century while safeguarding the welfare and safety of all apprentices. In October 2008, ETA issued a final rule updating 29 CFR part 29, the regulatory framework for registration of apprenticeship programs and apprentices, and administration of the National Apprenticeship System. The companion EEO regulations, 29 CFR part 30, have not been amended since 1978. ETA proposes to update part 30 EEO in the Apprenticeship and

Training regulations to ensure that they act in concert with the 2008 revised part 29 rule. The proposed EEO regulations also will further Secretary Solis' vision of good jobs for everyone by ensuring that apprenticeship program sponsors develop and fully implement nondiscrimination and affirmative action efforts that provide equal opportunity for all applicants to apprenticeship and apprentices, regardless of race, gender, national origin, color, religion, or disability.

• *Implementation of Total Unemployment Rate Extended Benefits Trigger and Rounding Rule:* This rule will update regulations to conform to existing law and State practice. It will benefit State Unemployment Insurance systems by remove any potential confusion between complying with guidance and current law.

• *Elimination of several obsolete program regulations from the Code of Federal Regulations:* ETA plans to pursue four regulatory projects that will eliminate regulations that are no longer effective or enforceable because their underlying program authority was superseded or no longer exists. These include the Job Training Partnership Act Removal of JTPA (RIN 1205–AB68), Labor Certification Process for Logging Employment and Non-H–2A Agricultural Employment (RIN 1205–AB65), Attestations by Employers Using F–1 Students in Off-Campus Work (RIN 1205–AB66), and Attestations by Facilities Using Nonimmigrant Aliens as Registered Nurses (RIN 1205–AB67).

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DEPARTMENT OF TRANSPORTATION (DOT)

Introduction: Department Overview and Summary of Regulatory Priorities

The Department of Transportation (DOT) consists of 10 operating administrations and the Office of the Secretary, each of which has statutory responsibility for a wide range of regulations. DOT regulates safety in the aviation, motor carrier, railroad, motor vehicle, commercial space, public transportation, and pipeline transportation areas. DOT also regulates aviation consumer and economic issues and provides financial assistance for programs involving highways, airports, public transportation, the maritime industry, railroads, and motor vehicle safety. In addition, the Department writes regulations to carry out a variety of statutes ranging from the Americans With Disabilities Act to the Uniform Time Act. Finally, DOT develops and implements a wide range of regulations that govern internal DOT programs such as acquisitions and grants, access for the disabled, environmental protection, energy conservation, information technology, occupational safety and health, property asset management, seismic safety, and the use of aircraft and vehicles.

The Department's Regulatory Priorities

The Department's regulatory priorities respond to the challenges and opportunities we face. Our mission generally is as follows:

The national objectives of general welfare, economic growth and stability, and the security of the United States require the development of transportation policies and programs that contribute to providing fast, safe, efficient, and convenient transportation at the lowest cost consistent with those and other national objectives, including the efficient use and conservation of the resources of the United States.

To help us achieve our mission, we have five goals in the Department's Strategic Plan for Fiscal Years 2012–2016:

• Safety: Improve safety by ''reducing transportation-related fatalities and injuries.''

• State of Good Repair: Improve the condition of our Nation's transportation infrastructure.

• Economic Competitiveness: Foster ''smart strategic investments that will serve the traveling public and facilitate freight movements.''

• Livable Communities: Foster livable communities through ''coordinated, place-based policies and investments that increase transportation choices and access to transportation services.''

• Environmental Sustainability: Advance environmental sustainability ''through strategies such as fuel economy standards for cars and trucks, more environmentally sound construction and operational practices, and by expanding opportunities for shifting freight from less fuel-efficient modes to more fuel-efficient modes.''

In identifying our regulatory priorities for the next year, the Department considered its mission and goals and focused on a number of factors, including the following:

• The relative risk being addressed.

• Requirements imposed by statute or other law.

• Actions on the National Transportation Safety Board ''Most Wanted List''.

• The costs and benefits of the regulations.

• The advantages of nonregulatory alternatives.

• Opportunities for deregulatory action.

• The enforceability of any rule, including the effect on agency resources.

This regulatory plan identifies the Department's regulatory priorities—the 20 pending rulemakings chosen, from among the dozens of significant rulemakings listed in the Department's broader regulatory agenda, that the Department believes will merit special attention in the upcoming year. The rules included in the regulatory plan embody the Department's focus on our strategic goals.

The regulatory plan reflects the Department's primary focus on safety—a focus that extends across several modes of transportation. For example:

• The Federal Aviation Administration (FAA) will continue its efforts to implement safety management systems.

• The Federal Motor Carrier Safety Administration (FMCSA) continues its work to strengthen the requirements for Electronic On-Board Recorders.

• The FMCSA will continue its work to revise motor carrier safety fitness procedures.

• The National Highway Traffic Safety Administration (NHTSA) will continue its rulemaking efforts to reduce death and injury resulting from incidents involving motor coaches.

Additionally, the Office of the Secretary of Transportation (OST) remains focused on an aviation consumer rulemaking designed to further safeguard the interests of consumers flying the Nation's skies.

Each of the rulemakings in the regulatory plan is described below in detail. In order to place them in context, we first review the Department's regulatory philosophy and our initiatives to educate and inform the public about transportation safety issues. We then describe the role of the Department's retrospective reviews and its regulatory process and other important regulatory initiatives of OST and of each of the Department's components. Since each transportation ''mode'' within the Department has its own area of focus, we summarize the regulatory priorities of each mode and of OST, which supervises and coordinates modal initiatives and has its own regulatory responsibilities, such as consumer protection in the aviation industry.

The Department's Regulatory Philosophy and Initiatives

The Department has adopted a regulatory philosophy that applies to all its rulemaking activities. This

philosophy is articulated as follows: DOT regulations must be clear, simple, timely, fair, reasonable, and necessary. They will be issued only after an appropriate opportunity for public comment, which must provide an equal chance for all affected interests to participate, and after appropriate consultation with other governmental entities. The Department will fully consider the comments received. It will assess the risks addressed by the rules and their costs and benefits, including the cumulative effects. The Department will consider appropriate alternatives, including nonregulatory approaches. It will also make every effort to ensure that regulation does not impose unreasonable mandates.

The Department stresses the importance of conducting high-quality rulemakings in a timely manner and reducing the number of old rulemakings. To implement this, the Department has required the following actions: (1) Regular meetings of senior DOT officials to ensure effective policy leadership and timely decisions, (2) effective tracking and coordination of rulemakings, (3) regular reporting, (4) early briefings of interested officials, (5) regular training of staff, and (6) adequate allocations of resources. The Department has achieved significant success because of this effort. It allows the Department to use its resources more effectively and efficiently.

The Department's regulatory policies and procedures provide a comprehensive internal management and review process for new and existing regulations and ensure that the Secretary and other appropriate appointed officials review and concur in all significant DOT rules. DOT continually seeks to improve its regulatory process. A few examples include: The Department's development of regulatory process and related training courses for its employees; its use of an electronic, Internet-accessible docket that can also be used to submit comments electronically; a ''list serve'' that allows the public to sign up for email notification when the Department issues a rulemaking document; creation of an electronic rulemaking tracking and coordination system; the use of direct final rulemaking; the use of regulatory negotiation; a continually expanding and improved Internet page that provides important regulatory information, including ''effects'' reports and status reports (*http://www.dot.gov/regulations*); and the continued exploration and use of Internet blogs and other Web 2.0 technology to increase and enhance public participation in its rulemaking process.

In addition, the Department continues to engage in a wide variety of activities to help cement the partnerships between its agencies and its customers that will produce good results for transportation programs and safety. The Department's agencies also have established a number of continuing partnership mechanisms in the form of rulemaking advisory committees.

The Department's Retrospective Review of Existing Regulations

In accordance with Executive Order (E.O.) 13563 (Improving Regulation and Regulatory Review), the Department actively engaged in a special retrospective review of our existing rules to determine whether they need to be revised or revoked. This review was in addition to those reviews in accordance with section 610 of the Regulatory Flexibility Act, E.O. 12866, and the Department's Regulatory Policies and Procedures. As part of this effort, we also reviewed our processes for determining what rules to review and ensuring that the rules are effectively reviewed. As a result of the review, we identified many rules for expedited review and changes to our retrospective review process. Pursuant to section 6 of E.O. 13563, the following Regulatory Identifier Numbers (RINs) have been identified as associated with retrospective review and analysis in the Department's final retrospective review of regulations plan. Some of these entries on this list may be completed actions, which do not appear in *The Regulatory Plan.* However, more information can be found about these completed rulemakings in past publications of the Unified Agenda on Reginfo.gov in the Completed Actions section for that agency. These rulemakings can also be found on Regulations.gov. The final agency plan can be found at *http://www.dot.gov/regulations*.

RIN	Title	Significantly Reduces Costs on Small Businesses
1. 2120–AJ94	Enhanced Flight Vision System (EFVS) (RRR)	
2. 2120–AJ97	14 CFR Part 16; Rules of Practice for Federally-Assisted Airport Enforcement Proceedings (RRR).	Y
3. 2120–AK01	Combined Drug and Alcohol Testing Programs for Operators Conducting Commercial Air Tours (RRR).	Y
4. 2120–AK11	Minimum Altitudes for Use of Autopilots (RRR)	
5. 2125–AF44	Administration of Engineering and Design Related Service Contracts (RRR)	
6. 2126–AB43	Self-Reporting of Out-of-State Convictions (RRR)	Y
7. 2126–AB46	Single Pre-trip Inspection (RRR)	Y
8. 2126–AB47	Electronic Signatures (E-Signatures) (RRR)	Y
9. 2126–AB49	Elimination of Redundant Maintenance Rule (RRR)	Y
10. 2127–AK99	Federal Motor Vehicle Standard No. 108; Lamps, reflective devices, and associated equipment—Color Boundaries (RRR).	Y
11. 2127–AL05	Amend FMVSS No. 210 to Incorporate the Use of a New Force Application Device (RRR)	Y
12. 2127–AL24	Rapid Tire Deflation Test in FMVSS No. 110 (RRR)	
13. 2130–AC06	Training Standards for Railroad Employees (RRR)	
14. 2130–AC07	Development and Use of Rail Safety Technology: Dark Territory (RRR)	
15. 2130–AC09	Vehicle/Track Interaction Safety Standards; High-Speed and High Cant Deficiency Operations (RRR).	
16. 2130–AC11	Risk Reduction Program (RRR)	
17. 2130–AC14	Emergency Escape Breathing Apparatus (RRR)	
18. 2130–AC28	Track Safety Standards: Improving Rail Integrity (RRR)	
19. 2130–AC32	Positive Train Control Systems: De Minimis Exception, Yard Movements, En Route Failures; Miscellaneous Grade Crossing/Signal and Train Control Amendments (RRR).	
20. 2132–AB02	Major Capital Investment Projects (RRR)	
21. 2132–AB03	Environmental Impact and Related Procedures (RRR)	
22. 2133–AB79	Administrative Claims, Part 327 (RRR)	

RIN	Title	Significantly Reduces Costs on Small Businesses
23. 2137–AE62	Hazardous Materials: Approval and Communication Requirements for the Safe Transportation of Air Bag Inflators, Air Bag Modules, and Seat-Belt Pretensioners (RRR).	Y
24. 2137–AE70	Hazardous Materials: Revision of Requirements for Fireworks Approvals (RRR)	Y
25. 2137–AE72	Pipeline Safety: Gas Transmission (RRR)	Y
26. 2137–AE78	Hazardous Materials: Miscellaneous Amendments (RRR)	Y
27. 2137–AE79	Hazardous Materials: Miscellaneous Amendments; Petitions for Rulemaking (RRR)	Y
28. 2137–AE80	Hazardous Materials: Miscellaneous Pressure Vessel Requirements (DOT Spec Cylinders) (RRR).	Y
29. 2137–AE81	Hazardous Materials: Reverse Logistics (RRR)	Y
30. 2137–AE82	Hazardous Materials: Incorporation of Certain Special Permits and Competent Authorities into the HMR (RRR).	Y
31. 2137–AE85	Pipeline Safety: Periodic Updates of Regulatory References to Technical Standards and Miscellaneous Amendments (RRR).	
32. 2137–AE86	Hazardous Materials: Requirements for the Safe Transportation of Bulk Explosives (RRR)	
33. 2137–AE87	Hazardous Materials: Harmonization with International Standards (RRR)	
34. 2137–AE91	Hazardous Materials: Rail Petitions and Recommendations to Improve the Safety of Railroad Tank Car Transportation (RRR).	Y
35. 2137–AE94	Pipeline Safety: Miscellaneous Amendments Related to Reauthorization and Petitions for Rulemaking (RRR*).	Y

International Regulatory Cooperation

E.O. 13609 (Promoting International Regulatory Cooperation) stresses that ''[i]n an increasingly global economy, international regulatory cooperation, consistent with domestic law and prerogatives and U.S. trade policy, can be an important means of promoting the goals of'' E.O. 13563 to ''protect public health, welfare, safety, and our environment while promoting economic growth, innovation, competitiveness, and job creation.'' DOT has long recognized the value of international regulatory cooperation and has engaged in a variety of activities with both foreign governments and international bodies. These activities have ranged from cooperation in the development of particular standards to discussions of necessary steps for rulemakings in general, such as risk assessments and cost-benefit analyses of possible standards. Since the issuance of E.O. 13609, we have increased our efforts in this area. For example, many of DOT's Operating Administrations are active in groundbreaking government-wide Regulatory Cooperation Councils (RCC) with Canada, Mexico, and the European Union. These RCC working groups are setting a precedent in developing and testing approaches to international coordination of rulemaking to reduce barriers to international trade. We also have been exploring innovative approaches to ease the development process.

Examples of the many cooperative efforts we are engaged in include the following:

The FAA maintains ongoing efforts with foreign civil aviation authorities, including in particular the European Aviation Safety Agency and Transport Canada, to harmonize standards and practices where doing so will improve the safety of aviation and aviation-related activities. The FAA also plays an active role in the standard-setting work of the International Civil Aviation Organization (ICAO), particularly on the Air Navigation Commission and the Legal Committee. In doing so, the FAA works with other Nations to shape the standards and recommended practices adopted by ICAO. The FAA's rulemaking actions related to safety management systems are examples of the FAA's harmonization efforts.

As a signatory of the 1998 Agreement on the Harmonization of Vehicle Regulations, NHTSA is an active participant in the World Forum for Vehicle Regulations (WP.29) at the UN. Under that umbrella, NHTSA is working on the development of harmonized regulations for the safety of electric vehicles; hydrogen and fuel cell vehicles; advanced head restraints; pole side impact test procedures; pedestrian protection; the safety risks associated with quieter vehicles, such as electric and hybrid electric vehicles; and advancements in tires.

Further, NHTSA is working bilaterally with Transport Canada to facilitate our Joint Action Plans under the Motor Vehicles Working Group of the U.S.—Canada RCC. Under these plans, NHTSA is working very closely with its counterparts within Transport Canada on the development of international standards on quieter vehicles, electric vehicle safety, and hydrogen and fuel cell vehicles.

PHMSA's hazardous material group works with ICAO, the UN Subcommittee of Experts on Dangerous Goods, and the International Maritime Organization. Through participation in these international bodies, PHMSA is able to advocate on behalf of U.S. safety and commercial interests to guide the development of international standards with which U.S. businesses have to comply when shipping in international commerce. PHMSA additionally participates in the RCC with Canada and has a Memorandum of Cooperation in place to ensure that cross-border shipments are not hampered by conflicting regulations. The pipeline group at PHMSA incorporates many standards by reference into the Pipeline Safety Regulations, and the development of these standards benefit from the participation of experts from around the world.

In the areas of airline consumer protection and civil rights regulation, OST is particularly conscientious in seeking international regulatory cooperation. For example, the Department participates in the standard-setting activities of ICAO and meets and works with other governments and international airline associations on the implementation of U.S. and foreign aviation rules.

For a number of years the Department has also provided information on which of its rulemaking actions have international effects. This information, updated monthly, is available at the Department's regulatory information Web site, *http://www.dot.gov/regulations*, under the heading ''Effects Reports.'' (The reports can be found under headings for ''EU,'' ''NAFTA'' (Canada and Mexico) and ''Foreign.'') A list of our significant rulemakings that are expected to have international effects follows; the identifying RIN provided below can be used to find

summary and other information about the rulemakings in the Department's Regulatory Agenda published along with this Plan:

DOT SIGNIFICANT RULEMAKINGS WITH INTERNATIONAL IMPACTS

RIN	Title
2105–AD90	Stowage and Assistive Devices.
2105–AD91	Accessibility of Airports.
2105–AE06	E-Cigarette.
2120–AJ34	Super cooled Large Droplet Icing Conditions.
2120–AK09	Drug & Alcohol Testing for Repair Stations.
2126–AA34	Application by Certain Mexico-Domiciled Motor Carriers to Operate Beyond U.S. Municipalities and Commercial Zones on the U.S.-Mexico Border.
2126–AA35	Safety Monitoring System and Compliance Initiative for Mexico-Domiciled Motor Carriers Operating in the United States.
2126–AA70	Limitations on the Issuance of Commercial Driver Licenses with a Hazardous Materials Endorsement.
2127–AK43	Rearview Visibility.
2127–AK56	Seat Belts on Motor coaches.
2127–AK75	Alternative Fuel Usage Labeling & Badging.
2127–AK76	Tire Fuel Efficiency Part 2.
2127–AK93	Quieter Vehicles Sound Alert.
2127–AK95	Side Impact Test Procedure for CRS.
2127–AL01	Novelty Helmets Enforcement.
2133–AB74	Cargo Preference (RRR).
2137–AE62	Air Bags and Pretensioners (RRR).

As we identify rulemakings arising out of our ongoing regulatory cooperation activities that we reasonably anticipate will lead to significant regulations, we will add them to our Web site report and subsequent Agendas and Plans.

The Department's Regulatory Process

The Department will also continue its efforts to use advances in technology to improve its rulemaking management process. For example, the Department created an effective tracking system for significant rulemakings to ensure that either rules are completed in a timely manner or delays are identified and fixed. Through this tracking system, a monthly status report is generated. To make its efforts more transparent, the Department has made this report Internet accessible at *http://www.dot.gov/regulations*, as well as through a list-serve. By doing this, the Department is providing valuable information concerning our rulemaking activity and is providing information necessary for the public to evaluate the Department's progress in meeting its commitment to completing quality rulemakings in a timely manner.

The Department continues to place great emphasis on the need to complete high-quality rulemakings by involving senior departmental officials in regular meetings to resolve issues expeditiously.

Office of the Secretary of Transportation (OST)

The Office of the Secretary (OST) oversees the regulatory process for the Department. OST implements the Department's regulatory policies and procedures and is responsible for ensuring the involvement of top management in regulatory decisionmaking. Through the General Counsel's office, OST is also responsible for ensuring that the Department complies with the Administrative Procedure Act, Executive Order 12866 (Regulatory Planning and Review), Executive Order 13563, DOT's Regulatory Policies and Procedures, and other legal and policy requirements affecting rulemaking. Although OST's principal role concerns the review of the Department's significant rulemakings, this office has the lead role in the substance of such projects as those concerning aviation economic rules and rules that affect multiple elements of the Department.

OST provides guidance and training regarding compliance with regulatory requirements and process for personnel throughout the Department. OST also plays an instrumental role in the Department's efforts to improve our economic analyses; risk assessments; regulatory flexibility analyses; other related analyses; retrospective reviews of rules; and data quality, including peer reviews.

OST also leads and coordinates the Department's response to the Office of Management and Budget's (OMB) intergovernmental review of other agencies' significant rulemaking documents and to Administration and congressional proposals that concern the regulatory process. The General Counsel's office works closely with representatives of other agencies, OMB, the White House, and congressional staff to provide information on how various proposals would affect the ability of the Department to perform its safety, infrastructure, and other missions.

During fiscal year 2013, OST will continue to focus its efforts on enhancing airline passenger protections by requiring carriers to adopt various consumer service practices under the following rulemaking initiatives:

- Accessibility of Carrier Web sites and Ticket Kiosks (2105–AD96).
- Enhancing Airline Passenger Protections III (2105–AE11).
- Carrier-Supplied Medical Oxygen, Accessible In-Flight Entertainment Systems, Service Animals, and Accessible Lavatories on Single-Aisle Aircraft (2105–AE12).

OST will also continue its efforts to help coordinate the activities of several operating administrations that advance various departmental efforts that support the Administration's initiatives on promoting safety, stimulating the economy and creating jobs, sustaining and building America's transportation infrastructure, and improving livability for the people and communities who use transportation systems subject to the Department's policies. It will also oversee the Department's rulemaking actions to implement the ''Moving Ahead for Progress in the 21st Century Act'' (MAP–21).

Federal Aviation Administration (FAA)

The Federal Aviation Administration is charged with safely and efficiently

operating and maintaining the most complex aviation system in the world. It is guided by Destination 2025—a transformation of the Nation's aviation system in which air traffic will move safely, swiftly, efficiently, and seamlessly around the globe. Our vision is to develop new systems and to enhance a culture that increases the safety, reliability, efficiency, capacity, and environmental performance of our aviation system. To meet our vision will require enhanced skills, clear communication, strong leadership, effective management, innovative technology, new equipment, advanced system oversight, and global integration.

FAA activities that may lead to rulemaking in fiscal year 2013 include continuing to:

• Promote and expand safety information-sharing efforts, such as FAA-industry partnerships and data-driven safety programs that prioritize and address risks before they lead to accidents. Specifically, FAA will continue implementing Commercial Aviation Safety Team projects related to controlled flight into terrain, loss of control of an aircraft, uncontained engine failures, runway incursions, weather, pilot decisionmaking, and cabin safety. Some of these projects may result in rulemaking and guidance materials.

• Work cooperatively to harmonize the U.S. aviation regulations with those of other countries, without compromising rigorous safety standards, or our requirements to develop cost benefit analysis. The differences worldwide in certification standards, practice and procedures, and operating rules must be identified and minimized to reduce the regulatory burden on the international aviation system. The differences between the FAA regulations and the requirements of other nations impose a heavy burden on U.S. aircraft manufacturers and operators, some of which are small businesses. Standardization should help the U.S. aerospace industry remain internationally competitive. The FAA continues to publish regulations based on internal analysis, public comment, and recommendations of Aviation Rulemaking Committees that are the result of cooperative rulemaking between the U.S. and other countries.

• Develop and implement Safety Management Systems (SMS) where these systems will improve safety of aviation and aviation-related activities. An SMS proactively identifies potential hazards in the operating environment, analyzes the risks of those hazards, and encourages mitigation prior to an accident or incident. In its most general form, an SMS is a set of decisionmaking tools that can be used to plan, organize, direct, and control activities in a manner that enhances safety.

FAA top regulatory priorities for 2012 through 2013 include:

• Qualification, Service, and Use of Crewmembers and Aircraft Dispatchers (2120–AJ00) (Pub. L. 111–216, sec. 209 (Aug. 1, 2010).

• Helicopter Air Ambulance and Commercial Helicopter Safety Initiatives and Miscellaneous Amendments (2120–AJ53) (Pub. L. 112–95, sec 306 (Feb. 14, 2012).

• Congestion Management for LaGuardia Airport, John F. Kennedy International Airport, and Newark Liberty International Airport (2120–AJ89).

• Safety Management System for Certificate Holders Operating Under 14 CFR part 121 (2120–AJ86) (Pub. L. 111–216, sec 215 (Aug. 1, 2010).

The Crewmember and Aircraft Dispatcher Training rulemaking would:

• Reduce human error and improve performance;

• Enhance traditional training programs through the use of flight simulation training devices for flight crewmembers; and

• Include additional training in areas critical to safety.

The Air Ambulance and Commercial Helicopter rulemaking would:

• Codify current agency guidance;

• Address National Transportation Safety Board recommendations;

• Provide certificate holders and pilots with tools and procedures that will aid in reducing accidents, including potential equipage requirements; and

• Amend all part 135 commercial helicopter operations regulations to include pilot training and alternate airport weather minimums.

The Congestion Management rulemaking for LaGuardia Airport, John F. Kennedy International Airport, and Newark Liberty International Airport would:

• Replace the orders limiting scheduled operations at John F. Kennedy International Airport (JFK), limiting scheduled operations at Newark Liberty International Airport (EWR), and limiting scheduled and unscheduled operations at LaGuardia Airport (LGA); and

• Provide a longer-term and comprehensive approach to congestion management at JFK, EWR, and LGA.

The Safety Management System for Certificate Holders Operating under 14 CFR Part 121 rulemaking would:

• Require certain certificate holders to develop and implement an SMS;

• Propose a general framework from which a certificate holder can build its SMS; and

• Conform to International Civil Aviation Organization Annexes and adopt several National Transportation Safety Board recommendations.

Federal Highway Administration (FHWA)

The Federal Highway Administration (FHWA) carries out the Federal highway program in partnership with State and local agencies to meet the Nation's transportation needs. The FHWA's mission is to improve continually the quality and performance of our Nation's highway system and its intermodal connectors.

Consistent with this mission, the FHWA will continue:

• With ongoing regulatory initiatives in support of its surface transportation programs;

• To implement legislation in the least burdensome and restrictive way possible; and

• To pursue regulatory reform in areas where project development can be streamlined or accelerated, duplicative requirements can be consolidated, recordkeeping requirements can be reduced or simplified, and the decisionmaking authority of our State and local partners can be increased.

On July 6, 2012, President Obama signed the Moving Ahead for Progress in the 21st Century Act (MAP–21). MAP–21 authorizes the Federal surface transportation programs for highways, highway safety, and transit for the two-year period from 2012–2014. The FHWA is analyzing MAP–21 to identify congressionally directed rulemakings. These rulemakings will be the FHWA's top regulatory priorities. Additionally, the FHWA is in the process of reviewing all FHWA regulations to ensure that they are consistent with MAP–21 and will update those regulations that are not consistent with the recently enacted legislation.

Federal Motor Carrier Safety Administration (FMCSA)

The mission of the Federal Motor Carrier Safety Administration (FMCSA) is to reduce crashes, injuries, and fatalities involving commercial trucks and buses. A strong regulatory program is a cornerstone of FMCSA's compliance and enforcement efforts to advance this safety mission. FMCSA develops new and more effective safety regulations based on three core priorities: Raising the bar for entry, maintaining high standards, and removing high-risk behavior. In addition to Agency-directed regulations, FMCSA develops

regulations mandated by Congress, through legislation such as the Moving Ahead for Progress in the 21st Century (MAP–21) and the Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU). FMCSA regulations establish standards for motor carriers, drivers, vehicles, and State agencies receiving certain motor carrier safety grants and issuing commercial drivers' licenses.

FMCSA's regulatory plan for FY 2013 includes completion of a number of rulemakings that are high priorities for the Agency because they would have a positive impact on safety. Among the rulemakings included in the plan are: (1) Carrier Safety Fitness Determination (RIN 2126–AB11), (2) Electronic On-Board Recorders and Hours of Service Supporting Documents (RIN 2126–AB20), and (3) Unified Registration System (RIN 2126–AA22).

Together, these priority rules could help to substantially improve commercial motor vehicle (CMV) safety on our Nation's highways by improving FMCSA's ability to provide safety oversight of motor carriers and drivers.

In FY 2013, FMCSA will continue its work on the Comprehensive Safety Analysis (CSA). The CSA initiative will improve the way FMCSA identifies and conducts carrier compliance and enforcement operations over the coming years. CSA's goal is to improve large truck and bus safety by assessing a wider range of safety performance data from a larger segment of the motor carrier industry through an array of progressive compliance interventions. FMCSA anticipates that the impacts of CSA and its associated rulemaking to put into place a new safety fitness standard will enable the Agency to prohibit ''unfit'' carriers from operating on the Nation's highways (the Carrier Safety Fitness Determination (RIN 2126–AB11)) and will contribute further to the Agency's overall goal of decreasing CMV-related fatalities and injuries.

In FY 2013, FMCSA plans to issue a supplemental notice of proposed rulemaking on Electronic On-Board Recorders and Hours of Service Supporting Documents (RIN 2126–AB20) to establish the required usage and technical specifications, and to clarify the requirements for Hours of Service Supporting Documents.

Also in FY 2013, FMCSA plans to issue a final rule on the Unified Registration System (RIN 2126–AA22), which will replace three legacy registration systems with a single system that will improve the registration process for motor carriers, property brokers, freight forwarders, and other entities that register with FMCSA.

National Highway Traffic Safety Administration

The statutory responsibilities of the National Highway Traffic Safety Administration (NHTSA) relating to motor vehicles include reducing the number of, and mitigating the effects of, motor vehicle crashes and related fatalities and injuries; providing safety performance information to aid prospective purchasers of vehicles, child restraints, and tires; and improving automotive fuel efficiency. NHTSA pursues policies that encourage the development of nonregulatory approaches when feasible in meeting its statutory mandates. It issues new standards and regulations or amendments to existing standards and regulations when appropriate. It ensures that regulatory alternatives reflect a careful assessment of the problem and a comprehensive analysis of the benefits, costs, and other impacts associated with the proposed regulatory action. Finally, it considers alternatives consistent with the Administration's regulatory principles.

NHTSA continues to focus on the high-priority vehicle safety issue of motor coaches and their occupants in fiscal year 2013 and plans to issue a notice that would propose promulgation of a new Federal motor vehicle safety standard (FMVSS) for rollover structural integrity requirements for newly manufactured motor coaches in accordance with NHTSA's 2007 Motorcoach Safety Plan, DOT's 2009 departmental Motorcoach Safety Action Plan, and requirements of the Moving Ahead for Progress in the 21st Century (MAP–21) Act. NHTSA will also continue work toward a new FMVSS for electronic stability control systems for motor coaches and truck tractors, and expects to promulgate a final rule that will require the installation of lap/shoulder belts on motor coaches. Together, these rulemaking actions will address nine recommendations issued by the National Transportation Safety Board related to motorcoach safety.

In fiscal year 2013, NHTSA plans to issue a final rule on rear visibility to expand the required field of view to enable the driver of a motor vehicle to detect areas behind the motor vehicle to reduce death and injury resulting from backing incidents, particularly incidents involving small children and disabled persons. This final rule is mandated by the Cameron Gulbransen Kids Transportation Safety Act of 2007. Also in 2013, NHTSA plans to continue work toward a final rule that would establish a new FMVSS to provide a means of alerting blind and other pedestrians of motor vehicle operation. This rulemaking is mandated by the Pedestrian Safety Enhancement Act of 2010 to further enhance the safety of passenger vehicles and pedestrians. NHTSA will also issue a notice that would propose promulgation of a new FMVSS to mandate the installation of Event Data Recorders (EDRs) in light vehicles.

In addition to numerous programs that focus on the safe performance of motor vehicles, the Agency is engaged in a variety of programs to improve driver and occupant behavior. These programs emphasize the human aspects of motor vehicle safety and recognize the important role of the States in this common pursuit. NHTSA has identified two high-priority areas: Safety belt use and impaired driving. To address these issue areas, the Agency is focusing especially on three strategies—conducting highly visible, well-publicized enforcement; supporting prosecutors who handle impaired driving cases and expanding the use of DWI/Drug Courts, which hold offenders accountable for receiving and completing treatment for alcohol abuse and dependency; and adopting alcohol screening and brief intervention by medical and health care professionals. Other behavioral efforts encourage child safety-seat use; combat excessive speed and aggressive driving; improve motorcycle, bicycle, and pedestrian safety; and provide consumer information to the public.

Federal Railroad Administration (FRA)

FRA's current regulatory program reflects a number of pending proceedings to satisfy mandates resulting from the Rail Safety Improvement Act of 2008 (RSIA08), the Passenger Rail Investment and Improvement Act of 2008 (PRIIA), the Moving Ahead for Progress in the 21st Century Act (MAP–21), as well as actions supporting the Department's High-Speed Rail Strategic Plan. RSIA08 alone has required 21 rulemaking actions, 12 of which have been completed. In addition, while FRA is currently developing its regulatory strategy for implementing MAP–21, FRA expects to initiate a rulemaking to amend references to the statutory minimum and maximum penalties for violations of DOT's hazardous materials regulations to be consistent with MAP–21. However, FRA continues to prioritize its rulemakings according to the greatest effect on safety, as well as expressed congressional interest, and will work to complete as many

rulemakings as possible prior to their statutory deadlines.

Through the Railroad Safety Advisory Committee (RSAC), FRA is working to complete many of the RSIA08 actions that include developing requirements for operations in dark territory, track safety, critical incident stress plans, employee training and alcohol and drug testing of maintenance-of-way personnel. FRA is also developing requirements related to the creation and implementation of railroad risk reduction and system safety programs, both of which are required by RSIA08. FRA is also in the process of finalizing other RSAC-supported actions that advance high-speed passenger rail such as final revisions to the Track Safety Standards dealing with vehicle-track interaction. Finally, FRA will be engaging in a rulemaking proceeding to address various miscellaneous issues related to the implementation of positive train control systems. FRA expects this regulatory action to provide substantial benefits to the industry while ensuring the safe and effective implementation of the technology.

Federal Transit Administration (FTA)

FTA helps communities support public transportation by making grants of Federal funding for transit vehicles, construction of transit facilities, and planning and operation of transit and other transit-related purposes. FTA regulatory activity implements the laws that apply to recipients' uses of Federal funding and the terms and conditions of FTA grant awards. FTA policy regarding regulations is to:

- Ensure the safety of public transportation systems;
- Provide maximum benefit to the mobility of the Nation's citizens and the connectivity of transportation infrastructure;
- Provide maximum local discretion;
- Ensure the most productive use of limited Federal resources;
- Protect taxpayer investments in public transportation;
- Incorporate principles of sound management into the grant management process.

As the needs for public transportation have changed over the years, the Federal transit programs have grown in number and complexity, often requiring implementation through the rulemaking process. In fact, FTA is currently developing its regulatory strategy for implementing public transportation programs authorized under MAP–21. For example, MAP–21 recently provided FTA with authority to develop safety standards for public transportation and to provide oversight and enforcement of public transportation safety. FTA's regulatory priorities for the coming year will reflect the mandates of the Agency's authorization statute, including, most notably, developing a National Public Transportation Safety Plan, amending the State Safety Oversight rule (49 CFR part 659), and amending the Major Capital Investments (RIN 2132–AB02) ''New Starts'' program. The New Starts program is the main source of discretionary Federal funding for construction of rapid rail, light rail, commuter rail, and other forms of transit infrastructure. FTA also anticipates amending its regulations governing recipients' management of major capital projects and its Bus Testing rule for purposes of establishing a new bus model pass/fail testing system. Additionally, FTA plans to amend its regulations implementing the National Environmental Policy Act (49 CFR part 771) in order to streamline the FTA environmental review process by updating and expanding the Categorical Exclusions for particular types of proposed transit projects.

Maritime Administration (MARAD)

The Maritime Administration (MARAD) administers Federal laws and programs to improve and strengthen the maritime transportation system to meet the economic, environmental, and security needs of the Nation. To that end, MARAD's efforts are focused upon ensuring a strong American presence in the domestic and international trades and to expanding maritime opportunities for American businesses and workers.

MARAD's regulatory objectives and priorities reflect the agency's responsibility for ensuring the availability of a water transportation services for American shippers and consumers and, in times of war or national emergency, for the U.S. armed forces. Major program areas include the following: Maritime Security, Voluntary Intermodal Sealift Agreement, National Defense Reserve Fleet and the Ready Reserve Force, Cargo Preference, Maritime Guaranteed Loan Financing, United States Merchant Marine Academy, Mariner Education and Training Support, Deepwater Port Licensing, and Port and Intermodal Development. Additionally, MARAD administers the Small Shipyard Grants Program through which equipment and technical skills training are provided to America's maritime workforce, with the aim of helping businesses to compete in the global marketplace while creating well-paying jobs at home.

MARAD's primary regulatory activities in fiscal year 2013 will be to continue the update of existing regulations as part of the Department's Retrospective Regulatory Review effort, and to propose new regulations where appropriate.

Pipeline and Hazardous Materials Safety Administration (PHMSA)

The Pipeline and Hazardous Materials Safety Administration (PHMSA) has responsibility for rulemaking under two programs. Through the Associate Administrator for Hazardous Materials Safety, PHMSA administers regulatory programs under Federal hazardous materials transportation law and the Federal Water Pollution Control Act, as amended by the Oil Pollution Act of 1990. Through the Associate Administrator for Pipeline Safety, PHMSA administers regulatory programs under the Federal pipeline safety laws and the Federal Water Pollution Control Act, as amended by the Oil Pollution Act of 1990. The Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2012 toughened the Federal pipeline safety regulations by strengthening PHMSA's ability to enforce the regulations. The Act includes technical changes to civil penalties and the administrative enforcement processes within Part 190 of the Code of Federal Regulations. PHMSA's authority to enforce the provisions of the Oil Pollution Act of 1990, which had been administered by the Department of Homeland Security, was also returned by the Act.

On July 6, 2012 President Obama signed into law the ''Moving Ahead for Progress in the 21st Century Act''. Prior to this Act being signed into law, the current highway bill was on its ninth temporary extension and was set to expire on June 30, 2012. The Act reauthorizes the federal-aid highway and transit programs through September 30, 2014. For the Office of Hazardous Materials (OHMS), the Act reauthorizes the DOT hazardous materials safety program, and delays a DOT-proposed wetlines regulation until the Government Accountability Office can analyze its costs and benefits. In addition, the Act authorizes PHMSA to conduct pilot projects on using paperless hazard communications systems and report later on whether the agency recommends incorporating such paperless hazcom systems into the Hazardous Materials Regulations (HMR). The Act requires PHMSA to assess methods to collect, analyze and report data on hazmat transportation accidents and incidents. Further the Act directs PHMSA to establish uniform

standards for the training of inspectors and to train inspectors in all modes on how to: (1) Collect, analyze, and publish findings from inspections and investigations of accidents or incidents involving the transportation of hazardous material; (2) how to identify noncompliance with the HMRs; and (3) take appropriate enforcement action. The Act includes language that amends the authority of DOT to open and inspect hazmat packages en route when the inspector reasonably believes the package presents an imminent hazard. In addition, the Act increases the maximum civil penalties for violations of the HMRs from $50,000 to $75,000, and from $100,000 to $175,000 where the violation results in death, serious illness, or severe injury to any person or substantial destruction of property, and adds a minimum civil penalty for training violations of $450. The Act requires a rulemaking within two years to set out procedures and criteria for evaluating applications for special permits and approvals. The Act requires a review and another rulemaking within three years to establish a means to incorporate special permits that have been in continuous effect for a ten-year period into the HMRs. Finally Act requires States to submit to DOT a list of the State's currently effective hazardous material highway route designations and to update that list every two years.

PHMSA will continue to work toward the reduction of deaths and injuries associated with the transportation of hazardous materials by all transportation modes, including pipeline. We will concentrate on the prevention of high-risk incidents identified through the findings of the National Transportation Safety Board and PHMSA's evaluation of transportation incident data. PHMSA will use all available Agency tools to assess data; evaluate alternative safety strategies, including regulatory strategies as necessary and appropriate; target enforcement efforts; and enhance outreach, public education, and training to promote safety outcomes.

PHMSA will continue to focus on the streamlining of its regulatory system and to reduce regulatory burdens. PHMSA will evaluate existing rules to examine whether they remain justified; should be modified to account for changing circumstances and technologies; or should be streamlined or even repealed. PHMSA will continue to be responsive to petitions for rulemaking. PHMSA will review regulations, letters of interpretation, petitions for rulemaking, special permits, enforcement actions, approvals, and international standards to identify inconsistencies, outdated provisions, and barriers to regulatory compliance.

PHMSA will be considering whether changes are needed to the regulations covering hazardous liquid onshore pipelines. In particular, PHMSA is considering whether it should extend regulation to certain pipelines currently exempt from regulation; whether other areas along a pipeline should either be identified for extra protection or be included as additional high-consequence areas (HCAs) for integrity management (IM) protection; whether to establish and/or adopt standards and procedures for minimum lead detection requirements for all pipelines; whether to require the installation of emergency flow restricting devices (EFRDs) in certain areas; whether revised valve spacing requirements are needed on new construction or existing pipelines; whether repair timeframes should be specified for pipeline segments in areas outside the HCAs that are assessed as part of the IM; and whether to establish and/or adopt standards and procedures for improving the methods of preventing, detecting, assessing, and remediating stress corrosion cracking (SCC) in hazardous liquid pipeline systems.

Additionally, PHMSA will consider whether or not to revise the requirements in the pipeline safety regulations addressing integrity management principles for gas transmission pipelines. Specifically, PHMSA will be reviewing the definition of an HCA (including the concept of a potential impact radius), the repair criteria for both HCA and non-HCA areas, requiring the use of automatic and remote-controlled shutoff valves, valve spacing, and whether applying the integrity management program requirements to additional areas would mitigate the need for class location requirements.

Research and Innovative Technology Administration (RITA)

The Research and Innovative Technology Administration (RITA) seeks to identify and facilitate solutions to the challenges and opportunities facing America's transportation system through:

- Coordination, facilitation, and review of the Department's research and development programs and activities;
- Providing multi-modal expertise in transportation and logistics research, analysis, strategic planning, systems engineering and training;
- Advancement, and research and development, of innovative technologies, including intelligent transportation systems;
- Comprehensive transportation statistics research, analysis, and reporting;
- Managing education and training in transportation and national transportation-related fields; and
- Managing the activities of the John A. Volpe National Transportation Systems Center.

Through its Bureau of Transportation Statistics, Office of Airline Information, RITA collects, compiles, analyzes, and makes accessible information on the Nation's air transportation system. RITA collects airline financial, traffic, and operating statistical data, including on-time flight performance data that highlight long tarmac times and chronically late flights. This information gives the Government consistent and comprehensive economic and market data on airline operations that are used in supporting policy initiatives and administering the Department's mandated aviation responsibilities, including negotiating international bilateral aviation agreements, awarding international route authorities, performing airline and industry status evaluations, supporting air service to small communities, setting Alaskan Bush Mail rates, and meeting international treaty obligations.

Through its Intelligent Transportation Systems Joint Program Office (ITS/JPO), RITA conducts research and demonstrations and, as appropriate, may develop new regulations, in coordination with OST and other DOT operating administrations, to enable deployment of ITS research and technology results. This office collects and disseminates benefits and costs information resulting from ITS-related research along with direct measurement of the deployment of ITS nationwide. These efforts support market assessments for emerging market sectors that would be cost-prohibitive for industry to absorb alone. Such information is widely consumed by the community of stakeholders to determine their deployment needs.

The ITS Architecture and Standards Programs develop and maintain a National ITS Architecture; develop open, non-proprietary interface standards to facilitate rapid and economical adoption of nationally interoperable ITS technologies; and cooperate to harmonize ITS standards internationally. These standards are incorporated into DOT operating administration regulatory activities when appropriate.

Through its Volpe National Transportation Systems Center, RITA

provides a comprehensive range of engineering expertise, and qualitative and quantitative assessment services, focused on applying, maintaining, and increasing the technical body of knowledge to support DOT operating administration regulatory activities.

Through its Transportation Safety Institute, RITA designs, develops, conducts, and evaluates training and technical assistance programs in transportation safety and security to support DOT operating administration regulatory implementation and enforcement activities.

RITA's regulatory priorities are to assist OST and all DOT operating administrations in updating existing regulations by applying research, technology, and analytical results; to provide reliable information to transportation system decisionmakers; and to provide safety regulation implementation and enforcement t

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DEPARTMENT OF THE TREASURY

Statement of Regulatory Priorities

The primary missions of the Department of the Treasury are:

- To promote prosperous and stable American and world economies, including promoting domestic economic growth and maintaining our Nation's leadership in global economic issues, supervising national banks and thrift institutions, and helping to bring residents of distressed communities into the economic mainstream.
- To manage the Government's finances by protecting the revenue and collecting the correct amount of revenue under the Internal Revenue Code, overseeing customs revenue functions, financing the Federal Government and managing its fiscal operations, and producing our Nation's coins and currency.
- To safeguard the U.S. and international financial systems from those who would use these systems for illegal purposes or to compromise U.S. national security interests, while keeping them free and open to legitimate users.

Consistent with these missions, most regulations of the Department and its constituent bureaus are promulgated to interpret and implement the laws as enacted by the Congress and signed by the President. It is the policy of the Department to comply with applicable requirements to issue a notice of proposed rulemaking and carefully consider public comments before adopting a final rule. Also, in particular cases, the Department invites interested parties to submit views on rulemaking projects while a proposed rule is being developed.

In response to the events of September 11, 2001, the USA PATRIOT Act of 2001 was signed into law on October 26, 2001. Since then, the Department has accorded the highest priority to developing and issuing regulations to implement the provisions in this historic legislation that target money laundering and terrorist financing. These efforts, which will continue during the coming year, are reflected in the regulatory priorities of the Financial Crimes Enforcement Network (FinCEN).

To the extent permitted by law, it is the policy of the Department to adhere to the regulatory philosophy and principles set forth in Executive Orders 12866, 13563, and 13609 and to develop regulations that maximize aggregate net benefits to society while minimizing the economic and paperwork burdens imposed on persons and businesses subject to those regulations.

Community Development Financial Institutions Fund

The Community Development Financial Institutions Fund (CDFI Fund) was established by the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4701 *et seq.*). The primary purpose of the CDFI Fund is to promote economic revitalization and community development through the following programs: The Community Development Financial Institutions (CDFI) Program, the Bank Enterprise Award (BEA) Program, the Native American CDFI Assistance (NACA) Program, and the New Markets Tax Credit (NMTC) Program. In addition, the CDFI Fund administers the Financial Education and Counseling Pilot Program (FEC), the Capital Magnet Fund (CMF), and the CDFI Bond Guarantee Program (BGP).

In fiscal year (FY) 2013, the CDFI Fund will publish Interim regulations implementing the CDFI Bond Guarantee Program (BGP). The BGP was established through the Small Business Jobs Act of 2010 and authorizes the Secretary of the Treasury (through the CDFI Fund) to guarantee the full amount of notes or bonds, including the principal, interest, and call premiums, issued to finance or refinance loans to certified CDFIs for eligible community or economic development purposes for a period not to exceed 30 years. The bonds or notes will support CDFI lending and investment by providing a source of long-term, patient capital to CDFIs. In accordance with Federal credit policy, the Federal Financing Bank (FFB), a body corporate and instrumentality of the United States Government under the general supervision and direction of the Secretary of the Treasury, will finance obligations that are 100 percent guaranteed by the United States, such as the bonds or notes to be issued by Qualified Issuers under the BGP.

Also in FY 2013, the CDFI Fund will publish revised Environmental Quality Regulations (12 CFR 1815) which will reflect economic and programmatic changes affecting applicants and awardees. The current environmental quality regulations do not reflect the full expansion of programs administered by the CDFI Fund to date. The revised regulations will include technical clarifications, revised definitions, and modifications to categorical exclusions relevant to the CDFI Fund's programs.

In FY 2013, subject to funding availability, the CDFI Fund will provide awards through the following programs:

Community Development Financial Institutions (CDFI) Program. Through the CDFI Program, the CDFI Fund will provide technical assistance grants and financial assistance awards to financial institutions serving distressed communities.

Native American CDFI Assistance (NACA) Program. Through the NACA Program, the CDFI Fund will provide technical assistance grants and financial assistance awards to promote the development of CDFIs that serve Native American, Alaska Native, and Native Hawaiian communities.

Bank Enterprise Award (BEA) Program. Through the BEA Program, the CDFI Fund will provide financial incentives to encourage insured depository institutions to engage in eligible development activities and to make equity investments in CDFIs.

New Markets Tax Credit (NMTC) Program. Through the NMTC Program, the CDFI Fund will provide allocations of tax credits to qualified community development entities (CDEs). The CDEs in turn provide tax credits to private sector investors in exchange for their investment dollars; investment proceeds received by the CDEs are to be used to make loans and equity investments in low-income communities. The CDFI Fund administers the NMTC Program in coordination with the Office of Tax Policy and the Internal Revenue Service.

CDFI Bond Guarantee Program (BGP). Through the BGP, the CDFI Fund will select Qualified Issuers of federally guaranteed bonds, the bond proceeds will be used to make or refinance loans to certified CDFIs. The bonds must be a

minimum of $100 million and may have terms of up to 30 years. The CDFI Fund is authorized to award up to $1 billion in guarantees per fiscal year through FY 2014.

Customs Revenue Functions

The Homeland Security Act of 2002 (the Act) provides that the Secretary of the Treasury retains sole legal authority over the customs revenue functions. The Act also authorizes the Secretary of the Treasury to delegate any of the retained authority over customs revenue functions to the Secretary of Homeland Security. By Treasury Department Order No. 100–16, the Secretary of the Treasury delegated to the Secretary of Homeland Security authority to prescribe regulations pertaining to the customs revenue functions subject to certain exceptions. This Order further provided that the Secretary of the Treasury retained the sole authority to approve such regulations.

During the past fiscal year, among the customs-revenue function regulations issued, was the United States-Oman Free Trade Agreement final rule (76 FR 65365) of October 21, 2011 that adopted interim amendments (76 FR 692) of January 6, 2011, which implemented the preferential tariff treatment and other customs-related provisions of the United States-Oman Free Trade Agreement Implementation Act. CBP also issued the United States-Peru Trade Promotion Agreement interim amendments (76 FR 66875) of November 3, 2011 to the CBP regulations which implemented the United States-Peru Trade Promotion Agreement. CBP plans to finalize this rulemaking before the end of the fiscal year 2012. In addition, CBP published on March 19, 2012 the United States-Korea Free Trade Agreement interim amendments (77 FR 15943) to the CBP regulations which implemented the preferential tariff treatment and other customs-related provisions of the United States-Korea Free Trade Agreement Implementation Act, which took effect on March 15, 2012. CBP also plans to finalize this rulemaking in 2013.

On October 25, 2011, Treasury and CBP issued a final rule (76 FR 65953) that amended the regulations to add provisions for using sampling methods in CBP audits and for the offsetting of overpayments and over-declarations when an audit involves a calculation of lost duties, taxes, or fees or monetary penalties under 19 U.S.C. 1592.

On February 22, 2012, Treasury and CBP published a final rule (77 FR 10368) which amends the CBP regulations by extending the time period after the date of entry for an applicant to file the certification documentation required for duty-free treatment of certain visual and auditory material of an educational, scientific, or cultural character under chapter 98 of the Harmonized Tariff Schedule of the United States.

On March 26, 2012, CBP also issued a final rule (77 FR 17331) that adopted, without change, the April 2011 proposal that where an owner or master of a vessel documented under the laws of the United States fails to timely pay the duties determined to be due to CBP that are associated with the purchase of equipment for, or repair to, the vessel while it is outside the United States, interest will accrue on the amounts owed to CBP and that person will be liable for interest. The purpose of this rule is to ensure that the regulations reflect that CBP collects interest as part of its inherent revenue collection functions in situations where an owner or master of a vessel fails to pay the vessel repair duties determined to be due within 30 days of CBP issuing the bill.

This past fiscal year, consistent with the practice of continuing to move forward with Customs Modernization provisions of the North American Free Trade Implementation Act to improve its regulatory procedures and consistent with the goals of Executive Orders 12866 and 13563, Treasury and CBP finalized on June 8, 2012 (77 FR 33966), its March 2010 proposal regarding customs broker recordkeeping requirements as they pertain to the location and method of record retention. The amendments permit a licensed customs broker, under prescribed conditions, to store records relating to his or her customs transactions at any location within the customs territory of the United States. The amendments also removed the requirement, as it currently applies to brokers who maintain separate electronic records, that certain entry records must be retained in their original format for the 120-day period after the release or conditional release of imported merchandise. These changes maximize the use of available technologies and serve to conform CBP's recordkeeping requirements to reflect modern business practices without compromising the agency's ability to monitor and enforce recordkeeping compliance.

During fiscal year 2013, CBP and Treasury plan to give priority to the following regulatory matters involving the customs revenue functions:

Members of a Family for Purposes of Filing a CBP Family Declaration. Treasury and CBP plan to finalize a proposal to expand the definition of the term, ''members of a family residing in one household,'' to allow more U.S. returning residents traveling as a family upon their arrival in the United States to be eligible to group their duty exemptions and file a single customs declaration for articles acquired abroad.

Informal Entry Limit and Removal of a Formal Entry Requirement. Treasury and CBP plan to publish a final rule amending the regulations to increase the $2,000 limit on the aggregate customs value of informal entries to its statutory maximum of $2,500 in order to mitigate the effects of inflation and to meet the international commitments to Canada for the Beyond the Border Initiative. It also removes the requirement for formal entry for certain articles formerly subject to absolute quotas under the Agreement on Textiles and Clothing.

Trade Act of 2002's preferential trade benefit provisions. Treasury and CBP plan to make permanent several interim regulations that implement the trade benefit provisions of the Trade Act of 2002.

Free Trade Agreements. Treasury and CBP also plan to issue interim regulations this fiscal year to implement the preferential trade benefit provisions of the United States-Singapore Free Trade Agreement Implementation Act. Treasury and CBP also expect to issue interim regulations implementing the preferential trade benefit provisions of the United States-Australia Free Trade Agreement Implementation Act and the United States-Colombia Trade Promotion Agreement Implementation Act.

Customs and Border Protection's Bond Program. Treasury and CBP plan to publish a final rule amending the regulations to reflect the centralization of the continuous bond program at CBP's Revenue Division. The changes proposed would support CBP's bond program by ensuring an efficient and uniform approach to the approval, maintenance, and periodic review of continuous bonds, as well as accommodating the use of information technology and modern business practices.

Disclosure of Information for Certain Intellectual Property Rights Enforced at the Border. Treasury and CBP plan to finalize interim amendments to the CBP regulations which provides a pre-seizure notice procedure for disclosing information appearing on the imported merchandise and/or its retail packing suspected of bearing a counterfeit mark to an intellectual property right holder for the limited purpose of obtaining the right holder's assistance in determining whether the mark is counterfeit or not.

Domestic Finance—Office of the Fiscal Assistant Secretary (OFAS)

The Office of the Fiscal Assistant Secretary develops policy for and oversees the operations of the financial infrastructure of the Federal Government, including payments, collections, cash management, financing, central accounting, and delinquent debt collection.

Anti-Garnishment. On February 23, 2011, the Treasury published an interim final rule and request for public comment with the Office of Personnel Management, the Railroad Retirement Board, the Social Security Administration, and Veterans Affairs. Treasury plans to promulgate a final rule, with the Federal benefit agencies, early in 2013 to give force and effect to various benefit agency statutes that exempt Federal benefits from garnishment. Typically, upon receipt of a garnishment order from a State court, financial institutions will freeze an account as they perform due diligence in complying with the order. The joint final rule will address this practice of account freezes to ensure that benefit recipients have access to a certain amount of lifeline funds while garnishment orders or other legal processes are resolved or adjudicated.

RESTORE Act. On July 6, 2012, the President signed Public Law 112–141, commonly known as the Transportation Bill. The bill includes a significant new responsibility for Treasury under Section 1601 ''Recourses and Ecosystems Sustainability, Tourism Opportunities and Revived Economies of the Gulf Coast States Act of 2012'' (RESTORE Act). The RESTORE Act establishes the Gulf Coast Restoration Trust Fund (the Trust Fund) in the Treasury, to be available for expenditures to restore the Gulf Coast region from the Deepwater Horizon oil spill, and for funding approved Federal, State and local projects and programs to restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, coastal wetlands, and economy of that region. The RESTORE Act gives Treasury significant new responsibilities relating to the expenditures of moneys from the Trust Fund, and requires Treasury to develop procedures to assess whether the programs and activities carried out under the Act are compliant with applicable requirements and to develop requirements for the audit of programs and activities. To meet Treasury's new responsibility, Treasury proposes to issue the required procedures as regulations. The rule will apply to recipients of funds from the Trust Fund and authorized under the RESTORE Act, including the Gulf Coast Ecosystem Restoration Council and state and local governments in the five Gulf Coast States.

Bureau of the Public Debt

The Bureau of the Public Debt (BPD) has responsibility for borrowing the money needed to operate the Federal Government and accounting for the resulting debt, regulating the primary and secondary Treasury securities markets, and ensuring that reliable systems and processes are in place for buying and transferring Treasury securities.

BPD, on Treasury's behalf, administers regulations: (1) Governing transactions in Government securities by Government securities brokers and dealers under the Government Securities Act of 1986 (GSA), as amended; (2) Implementing Treasury's borrowing authority, including rules governing the sale and issue of savings bonds, marketable Treasury securities, and State and local government securities; (3) Setting out the terms and conditions by which Treasury may buy back and redeem outstanding, unmatured marketable Treasury securities through debt buyback operations; (4) Governing securities held in Treasury's retail systems; and (5) Governing the acceptability and valuation of collateral pledged to secure deposits of public monies and other financial interests of the Federal Government.

During fiscal year 2013, BPD will accord priority to the following regulatory projects:

Eliminating Credit Rating References. In compliance with the Dodd-Frank Wall Street Reform and Consumer Protection Act, BPD, on behalf of Treasury (Financial Markets), plans to amend the Government Securities Act regulations (17 CFR chapter IV) to eliminate references to credit ratings from Treasury's liquid capital rule.

Financial Management Service

The Financial Management Service (FMS) issues regulations to improve the quality of Government financial management and to administer its payments, collections, debt collection, and Governmentwide accounting programs. For fiscal year 2013, FMS's regulatory plan includes the following priorities:

Notice of Proposed Rulemaking for Publishing Delinquent Debtor Information. The Debt Collection Improvement Act of 1996, Pub. L. 104–134, 110 Stat. 1321 (DCIA) authorizes Federal agencies to publish or otherwise publicly disseminate information regarding the identity of persons owing delinquent nontax debts to the United States for the purpose of collecting the debts, provided certain criteria are met. Treasury proposes to issue a notice of proposed rulemaking seeking comments on a proposed rule that would establish the procedures Federal agencies must follow before publishing information about delinquent debtors and the standards for determining when use of this debt collection remedy is appropriate.

Financial Crimes Enforcement Network

As chief administrator of the Bank Secrecy Act (BSA), the Financial Crimes Enforcement Network (FinCEN) is responsible for developing and implementing regulations that are the core of the Department's anti-money laundering and counter-terrorism financing efforts. FinCEN's responsibilities and objectives are linked to, and flow from, that role. In fulfilling this role, FinCEN seeks to enhance U.S. national security by making the financial system increasingly resistant to abuse by money launderers, terrorists and their financial supporters, and other perpetrators of crime.

The Secretary of the Treasury, through FinCEN, is authorized by the BSA to issue regulations requiring financial institutions to file reports and keep records that are determined to have a high degree of usefulness in criminal, tax, or regulatory matters or in the conduct of intelligence or counter-intelligence activities to protect against international terrorism. The BSA also authorizes requiring designated financial institutions to establish anti-money laundering programs and compliance procedures. To implement and realize its mission, FinCEN has established regulatory objectives and priorities to safeguard the financial system from the abuses of financial crime, including terrorist financing, money laundering, and other illicit activity. These objectives and priorities include: (1) Issuing, interpreting, and enforcing compliance with regulations implementing the BSA; (2) supporting, working with, and as appropriate, overseeing compliance examination functions delegated to other Federal regulators; (3) managing the collection, processing, storage, and dissemination of data related to the BSA; (4) maintaining a Government-wide access service to that same data and for network users with overlapping interests; (5) conducting analysis in support of policymakers, law enforcement, regulatory and intelligence

agencies, and the financial sector; and (6) coordinating with and collaborating on anti-terrorism and anti-money laundering initiatives with domestic law enforcement and intelligence agencies, as well as foreign financial intelligence units.

During fiscal year 2012, FinCEN issued the following regulatory actions:

Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 Reporting Requirements Under Section 104(e). As a result of a congressional mandate to prescribe regulations under the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (CISADA), on October 11,2011, FinCEN issued a final rule imposing a reporting requirement that would be invoked, as necessary, to elicit information valuable in the implementation of CISADA and would work in tandem with other financial provisions of CISADA to isolate Iran's Islamic Revolutionary Guard Corps and financial institutions designated by the U.S. Government in connection with Iran's proliferation of weapons of mass destruction (WMD) or WMD delivery systems or in connection with its support for international terrorism.

Amendment to the BSA Regulations—Definition of Monetary Instrument. On October 17, 2011, FinCEN published an NPRM to address the mandate in the Credit Card Accountability, Responsibility, and Disclosure Act of 2009, which authorizes regulations regarding international transport of prepaid access devices because of the potential to substitute prepaid access for cash and other monetary instruments as a means to smuggle the proceeds of illegal activity into and out of the United States.

Anti-Money Laundering Program and Suspicious Activity Reporting (SAR) Requirements for Housing Government-Sponsored Enterprises. On November 3, 2011, FinCEN issued an NPRM that would define certain housing government-sponsored enterprises as financial institutions for the purpose of requiring them to establish anti-money laundering programs and report suspicious activity to FinCEN pursuant to the BSA.

Non-Bank Residential Mortgage Lenders and Originators. On February 7, 2012, FinCEN issued a Final rule to require a specific subset of loan and finance companies, i.e., non-bank residential mortgage lenders and originators, to comply with anti-money laundering (AML) program and SAR regulations. The regulations close a regulatory gap that previously allowed other originators, such as mortgage brokers and mortgage lenders not affiliated with banks, to avoid having AML and SAR obligations. Based on its ongoing work supporting criminal investigators and prosecutors in combating mortgage fraud, FinCEN believes that this regulatory measure will help mitigate some of the vulnerabilities that criminals have exploited.

Imposition of Special Measure Against the Islamic Republic of Iran as a Jurisdiction of Primary Money Laundering Concern. On November 25, 2011, FinCEN issued a finding that the Islamic Republic of Iran is a jurisdiction of primary money laundering concern under section 311 of the USA PATRIOT Act for its direct support of terrorism and its pursuit of nuclear/ballistic missile capabilities, its reliance on state agencies or state-owned or -controlled financial institutions to facilitate weapons of mass destruction proliferation and financing, and its use of deceptive financial practices to facilitate illicit conduct and evade sanctions. On November 28, 2011, FinCEN issued a Notice of Proposed Rulemaking to impose the fifth special measure against the Islamic Republic of Iran. The fifth special measure prohibits or conditions the opening or maintaining of correspondent or payable-through accounts by U.S. financial institutions if the correspondent account involves the targeted jurisdiction. These actions are intended to serve as an additional tool in preventing Iran from accessing the U.S. financial system, to support and uphold U.S. national security and foreign policy goals, and to complement the U.S. Government's worldwide efforts to expose and disrupt international money laundering and terrorist financing.

Electronic Filing of Bank Secrecy Act (BSA) Reports. On February 24, 2012, FinCEN issued a final notice requiring that all financial institutions subject to Bank Secrecy Act (BSA) reporting, with the exception of those institutions granted limited hardship exceptions, use electronic filing for certain reports beginning no later than July 1, 2012. This requirement supports the Department of the Treasury's paperless initiative and efforts to make government operations more efficient. Also, it is intended to enhance significantly the quality of FinCEN's electronic data, improve its analytic capabilities in supporting law enforcement requirements, and result in a significant reduction in real costs to the U.S. Government and ultimately to U.S. taxpayers.

Customer Due Diligence Requirements. On February 29, 2012, FinCEN issued an advance notice of proposed rulemaking to solicit public comment on a wide range of questions pertaining to the development of a customer due diligence (CDD) regulation that would clarify, consolidate, and strengthen existing CDD obligations for financial institutions and also incorporate the collection of beneficial ownership information into the CDD framework.

Imposition of Special Measure Against JSC Credex Bank as a Financial Institution of Primary Money Laundering Concern. On May 25, 2012, FinCEN issued a finding that JSC Credex Bank (Credex) is a financial institution of primary money laundering concern under section 311 of the USA PATRIOT Act. In addition to the bank's location in a high-risk jurisdiction, FinCEN has reason to believe that the bank has engaged in high volumes of transactions that are indicative of money laundering on behalf of shell corporations and has a history of ownership by shell corporations whose lack of transparency contributes to considerable uncertainty surrounding Credex's beneficial ownership. The lack of transparency associated with Credex indicates a high degree of money laundering risk and vulnerability to other financial crimes. On May 30, 2012, FinCEN issued a Notice of Proposed Rulemaking to impose the first special measure and the fifth special measure against the bank. The first special measure requires any U.S. financial institution to maintain records, file reports, or both, concerning the aggregate amount of transactions, or concerning each transaction, with respect to a financial institution operating outside of the United States found to be of primary money laundering concern. The fifth special measure prohibits or conditions the opening or maintaining of correspondent or payable-through accounts for the designated institution by U.S. financial institutions.

Amendment to the Bank Secrecy Act Regulations—Exemption From the Requirement To Report Transactions in Currency. On June 7, 2012, FinCEN issued a final rule to amend the regulations that allow depository institutions to exempt transaction of certain payroll customers from the requirement to report transactions in currency in excess of $10,000. By substituting the term ''frequently'' for the term ''regularly'' in the provision of the exemption rules dealing with payroll customers, depository institutions may rely on FinCEN's prior interpretation of the term ''frequently'' to mean five or more times a year. This change harmonizes the exemption

standard for payroll customers with those for non-listed businesses and will provide greater ease of application and promote full use of the exemption for payroll customers.

This change is part of the Department of the Treasury's continuing effort to increase efficiency and effectiveness of its anti-money laundering and counter-terrorist financing policies.

Amendment to the Bank Secrecy Act Regulations—Requirement That Clerks of Court Report Certain Currency Transactions. On June 7, 2012, FinCEN issued a final rule amending the rules relating to the reporting of certain currency transactions consistent with a recent statutory amendment authorizing FinCEN to require clerks of court to file such reports with FinCEN. This information already is required to be reported by clerks of court pursuant to regulations issued by the Internal Revenue Service (IRS), but FinCEN heretofore had been limited in its ability to access and share that information further because of minor differences between the relevant statutory authorities applicable to FinCEN and the IRS. The final rule imposes no new or additional reporting or recordkeeping burden on clerks of court.

Amendments to the Definitions of Funds Transfer and Transmittal of Funds in the Bank Secrecy Act (BSA) Regulations. FinCEN has drafted an NPRM to be issued jointly with the Board of Governors of the Federal Reserve System proposing amendments to the regulatory definitions of ''funds transfer'' and ''transmittal of funds'' under the regulations implementing the Bank Secrecy Act (BSA). The proposed changes are intended to maintain the current scope to the definitions and are necessary in light of changes to the Electronic Fund Transfer Act that will result in certain currently covered transactions being excluded from BSA requirements.

Repeal of the Final Rule Imposing Special Measures and Withdrawal of the Findings of Primary Money Laundering Concern Against Myanmar Mayflower Bank and Asia Wealth Bank. FinCEN published in the **Federal Register** a document repealing the final rule ''Imposition of Special Measures Against Myanmar Mayflower Bank and Asia Wealth Bank'' and withdrawing the findings of these banks as financial institutions of primary money laundering concern issued on April 12, 2004. The banks' licenses were revoked by the Government of Burma and they have ceased their business activities.

Renewal of Existing Rules. FinCEN renewed without change a number of information collections associated with the following existing requirements: Anti-money laundering programs for money services businesses (31 CFR 1022.210); mutual funds (31 CFR 1024.210); operators of credit card systems (31 CFR 1028.210); dealers in precious metals, stones, or jewels (31 CFR 1027.210); and insurance companies (31 CFR 1025.210); customer identification programs for futures commission merchants and introducing brokers in commodities (31 CFR 1026.220); various depository institutions (31 CFR 1020.220); mutual funds (31 CFR 1024.220); securities broker-dealers (31 CFR 1023.220); report of international transportation of currency and monetary instruments (31 CFR 1010.340); reports of transactions in currency (31 CFR 1010.310); suspicious activity reporting by the securities and futures industries (31 CFR 1026.320 and 31 CFR 1023.320). FinCEN also renewed with changes the Registration of Money Services Business, Report 107, to incorporate recent changes to the MSB definitions and add provisions for prepaid access.

Administrative Rulings and Written Guidance. FinCEN published 14 administrative rulings and written guidance pieces, and provided 45 responses to written inquiries/correspondence interpreting the BSA and providing clarity to regulated industries.

FinCEN's regulatory priorities for fiscal year 2013, include finalizing any initiatives mentioned above that are not finalized by fiscal year end, as well as the following projects:

Anti-Money Laundering Program and SAR Requirements for Investment Advisers. FinCEN has drafted an NPRM that would prescribe minimum standards for anti-money laundering programs to be established by certain investment advisers and to require such investment advisers to report suspicious activity to FinCEN. FinCEN has been working closely with the Securities and Exchange Commission on issues related to the draft NPRM.

Amendment to the Bank Secrecy Act Regulations—Registration, Recordkeeping, and Reporting of Money Services Businesses. FinCEN has been developing an NPRM to amend the requirements for money services businesses with respect to registering with FinCEN and with respect to the information reported during the registration process. The proposed changes are intended to enhance the quality and timeliness of FinCEN's electronic data, improve analytic capabilities, and support law enforcement needs more effectively.

FBAR Requirements. On February 24, 2011, FinCEN issued a final rule that amended the BSA implementing regulations regarding the filing of Reports of Foreign Bank and Financial Accounts (FBARs). The FBAR form is used to report a financial interest in, or signature or other authority over, one or more financial accounts in foreign countries. FBARs are used in conjunction with SARs, CTRs, and other BSA reports to provide law enforcement and regulatory investigators with valuable information to fight fraud, money laundering, tax evasion, and other financial crimes. Since issuance of the final rule, FinCEN and the Internal Revenue Service (IRS) have received numerous requests for clarification, many of which involve employees who have signature authority over, but no financial interest in, the foreign financial accounts of their employers. FinCEN is working with the Internal Revenue Service (IRS) to resolve these issues, which may include additional guidance and rulemaking.

Anti-Money Laundering Program for State-Chartered Credit Unions and Other Depository Institutions Without a Federal Functional Regulator. Pursuant to section 352 of the USA PATRIOT Act, certain financial institutions are required to establish AML programs. Continued from prior fiscal years, FinCEN is developing a rulemaking to require State-chartered credit unions and other depository institutions without a Federal functional regulator to implement AML programs.

Cross Border Electronic Transmittal of Funds. On September 27, 2010, FinCEN issued a Notice of Proposed Rulemaking (NPRM) in conjunction with the feasibility study prepared pursuant to the Intelligence Reform and Terrorism Prevention Act of 2004 concerning the issue of obtaining information about certain cross-border funds transfers and transmittals of funds. As FinCEN has continued to work on developing the system to receive, store, and use this data, FinCEN determined that a Supplemental NPRM that updates the previously published proposed rule would provide additional information to those banks and money transmitters that will become subject to the rule.

Other Requirements. FinCEN also will continue to issue proposed and final rules pursuant to section 311 of the USA PATRIOT Act, as appropriate. Finally, FinCEN expects to propose various technical and other regulatory amendments in conjunction with its ongoing, comprehensive review of existing regulations to enhance regulatory efficiency.

Internal Revenue Service

The Internal Revenue Service (IRS), working with the Office of Tax Policy, promulgates regulations that interpret and implement the Internal Revenue Code and related tax statutes. The purpose of these regulations is to carry out the tax policy determined by Congress in a fair, impartial, and reasonable manner, taking into account the intent of Congress, the realities of relevant transactions, the need for the Government to administer the rules and monitor compliance, and the overall integrity of the Federal tax system. The goal is to make the regulations practical and as clear and simple as possible.

Most IRS regulations interpret tax statutes to resolve ambiguities or fill gaps in the tax statutes. This includes interpreting particular words, applying rules to broad classes of circumstances, and resolving apparent and potential conflicts between various statutory provisions.

During fiscal year 2013, the IRS will accord priority to the following regulatory projects:

Deduction and Capitalization of Costs for Tangible Property. Section 162 of the Internal Revenue Code allows a deduction for ordinary and necessary expenses paid or incurred in carrying on a trade or business. Section 263(a) of the Code provides that no deduction is allowed for amounts paid out for new buildings or for permanent improvements or betterments made to increase the value of any property or estate, and generally such capital expenditures may be recovered only in future taxable years. Although existing regulations provide that a deductible repair expense is an expenditure that does not materially add to the value of the property or appreciably prolong its life, the standards for determining whether an amount paid for tangible property should be treated as an ordinary or capital expenditure can be difficult to discern. Treasury and the IRS believe that additional clarification is needed to reduce uncertainty and controversy in this area, and in December 2011 Treasury and the IRS issued proposed and temporary regulations in this area. We intend to finalize those regulations.

Research Expenditures. Section 41 of the Internal Revenue Code provides a credit against taxable income for certain expenses paid or incurred in conducting research activities. Section 174 of the Internal Revenue Code allows a taxpayer to elect to currently deduct or amortize certain research and experimental expenditures. To assist in resolving areas of controversy and uncertainty with respect to research expenses, Treasury and the IRS plan to issue guidance on both the credit and the deduction. With respect to the research credit, Treasury and the IRS plan to issue proposed regulations with respect to the definition and credit eligibility of expenditures for internal use software and the treatment of intra-group transfers of property for purposes of determining the controlled group's gross receipts for purposes of the credit computation. With respect to the deduction for research and experimental expenditures, Treasury and the IRS plan to issue guidance on the treatment of amounts paid or incurred in connection with the development of tangible property and guidance clarifying the procedures for the adoption and change of methods of accounting for the expenditures.

Arbitrage Investment Restrictions on Tax-Exempt Bonds. The arbitrage investment restrictions on tax-exempt bonds under section 148 generally limit issuers from investing bond proceeds in higher-yielding investments. Treasury and the IRS plan to issue proposed regulations to address selected current issues involving the arbitrage restrictions, including guidance on the issue price definition used in the computation of bond yield, working capital financings, grants, investment valuation, modifications, terminations of qualified hedging transactions, and selected other issues.

Contingent Notional Principal Contract Regulations. Notice 2001–44 (2001–2 CB 77) outlined four possible approaches for recognizing nonperiodic payments made or received on a notional principal contract (NPC) when the contract includes a nonperiodic payment that is contingent in fact or in amount. The Notice solicited further comments and information on the treatment of such payments. After considering the comments received in response to Notice 2001–44, Treasury and the IRS published proposed regulations (69 FR 8886) (the 2004 proposed regulations) that would amend section 1.446–3 and provide additional rules regarding the timing and character of income, deduction, gain, or loss with respect to such nonperiodic payments, including termination payments. On December 7, 2007, Treasury and IRS released Notice 2008–2 requesting comments and information with respect to transactions frequently referred to as prepaid forward contracts. Treasury and the IRS plan to re-propose regulations to address issues relating to the timing and character of nonperiodic contingent payments on NPCs, including termination payments and payments on prepaid forward contracts.

Tax Treatment of Distressed Debt. A number of tax issues relating to the amount, character, and timing of income, expense, gain, or loss on distressed debt remain unresolved. In addition, the tax treatment of distressed debt, including distressed debt that has been modified, may affect the qualification of certain entities for tax purposes or result in additional taxes on the investors in such entities, such as regulated investment companies, real estate investment trusts (REITs), and real estate mortgage investment conduits (REMICs). During fiscal year 2012, Treasury and the IRS have addressed some of these issues through published guidance, including guidance for REITs and REMICs relating to home mortgages refinanced under the Home Affordable Refinancing Program. Treasury and the IRS plan to address more of these issues in published guidance.

Elective Deferral of Certain Business Discharge of Indebtedness Income. In the recent economic downturn, many business taxpayers realized income as a result of modifying the terms of their outstanding indebtedness or refinancing on terms subjecting them to less risk of default. The American Recovery and Reinvestment Act of 2009 includes a special relief provision allowing for the elective deferral of certain discharge of indebtedness income realized in 2009 and 2010. The provision, section 108(i) of the Code, is complicated and many of the details have to be supplied through regulatory guidance. On August 9, 2009, Treasury and the IRS issued Revenue Procedure 2009–37 that prescribes the procedure for making the election. On August 13, 2010, Treasury and the IRS published temporary and proposed regulations (TD 9497 and TD 9498) in the **Federal Register**. These regulations provide additional guidance on such issues as the types of indebtedness eligible for the relief, acceleration of deferred amounts, the operation of the provision in the context of flow-through entities, the treatment of the discharge for the purpose of computing earnings and profits, and the operation of a provision of the statute deferring original issue discount deductions arising from such modifications or refinancings. Treasury and the IRS expect to finalize those regulations by the end of 2013.

Election To Treat Certain Stock Sales and Distributions as Asset Sales. Congress enacted section 336(e) as part of the provisions of the Tax Reform Act of 1986 implementing the repeal of the General Utilities doctrine (which had

prevented corporate level recognition of gain on the sale or distribution of appreciated property in certain cases). Section 336(e) authorizes the Secretary to prescribe regulations allowing an election (Section 336(e) Election) to treat certain taxable sales, exchanges, or distributions (collectively, ''dispositions'') of stock in a corporation (a ''target'') instead as a sale of the target's underlying assets. If made, a Section 336(e) Election offers taxpayers relief from multiple taxation at the corporate level of the same economic gain. Treasury and the IRS published proposed regulations in 2008 that addressed dispositions by domestic corporations of domestic target to unrelated parties. Treasury and the IRS expect to finalize these regulations this year.

Disguised Sale and Allocation of Liabilities. A contribution of property by a partner to a partnership may be recharacterized as a sale under section 707(a)(2)(B) if the partnership distributes to the contributing partner cash or other property that is, in substance, consideration for the contribution. The allocation of partnership liabilities to the partners under section 752 may impact the determination of whether a disguised sale has occurred and whether gain is otherwise recognized upon a distribution. Treasury and the IRS have determined that guidance should be issued to address certain issues that arise in the disguised sale context and other issues regarding the partners' shares of partnership liabilities. Proposed regulations are expected to be issued later this year.

Certain Partnership Distributions Treated as Sales or Exchanges. In 1954, Congress enacted section 751 to prevent the use of a partnership to convert potential ordinary income into capital gain. In 1956, Treasury and the IRS issued regulations implementing section 751. The current regulations, however, do not achieve the purpose of the statute in many cases. In 2006, Treasury and the IRS published Notice 2006–14 (2006–1 CB 498) to propose and solicit alternative approaches to section 751 that better achieve the purpose of the statute while providing greater simplicity. Treasury and the IRS are currently working on proposed regulations following up on Notice 2006–14. These regulations will provide guidance on determining a partner's interest in a partnership's section 751 property and how a partnership recognizes income required by section 751.

Tax Return Preparers. In June 2009, the IRS launched a comprehensive review of the tax return preparer program with the intent to propose a set of recommendations to ensure uniform and high ethical standards of conduct for all tax return preparers and to increase taxpayer compliance. In Publication 4832, Return Preparer Review, the IRS recommended increased oversight of the tax return preparer industry, including but not limited to, mandatory preparer tax identification number (PTIN) registration and usage, competency testing, continuing education requirements, and ethical standards for all tax return preparers. As part of a multi-step effort to increase oversight of Federal tax return preparers, Treasury and the IRS published in 2010 final regulations: (1) Authorizing the IRS to require tax return preparers who prepare all or substantially all of a tax return for compensation after December 31, 2010 to use PTINs as the preparer's identifying number on all tax returns and refund claims that they prepare; and (2) setting the user fee for obtaining a PTIN at $50 plus a third-party vendor's fee. On June 3, 2011, Treasury and the IRS published final regulations amending Circular 230, which established registered tax return preparers as a new category of tax practitioner and extended the ethical rules for tax practitioners to any individual who is a tax return preparer. On November 25, 2011, Treasury and the IRS published final regulations setting the competency testing fee at $27, and published proposed regulations on February 15, 2012, describing who must obtain a PTIN and who may obtain one. Treasury and the IRS intend to finalize those PTIN regulations in 2013. Finally, Treasury and the IRS intend to finalize temporary regulations under section 7216 addressing the disclosure or use of information by tax return preparers, which were issued in December 2009.

Circular 230 Rules Governing Written Tax Advice. After years of experience with the covered opinion rules in Circular 230 governing written tax advice, the government and practitioners agree that rules are often burdensome and provide only minimal taxpayer protection. On September 17, 2012, Treasury and the IRS published proposed regulations that modify the standards governing written tax advice under Circular 230. The proposed regulations streamline the existing rules for written tax advice by applying one standard for all written tax advice under proposed section 10.37. The proposed regulations revise section 10.37 to state affirmatively the standards to which a practitioner must adhere when providing written advice on a Federal tax matter. Proposed section 10.37 requires, among other things, that the practitioner base all written advice on reasonable factual and legal assumptions, exercise reasonable reliance, and consider all relevant facts that the practitioner knows or should know. A practitioner must also use reasonable efforts to identify and ascertain the facts relevant to written advice on a Federal tax matter under the proposed regulations. The proposed amendments will eliminate the burdensome requirement that practitioners fully describe the relevant facts (including the factual and legal assumptions relied upon) and the application of the law to the facts in the written advice itself, and the use of Circular 230 disclaimers in documents and transmissions, including emails. The proposed regulations also make several other necessary amendments to Circular 230. Treasury and IRS intend to finalize these regulations in 2013.

Penalties and Limitation Periods. Congress amended several penalty provisions in the Internal Revenue Code in the past several years and Treasury and the IRS intend to publish a number of guidance projects in fiscal year 2013 addressing these new or amended penalty provisions. Specifically, on September 7, 2011, Treasury and the IRS published final regulations under section 6707A addressing when the penalty for failure to disclose reportable transactions applies. Treasury and the IRS intend to publish proposed regulations under sections 6662, 6662A, and 6664, to provide further guidance on the circumstances under which a taxpayer could be subject to the accuracy-related penalty on underpayments or reportable transaction understatements and the reasonable cause exception. Treasury and the IRS also intend to publish: (1) proposed regulations under section 6676 regarding the penalty related to an erroneous claim for refund or credit; (2) proposed regulations under section 6708 regarding the penalty for failure to make available upon request a list of advisees that is required to be maintained under section 6112; (3) final regulations under section 6501(c)(10) regarding the extension of the period of limitations to assess any tax with respect to a listed transaction that was not disclosed as required under section 6011; and (4) temporary and proposed regulations under section 6707A addressing statutory changes to the method of computing the section 6707A penalty, which were enacted after

existing temporary regulations were published.

Whistleblower Regulations. Under section 7623(b), the Secretary shall make an award to whistleblowers in cases where a whistleblower provided information regarding underpayments of tax or violations of the internal revenue laws that resulted in proceeds being collected from an administrative or judicial action. On February 22, 2012, Treasury and the IRS published final regulations (TD 9580) defining ''collected proceeds.'' Treasury and the IRS plan to issue proposed regulations providing comprehensive guidance on the whistleblower award program. The proposed regulations are expected to include guidance on the process for filing for an award, definitions of statutory terms, and guidance regarding how the amount of an award will be computed.

Basis Reporting. Section 403 of the Energy Improvement and Extension Act of 2008 (Pub. L. 110–343), enacted on October 3, 2008, added sections 6045(g), 6045(h), 6045A, and 6045B to the Internal Revenue Code. Section 6045(g) provides that every broker required to file a return with the Service under section 6045(a) showing the gross proceeds from the sale of a covered security must include in the return the customer's adjusted basis in the security and whether any gain or loss with respect to the security is long-term or short-term. Section 6045(h) extends the basis reporting requirement in section 6045(g) and the gross proceeds reporting requirement in section 6045(a) to options that are granted or acquired on or after January 1, 2013. Section 6045A provides that a broker and any other specified person (transferor) that transfers custody of a covered security to a receiving broker must furnish to the receiving broker a written statement that allows the receiving broker to satisfy the basis reporting requirements of section 6045(g). Section 6045B requires issuers of specified securities to make a return relating to organizational actions that affect the basis of the security. Final regulations implementing these provisions for stock were published on October 18, 2010. Proposed regulations implementing these provisions for options and debt instruments were published on November 25, 2011. In response to comments on the proposed regulations, Notice 2012–34 extended the proposed effective date for basis reporting for options and debt instruments to January 1, 2014. Treasury and the IRS plan to issue final regulations for options and debt instruments in 2013.

Information Reporting for Foreign Accounts of U.S. Persons. In March 2010, chapter 4 (sections 1471 to 1474) was added to subtitle A of the Internal Revenue Code as part of the Hiring Incentives to Restore Employment Act (HIRE Act) (Pub. L. 111–147). Chapter 4 was enacted to address concerns with offshore tax evasion and generally requires foreign financial institutions (FFIs) to enter into an agreement (FFI Agreement) with the IRS to report information regarding certain financial accounts of U.S. persons and foreign entities with significant U.S. ownership. An FFI that does not enter into an FFI Agreement generally will be subject to a withholding tax on the gross amount of certain payments from U.S. sources, as well as the proceeds from disposing of certain U.S. investments. Treasury and the IRS published Notice 2010–60, Notice 2011–34, Notice 2011–53, Announcement 2012–42, and proposed regulations which provide preliminary guidance and request comments on the most important and time-sensitive issues under chapter 4. Treasury and the IRS expect to issue final regulations and a model FFI Agreement in this fiscal year that respond to the comments received.

Withholding on Certain Dividend Equivalent Payments Under Notional Principal Contracts. The HIRE Act also added section 871(l) to the Code (now section 871(m)), which designates certain substitute dividend payments in security lending and sale-repurchase transactions and dividend-referenced payments made under certain notional principal contracts as U.S.-source dividends for Federal tax purposes. In response to this legislation, on May 20, 2010, the IRS issued Notice 2010–46, addressing the requirements for determining the proper withholding in connection with substitute dividends paid in foreign-to-foreign security lending and sale-repurchase transactions. Treasury and the IRS also issued temporary and proposed regulations addressing cases in which dividend equivalents will be found to arise in connection with notional principal contracts and other financial derivatives. Treasury and the IRS expect to issue further guidance with respect to section 871(m) in this fiscal year.

International Tax Provisions of the Education, Jobs, and Medicaid Assistance Act. On August 10, 2010, the Education, Jobs, and Medicaid Assistance Act of 2010 (EJMAA) (Pub. L. 111–226) was signed into law. The new law includes a significant package of international tax provisions, including limitations on the availability of foreign tax credits in certain cases in which U.S. tax law and foreign tax law provide different rules for recognizing income and gain, and in cases in which income items treated as foreign source under certain tax treaties would otherwise be sourced in the United States. The legislation also limits the ability of multinationals to reduce their U.S. tax burdens by using a provision intended to prevent corporations from avoiding U.S. income tax on repatriated corporate earnings. Other new provisions under this legislation limit the ability of multinational corporations to use acquisitions of related party stock to avoid U.S. tax on what would otherwise be taxable distributions of dividends. The statute also includes a new provision intended to tighten the rules under which interest expense is allocated between U.S.- and foreign-source income within multinational groups of related corporations when a foreign corporation has significant amounts of U.S.-source income that is effectively connected with a U.S. business. Treasury and the IRS published temporary and proposed regulations addressing foreign tax credits under section 909 and expect to issue additional guidance on EJMAA in this fiscal year.

International Philanthropy. Treasury and the IRS plan to issue guidance intended to facilitate more efficient and effective international grantmaking by U.S. private foundations. Treasury and the IRS issued proposed regulations relating to program related investments on April 19, 2012. We are working on finalizing these regulations that incorporate additional, more modern examples of how private foundations may use program related investments to accomplish charitable purposes, both domestically and abroad. In addition, Treasury and the IRS issued proposed regulations on September 24, 2012 relating to the reliance standards for private foundations making tax-status determinations regarding foreign charitable organizations, which should facilitate foreign grantmaking.

Tax-Related Health Care Provisions. On March 23, 2010, the President signed the Patient Protection and Affordable Care Act of 2010 (Pub. L. 111–148) and on March 30, 2010, the President signed the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152) (referred to collectively as the Affordable Care Act (ACA)). The ACA's comprehensive reform of the health insurance system affects individuals, families, employers, health care providers, and health insurance providers. The ACA provides authority for Treasury and the IRS to issue regulations and other guidance to

implement tax provisions in the ACA, some of which are effective immediately and some of which will become effective over the next several years. Since enactment of the ACA, Treasury and the IRS, together with the Department of Health and Human Services and the Department of Labor, have issued a series of temporary and proposed regulations implementing various provisions of the ACA related to individual and group market reforms. In the past year, Treasury and IRS also have issued temporary and proposed regulations on the application for recognition as a section 501(c)(29) organization; proposed regulations on the fees under sections 4375, 4376, and 4377 of the Code to fund the Patient-Centered Outcomes Research Trust Fund; proposed regulations regarding disclosures to the Department of Health and Human Services under section 6103(l)(21) of the Code; proposed regulations under section 4191 of the Code on the excise tax on medical device manufacturers and importers; proposed regulations under section 501(r) of the Code on new requirements for charitable hospitals; and final regulations on the premium assistance tax credit under section 36B of the Code. In addition, Treasury and the IRS have issued guidance on other ACA provisions, including guidance on the treatment of certain nonprofit health insurers (section 833 of the Code), the $2,500 annual limit on salary reduction contributions to health flexible spending arrangements (section 125(i) of the Code), the procedures for nonprofit health insurance issuers to seek tax-exempt status (section 501(c)(29) of the Code), the reporting of the cost of coverage of group health insurance on Form W–2 (section 6051(a)(14) of the Code), and determining full-time employees for purposes of the shared responsibility for employers regarding health coverage (section 4980H of the Code). Treasury and the IRS will continue to provide additional guidance to implement tax provisions of the ACA in 2013.

Lifetime income from retirement plans. Treasury and the IRS continue to review certain regulations pertaining to retirement plans to determine whether any modifications could better achieve the objective of promoting retirement security by facilitating the offering of benefit distribution options in the form of annuities. As part of this initiative, proposed regulations were issued in February 2012 to facilitate the purchase of longevity annuity contracts under tax-qualified defined contribution plans, section 403(b) plans, individual retirement annuities and accounts (IRAs), and eligible governmental section 457 plans. These regulations provide the public with guidance necessary to comply with the required minimum distribution rules under the Code. Under the proposed amendments to these rules, prior to annuitization, the participant would be permitted to exclude the value of a longevity annuity contract that meets certain requirements from the account balance used to determine required minimum distributions. Thus, a participant would not need to commence distributions from the annuity contract before the advanced age at which the annuity would begin in order to satisfy the required minimum distribution rules and, accordingly, the contract could be designed with a fixed annuity starting date at the advanced age. Purchasing longevity annuity contracts could help participants hedge the risk of drawing down their benefits too quickly and thereby outliving their retirement savings. Treasury and the IRS intend to finalize these regulations.

Terrorism Risk Insurance Program Office

The Terrorism Risk Insurance Act of 2002 (TRIA) was signed into law on November 26, 2002. The law, which was enacted as a consequence of the events of September 11, 2001, established a temporary Federal reinsurance program under which the Federal Government shares the risk of losses associated with certain types of terrorist acts with commercial property and casualty insurers. The Act, originally scheduled to expire on December 31, 2005, was extended to December 31, 2007, by the Terrorism Risk Insurance Extension Act of 2005 (TRIEA). The Act has since been extended to December 31, 2014, by the Terrorism Risk Insurance Program Reauthorization Act of 2007 (TRIPRA).

The Office of the Assistant Secretary for Financial Institutions is responsible for developing and promulgating regulations implementing TRIA, as extended and amended by TRIEA and TRIPRA. The Terrorism Risk Insurance Program Office, which is part of the Office of the Assistant Secretary for Financial Institutions, is responsible for operational implementation of TRIA. The purposes of this legislation are to address market disruptions, ensure the continued widespread availability and affordability of commercial property and casualty insurance for terrorism risk, and to allow for a transition period for the private markets to stabilize and build capacity while preserving State insurance regulation and consumer protections.

Over the past year, the Office of the Assistant Secretary has issued proposed rules implementing changes authorized by TRIA as revised by TRIPRA. The following regulations should be published by July 31, 2013:

Final Netting. This final rule would establish procedures by which, after the Secretary has determined that claims for the Federal share of insured losses arising from a particular Program Year shall be considered final, a final netting of payments to or from insurers will be accomplished.

Affiliates. This proposed rule would make changes to the definition of ''affiliate'' to conform to the language in the statute.

Civil Penalty. This proposed rule would establish procedures by which the Secretary may assess civil penalties against any insurer that the Secretary determines, on the record after an opportunity for a hearing, has violated provisions of the Act.

Treasury will continue the ongoing work of implementing TRIA and carrying out revised operations as a result of the TRIPRA-related regulation changes.

Alcohol and Tobacco Tax and Trade Bureau

The Alcohol and Tobacco Tax and Trade Bureau (TTB) issues regulations to enforce the Federal laws relating to alcohol, tobacco, firearms, and ammunition excise taxes and certain non-tax laws relating to alcohol. TTB's mission and regulations are designed to:

(1) Regulate with regard to the issuance of permits and authorizations to operate in the alcohol and tobacco industries;

(2) Assure the collection of all Federal alcohol, tobacco, and firearms and ammunition taxes, and obtain a high level of voluntary compliance with laws governing those industries; and

(3) Suppress commercial bribery, consumer deception, and other prohibited practices in the alcohol beverage industry.

In FY 2013, TTB plans to give priority to the following regulatory matters:

Modernization of Title 27, Code of Federal Regulations. TTB will continue its multi-year Regulations Modernization Project, which has resulted in the past few years of updating parts 9 (American Viticultural Areas) and 19 (Distilled Spirits Plants) of title 27, Code of Federal Regulations. In FY 2012, TTB finalized the temporary rule to amend regulations promulgated under the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA), which included provisions to help prevent the diversion of tobacco

products and to collect the tobacco excise taxes rightfully due. Congress mandated the regulation of processed tobacco to strengthen the enforcement authority for the Federal excise tax on tobacco products, which significantly increased under CHIPRA. A three-year temporary rule was published in June of 2009; the final rule was published in June 2012. As described in greater detail below, in FY 2013, TTB plans to continue its Regulations Modernization Project concerning its Specially Denatured and Completely Denatured Alcohol regulations, Labeling Requirement regulations, Nonbeverage Products regulations, and Beer regulations.

Revision to Specially Denatured and Completely Denatured Alcohol Regulations. TTB plans to propose changes to regulations for specially denatured alcohol (SDA) and completely denatured alcohol (CDA) that would result in cost savings for both TTB and regulated industry members. Under the authority of the Internal Revenue Code of 1986 (IRC), TTB regulates denatured alcohol that is unfit for beverage use, and which may be removed from a regulated distilled spirits plant free of tax. SDA and CDA are widely used in the American fuel, medical, and manufacturing sectors. The industrial alcohol industry far exceeds the beverage alcohol industry in size and scope, and it is a rapidly growing industry in the United States. Some concerns have been raised that the current regulations may create significant roadblocks for industry members in getting products to the marketplace quickly and efficiently. TTB is proposing to reclassify certain SDA formulas as CDA and to issue new general-use formulas for articles made with SDA so that industry members would less frequently need to seek formula approval from TTB and in turn decrease the dedication of TTB resources to formula review. TTB estimates that these proposed changes would result in an 80 percent reduction in the formula approval submissions currently required from industry members and would reduce total annual paperwork burden hours on affected industry members from 2,415 to 517 hours. The reduction in formula submissions will enable TTB to redirect its resources to address backlogs that exist in other areas of TTB's mission activities, such as analyses of compliance samples for industrial/fuel alcohol to protect the revenue and working with industry to test and approve new and more environmentally friendly denaturants. Other proposed changes would remove unnecessary regulatory burdens and update the regulations to align them with current industry practice.

Revisions to the Labeling Requirements (Parts 4 (Wine), 5 (Distilled Spirits), and 7 (Malt Beverages)), also known as Modernization of the Alcohol Beverage Labeling and Advertising Regulations. The Federal Alcohol Administration Act requires that alcohol beverages introduced in interstate commerce have a label issued and approved under regulations prescribed by the Secretary of the Treasury. In connection with E.O. 13563, TTB has near-term plans to revise the regulations concerning the approval of labels for distilled spirits, wine, and malt beverages to reduce the cost to TTB of reviewing and approving an ever-increasing number of applications for label approval (well over 130,000 per year). Currently, the review and approval process requires a staff of at least 13 people for the pre-approval of labels in addition to management review. These regulatory changes, to be developed with industry input, also have the intent of accelerating the approval process, which will result in the regulated industries being able to bring products to market without undue delay.

Revision of the Part 17 Regulations, ''Drawback on Taxpaid Distilled Spirits Used in Manufacturing Nonbeverage Products,'' To Allow Self-Certification of Nonbeverage Product Formulas. TTB is considering revisions to the part 17 regulations governing nonbeverage products made with taxpaid distilled spirits. These nonbeverage products include foods, medicines, and flavors. The revisions would practically eliminate the need for TTB to formally approve nonbeverage product formulas by proposing to allow for self-certification of such formulas. The changes would result in significant cost savings for an important industry which currently must obtain formula approval from TTB, and some savings for TTB, which must review and take action to approve or disapprove each formula. The specific savings to TTB is unknown at this stage of the rulemaking project.

Revisions to the Beer Regulations (Part 25). Under the authority of the IRC, TTB regulates activities at breweries. The regulations of title 27 of the Code of Federal Regulations, part 25, address the qualification of breweries, bonds and taxation, removals without payment of tax, and records and reporting. Brewery regulations were last revised in 1986 and need to be updated to reflect changes to the industry, including the increased number of small (''craft'') brewers. TTB initially intended to publish an advance notice of proposed rulemaking (ANPRM) and solicit written comments from the public before proposing changes to its regulations in part 25. After discussions with industry groups and members, analyzing available data, and reviewing our existing regulations and requirements, TTB will propose for immediate consideration changes to our regulations that would reduce the tax return submission and filing and operations reporting burdens on ''small'' brewers. This regulatory proposal is entitled *Penal Sum Exception for Brewers Eligible To File Federal Excise Tax Returns and Payments Quarterly and Other Proposed Revisions to the Beer Regulations.* Such proposals would accelerate change in the regulations, compared to publishing an ANPRM and awaiting comments before proposing specific changes, and thus provide more immediate and significant relief from existing regulatory burdens. TTB will also solicit comments from the public in this notice of proposed rulemaking (NPRM) on other changes TTB could make to its beer regulations contained in part 25 that could further reduce the regulatory burden on brewers and at the same time meet statutory requirements and regulatory objectives. Upon consideration of comments received, TTB intends to develop and propose other specific regulatory changes.

Revisions to Distilled Spirits Plant Reporting Requirements. In FY 2012, TTB published an NPRM proposing to revise regulations in part 19 and replace the current four report forms used by distilled spirits plants to report their operations on a monthly basis with two new report forms that would be submitted on a monthly basis (plants that qualify to file taxes on a quarterly basis would submit the new reports on a quarterly basis). This project, which was included in the President's FY 2012 budget for TTB as a cost-saving item, will address numerous concerns and desires for improved reporting by the affected distilled spirits industry and result in cost savings to the industry and TTB by significantly reducing the number of monthly plant operations reports that must be completed and filed by industry members and processed by TTB. TTB preliminarily estimates that this project will result in an annual savings of approximately 23,218 paperwork burden hours (or 11.6 staff years) for industry members and 629 processing hours (or 0.3 staff years) and $12,442 per year for TTB in contractor time. In addition, TTB estimates that this project will result in additional

savings in staff time (approximately 3 staff years) equaling $300,000 annually based on the more efficient and effective processing of reports and the use of report data to reconcile industry member tax accounts. Based on comments received in response to the NPRM, TTB will revise the proposed forms and publish them for additional public consideration, before issuing a final rule.

Office of the Comptroller of the Currency

The Office of the Comptroller of the Currency (OCC) was created by Congress to charter national banks, to oversee a nationwide system of banking institutions, and to assure that national banks are safe and sound, competitive and profitable, and capable of serving in the best possible manner the banking needs of their customers.

The OCC seeks to assure a banking system in which national banks and Federal savings associations soundly manage their risks, maintain the ability to compete effectively with other providers of financial services, meet the needs of their communities for credit and financial services, comply with laws and regulations, and provide fair access to financial services and fair treatment of their customers.

Significant rules issued during fiscal years 2011 and 2012 include:

Alternatives to the Use of External Credit Ratings in the Regulations of the OCC (12 CFR parts 1, 16, and 28). Section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) directs all Federal agencies to review, no later than 1 year after enactment, any regulation that requires the use of an assessment of credit-worthiness of a security or money market instrument and any references to or requirements in regulations regarding credit ratings. The agencies are also required to remove references or requirements of reliance on credit ratings and to substitute an alternative standard of credit-worthiness. Through an advanced notice of proposed rulemaking (ANPRM), the OCC sought to gather information as it begins to review its regulations pursuant to the Dodd-Frank Act. It described the areas where the OCC's regulations, other than those that establish regulatory capital requirements, currently rely on credit ratings; sets forth the considerations underlying such reliance; and requests comment on potential alternatives to the use of credit ratings. The ANPRM was published on August 13, 2010 (75 FR 49423). OTS published a parallel ANPRM on October 14, 2010 (75 FR 63107). OCC published an NPRM on November 29, 2011 (76 FR 73526) and a final rule on June 13, 2012. 77 FR 35253.

Regulatory Capital Rules (12 CFR parts 3, 5, 6, 165, 167). The OCC, FRB, and FDIC (banking agencies) issued three joint notices of proposed rulemaking (NPRM 1, NPRM 2, and NPRM 3) that would revise and replace their current capital rules and other OCC rules:

- NPRM 1: The banking agencies are proposing to revise their risk-based and leverage capital requirements consistent with agreements reached by the Basel Committee on Banking Supervision (BCBS) in Basel III: A Global Regulatory Framework for More Resilient Banks and Banking Systems (Basel III). The rule includes implementation of a new common equity Tier 1 minimum capital requirement, a higher minimum Tier 1 capital requirement, and, for banking organizations subject to the advanced approaches capital rules, a supplementary leverage ratio that incorporates a broader set of exposures in the denominator measure. The rule applies limits on capital distributions and certain discretionary bonus payments, and establishes more conservative standards for including an instrument in regulatory capital. The OCC is also proposing to amend its capital rules and Prompt Corrective Action (PCA) rules with respect to national banks (12 CFR parts 3 and 6, respectively) to make those rules applicable to Federal savings associations; to rescind the current capital rules and PCA rules applicable to Federal savings associations (12 CFR parts 165 and 167, respectively), with the exception of 12 CFR 165.8; and to make other technical changes related to Federal savings associations.
- NPRM 2: The banking agencies are proposing to amend their general risk-based capital requirements for calculating the denominator of a banking organization's risk-based capital ratios (Standardized Approach). The revisions would revise and harmonize the agencies' rules for calculating risk-weighted assets to enhance risk-sensitivity and address weaknesses identified over recent years, including by incorporating certain BCBS international capital standards. The agencies are proposing alternatives to credit ratings for calculating risk-weighted assets for certain assets and setting forth methodologies for determining risk-weighted assets for residential mortgages, securitization exposures, and counterparty credit risk. Disclosures are introduced that would apply to top-tier banking organizations domiciled in the United States with $50 billion or more in total assets.
- NPRM 3: The banking agencies are proposing to revise the advanced approaches risk-based capital rule to incorporate certain aspects of Basel III that would be applied only to advanced approach banking organizations. The revisions include replacing references to credit ratings with alternative standards of creditworthiness. The OCC is proposing that the market risk capital rule be applicable to Federal savings associations.

The NPRMs were published on August 30, 2012. 77 FR 52792, 52888, 52978.

Risk-Based Capital Standards: Market Risk (12 CFR part 3). The banking agencies issued a final rule revising their market risk capital rules to modify their scope to better capture positions for which the market risk capital rules are appropriate; reduce procyclicality in market risk capital requirements; enhance the rules' sensitivity to risks that are not adequately captured under current regulatory measurement methodologies; and increase transparency through enhanced disclosures. An NPRM was published on January 11, 2011. 76 FR 1890. The final rule was published on August 30, 2012. 77 FR 53060.

Short-Term Investment Funds (12 CFR part 9). This final rule updates the regulation of short-term investment funds (STIFs), a type of collective investment fund permissible under OCC regulations, through the addition of STIF eligibility requirements to ensure the safety of STIFs. The OCC issued an NPRM on April 9, 2012. 77 FR 21057. The final rule was issued on October 9, 2012. 77 FR 61229.

Lending Limits for Derivative Transactions (12 CFR parts 32, 159, and 160). Section 610 of the Dodd-Frank Act amends the lending limits statute, 12 U.S.C. section 84, to apply it to any credit exposure to a person arising from a derivative transaction and certain other transactions between the bank and the person. 12 U.S.C. 1464(u)(1) applies this lending limit to savings associations. The amendment was effective 1 year after the transfer date, July 21, 2012. On June 21, 2012, the OCC issued an interim final rule that implements section 610. This interim final rule also integrates savings associations into part 32. 77 FR 37265.

Truth in Lending Act (TILA) (12 CFR parts 34, 164). Appraisals for High Risk Mortgages. The banking agencies, CFPB, FHFA, and NCUA, have issued a proposed rule to amend Regulation Z and its official interpretation. The proposed revisions to Regulation Z

would implement a new TILA provision requiring appraisals for ''higher-risk mortgages'' that was added to TILA as part of the Dodd-Frank Act. For mortgages with an annual percentage rate that exceeds market-based prime mortgage rate benchmarks by a specified percentage, the proposed rule generally would require creditors to obtain an appraisal or appraisals meeting certain specified standards, provide applicants with a notification regarding the use of the appraisals, and give applicants a copy of the written appraisals used. The NPRM was published on September 5, 2012. 77 FR 54722.

Incentive-Based Compensation Arrangements (12 CFR part 42). Section 956 of the Dodd-Frank Act requires the banking agencies, NCUA, SEC, and FHFA, to jointly prescribe regulations or guidance prohibiting any type of incentive-based payment arrangement, or any feature of any such arrangement, that the regulators determine encourages inappropriate risks by covered financial institutions by providing an executive officer, employee, director, or principal shareholder with excessive compensation, fees or benefits, or that could lead to material financial loss to the covered financial institution. The Act also requires such agencies to jointly prescribe regulations or guidance requiring each covered financial institution to disclose to its regulator the structure of all incentive-based compensation arrangements offered by such institution sufficient to determine whether the compensation structure provides any officer, employee, director, or principal shareholder with excessive compensation or could lead to material financial loss to the institution. The agencies issued an NPRM on April 14, 2011. 76 FR 21170.

Credit Risk Retention (12 CFR part 43). The banking agencies, SEC, FHFA, and HUD proposed rules to implement the credit risk retention requirements of section 15G of the Securities Exchange Act of 1934 (15 U.S.C. section 78o-11), as added by section 941 of the Dodd-Frank Act. Section 15G generally requires the securitizer of asset-backed securities to retain not less than 5 percent of the credit risk of the assets collateralizing the asset-backed securities. Section 15G includes a variety of exemptions from these requirements, including an exemption for asset-backed securities that are collateralized exclusively by residential mortgages that qualify as ''qualified residential mortgages,'' as such term is defined by the Agencies by rule. This NPRM was published on April 29, 2011. 76 FR 24090.

Prohibition and Restrictions on Proprietary Trading and Certain Interests In, and Relationships with, Hedge Funds and Private Equity Funds (12 CFR part 44). The banking agencies, SEC, and CFTC, issued proposed rules that implement section 619 of the Dodd-Frank Act, which contains certain prohibitions and restrictions on the ability of banking entities and nonbank financial companies supervised by the Federal Reserve Board to engage in proprietary trading and have certain investments in, or relationships with, hedge funds or private equity funds. The OCC issued an NPRM on November 7, 2011. 75 FR 68846.

Margin and Capital Requirements for Covered Swap Entities (12 CFR part 45). The banking agencies, FCA, and FHFA issued a proposed rule to establish minimum margin and capital requirements for registered swap dealers, major swap participants, security-based swap dealers, and major security-based swap participants for which one of the Agencies is the prudential regulator. This proposed rule implements sections 731 and 764 of the Dodd-Frank Act, which require the Agencies to adopt rules jointly to establish capital requirements and initial and variation margin requirements for such entities on all non-cleared swaps and non-cleared security-based swaps in order to offset the greater risk to such entities and the financial system arising from the use of swaps and security-based swaps that are not cleared. This NPRM was published on May 11, 2011. 76 FR 27564.

Annual Stress Test (12 CFR part 46). This regulation will implement 12 U.S.C. 5365(i) that requires annual stress testing to be conducted by financial companies with total consolidated assets of more than $10 billion and will establish a definition of stress test, methodologies for conducting stress tests, and reporting and disclosure requirements. The OCC published an NPRM on January 24, 2012 and a final rule on October 9, 2012. 77 FR 3408, 61238.

Integration of Savings Association Supervision (12 CFR chapter V). Pursuant to the transfer of OTS functions relating to Federal savings associations to the OCC, the OCC issued two rulemakings in FY 2011 that incorporated savings associations into certain OCC rules and republished former OTS rules as OCC rules. An interim final rule was published on August 9, 2011 (76 FR 48950), and a final rule was published on July 21, 2012 (76 FR 43549).

Retail Foreign Exchange Transactions (12 CFR part 48). The OCC engaged in a rulemaking on retail foreign exchange transactions involving national banks to implement section 742 of the Dodd-Frank Act. The proposed rule was published on April 22, 2011 (76 FR 22633) and the final rule was published on July 14, 2011 (76 FR 41384). The final rule was amended through an interim final rule to apply to Federal savings associations on September 12, 2011 (76 FR 56096).

Civil Money Penalty Inflation Adjustment (12 CFR parts 19 and 109). The OCC has amended its rules of practice and procedure for national banks, set forth at 12 CFR part 19, and its rules of practice and procedure in adjudicatory proceedings for Federal savings associations, set forth at 12 CFR part 109, to adjust the maximum amount of each civil money penalty (CMP) within its jurisdiction to administer to account for inflation. These actions, including the amount of the adjustment, are required under the Federal Civil Penalties Inflation Adjustment Act of 1990 (Inflation Adjustment Act), as amended by the Debt Collection Improvement Act of 1996. This final rule was published on November 6, 2012. 77 FR 66529.

Regulatory priorities for fiscal year 2013 include finalizing the proposals listed above as well as initiating the following rulemakings:

Source of Strength. (12 CFR part 47). The OCC plans to issue a proposed rule to implement section 616(d) of the Dodd-Frank Act. Section 616(d) requires that bank holding companies, savings and loan holding companies and companies that directly or indirectly control an insurance depository institution serve as a source of strength for the insured depository institution. The appropriate Federal banking agency for the insured depository institution may require that the company submit a report that would assess the company's ability to comply with the provisions of the statute and its compliance. The OCC, the FDIC, and the Federal Reserve are required to jointly issue regulations to implement these requirements.

Integration of Savings Association Supervision (12 CFR chapter V). The OCC plans to issue one or more rulemakings resulting from our review of OCC rules applicable to banks and/or savings associations that will consolidate our rules and establish, to the extent practicable, consistent regulations for national banks and federal savings associations.

Appraisal Management Companies (12 CFR part 34). The OCC plans to issue a proposed rule that will set minimum standards for state

registration and regulation of appraisal management companies.

Retrospective Review of Existing Regulations

Pursuant to section 6 of Executive Order 13563 ''Improving Regulation and Regulatory Review'' (Jan. 18, 2011), the following Regulatory Identifier Numbers (RINs) have been identified as associated with retrospective review and analysis in the Department's final retrospective review of regulations plan. Some of these entries on this list may be completed actions, which do not appear in ''The Regulatory Plan.'' However, more information can be found about these completed rulemakings in past publications of the Unified Agenda on Reginfo.gov in the Completed Actions section for that agency. These rulemakings can also be found on Regulations.gov. Treasury's final plan can be found at: *www.treasury.gov/open*.

RIN	Title
1545–BF40	Definitions and Special Rules Regarding Accuracy-Related Penalties on Underpayments and Reportable Transaction Understatements and the Reasonable Cause Exception.
1513–AB54	Modernization of the Alcohol Beverage Labeling and Advertising Regulations.
1513–AB39	Revision of American Viticultural Area Regulations.
1513–AA23	Revision of Distilled Spirits Plant Regulations.
1513–AB59	Proposed Revisions to SDA and CDA Formulas Regulations.
1513–AB72	Implementation of Statutory Amendments Requiring the Qualification of Manufacturers and Importers of Processed Tobacco and Other Amendments.
1513–AB62	Proposed Revisions to Distilled Spirits for Fuel Use and Alcohol Fuel Plant Regulations.
1513–AB35	Self-Certification of Nonbeverage Product Formulas.
1513–AB94	Penal Sum Exception for Brewers Eligible To File Federal Excise Tax Returns and Payments Quarterly and Other Proposed Revisions to the Beer Regulation.
1513–AB89	Revisions to Distilled Spirits Plant Operations Reports and Regulations.
1515–AD67	Courtesy Notice of Liquidation.

International Regulatory Cooperation

On May 1, 2012, the President signed Executive Order 13609, ''Promoting International Regulatory Cooperation,'' which is designed to promote economic growth, innovation, competitiveness, and job creation through international regulatory cooperation. Although much of the Department's regulations are not covered by the Order (see section 6), the Department is committed to furthering the goals of the Order and looks for opportunities to engage in discussions that lead to increased and improved regulatory cooperation.

BILLING CODE 4810–25–P

DEPARTMENT OF VETERANS AFFAIRS (VA)

Statement of Regulatory Priorities

The Department of Veterans Affairs (VA) administers benefit programs that recognize the important public obligations to those who served this Nation. VA's regulatory responsibility is almost solely confined to carrying out mandates of the laws enacted by Congress relating to programs for veterans and their beneficiaries. VA's major regulatory objective is to implement these laws with fairness, justice, and efficiency.

Most of the regulations issued by VA involve at least one of three VA components: The Veterans Benefits Administration, the Veterans Health Administration, and the National Cemetery Administration. The primary mission of the Veterans Benefits Administration is to provide high-quality and timely nonmedical benefits to eligible veterans and their beneficiaries. The primary mission of the Veterans Health Administration is to provide high-quality health care on a timely basis to eligible veterans through its system of medical centers, nursing homes, domiciliaries, and outpatient medical and dental facilities. The primary mission of the National Cemetery Administration is to bury eligible veterans, members of the Reserve components, and their dependents in VA National Cemeteries and to maintain those cemeteries as national shrines in perpetuity as a final tribute of a grateful Nation to honor the memory and service of those who served in the Armed Forces.

VA Regulatory Priorities

VA's regulatory priorities include a special project to undertake a comprehensive review and improvement of its existing regulations. The first portion of this project is devoted to reviewing, reorganizing, and rewriting the VA's compensation and pension regulations found in 38 CFR part 3. The goal of the Regulation Rewrite Project is to improve the clarity and logical consistency of these regulations in order to better inform veterans and their family members of their entitlements.

A second VA regulatory priority includes a new caregiver benefits program provided by VA. This rule implements title I of the Caregivers and Veterans Omnibus Health Services Act of 2010, which was signed into law on May 5, 2010. The purpose of the new caregiver benefits program is to provide certain medical, travel, training, and financial benefits to caregivers of certain veterans and servicemembers who were seriously injured in the line of duty on or after September 11, 2001.

Retrospective Review of Existing Regulations

Pursuant to section 6 of Executive Order 13563 ''Improving Regulation and Regulatory Review'' (Jan. 18, 2011), the following Regulatory Identifier Numbers (RINs) have been identified as associated with retrospective review and analysis in the Department's final retrospective review of regulations plan. Some of these entries on this list may be completed actions, which do not appear in The Regulatory Plan. However, more information can be found about these completed rulemakings in past publications of the Unified Agenda on Reginfo.gov in the Completed Actions section for that agency. These rulemakings can also be found on Regulations.gov. The final agency plans can be found at: *http://www.va.gov/ORPM/docs/RegMgmt_VA_EO13563_RegRevPlan20110810.docx*.

RIN	Title	Significantly reduce burdens on small businesses
2900–AO13*	VA Compensation and Pension Regulation Rewrite Project	No.

*Consolidating Proposed Rules: 2900–AL67, AL70, AL71, AL72, AL74, AL76, AL82, AL83, AL84, AL87, AL88, AL89, AL94, AL95, AM01, AM04, AM05, AM06, AM07, AM16.

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ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

FY 2013 Regulatory Plan

Statement of Regulatory and Deregulatory Priorities

The Architectural and Transportation Barriers Compliance Board (Access Board) is an independent federal agency established by section 502 of the Rehabilitation Act (29 U.S.C. 792). The Access Board is responsible for developing accessibility guidelines and standards under various laws to ensure that individuals with disabilities have access to and use of buildings and facilities, transportation vehicles, and information and communication technology. Other federal agencies adopt the accessibility guidelines and standards issued by the Access Board as mandatory requirements for entities under their jurisdiction.

The Access Board is engaged in a number of regulatory efforts to promote accessibility that are reflected in the agency's regulatory agenda for FY 2013. This plan highlights three regulatory priorities for the Access Board in FY 2013: (A) Passenger Vessel Accessibility Guidelines; (B) Information and Communication Technology Standards and Guidelines; and (C) Accessibility Standards for Medical Diagnostic Equipment.

Each of these regulatory priorities is expected to provide significant benefits to citizens. By promoting equality of opportunity, the proposed regulations would enable individuals with disabilities to achieve greater participation in our society, independent living, and economic self-sufficiency. Each highlighted proposal promotes our national values of equity, human dignity, and fairness, the benefits of which are impossible to monetize.

In addition, the Information and Communication Technology Standards and Guidelines would also promote open government for all people, regardless of disability status, by providing federal agencies with standards to ensure that when they procure, develop, maintain or use electronic and information technology, that citizens and employees who are individuals with disabilities have access to and use of information and data that is comparable to the access to and use of the information and data by others without disabilities.

The Access Board expects that the Information and Communication Technology Standards and Guidelines will have international impacts, and we have incorporated into our rulemaking process extensive outreach efforts to industry representatives, disability groups, standard-setting bodies in the U.S. and abroad such as the World Wide Web Consortium, and other countries such as representatives from the European Commission, Canada, Australia, and Japan.

These three initiatives are summarized below.

A. Americans with Disabilities Act (ADA) Accessibility Guidelines for Passenger Vessels (RIN 3014–AA11)

The Access Board plans to issue an NPRM requesting public comment on the proposed accessibility guidelines for passenger vessels, pursuant to Section 504 of the Americans with Disabilities Act (ADA). Passenger vessels may include certain types of cruise ships, excursion vessels, ferries, and tenders. The Access Board published an advance notice of proposed rulemaking in 2004, and made drafts of the guidelines available for public review and comment in 2004 and 2006. The U.S. Department of Transportation (DOT) and U.S. Department of Justice (DOJ) are required to issue accessibility standards for the construction and alteration of passenger vessels covered by the ADA that are consistent with the guidelines issued by the Access Board. When DOT and DOJ issue accessibility standards, vessel owners and operators are required to comply with the standards.

The proposed guidelines would apply to the construction and alteration of passenger vessels; they would not require existing passenger vessels to be retrofitted. The proposed guidelines would contain scoping and technical provisions. Scoping provisions specify what passenger vessel features would be required to be accessible and, where multiple features of the same type are provided, how many of the features would be required to be accessible. Technical provisions specify the design criteria for accessible features. The passenger vessel features addressed by the scoping and technical provisions include onboard accessible routes connecting passenger decks and passenger amenities, accessible means of escape, doors and thresholds or coamings, toilet rooms, wheelchair spaces in assembly areas and transportation seating areas, assistive listening systems, and guest rooms and other spaces and facilities used by passengers.

A.1 *Statement of Need:* Section 504 of the Americans with Disabilities Act (ADA) requires the Access Board to issue accessibility guidelines for the construction and alteration of passenger vessels covered by the law to ensure that the vessels are readily accessible to and usable by individuals with disabilities (42 U.S.C. 12204).

A.2 *Summary of the Legal Basis:* Title II of the ADA applies to state and local governments and Title III of the ADA applies to places of public accommodation operated by private entities. The ADA covers designated public transportation services provided by state and local governments and specified public transportation services provided by private entities that are primarily engaged in the business of transporting people and whose operations affect commerce. (See 42 U.S.C. 12141 to 12147 and 12184.) Passenger vessels that provide designated public transportation services or specified public transportation services such as ferries and excursion vessels, and passenger vessels that are places of public accommodation such as vessels that provide dinner or sightseeing cruises are covered by the ADA.

Titles II and III of the ADA require the DOT and DOJ to issue accessibility standards for the construction and alteration of passenger vessels covered by the law that are consistent with the guidelines issued by the Access Board. (See 42 U.S.C. 12134 (c), 12149 (b), and 12186 (c).) The DOT has reserved a subpart in its ADA regulations for accessibility standards for passenger vessels in anticipation of the Access Board issuing these guidelines. (See 49 CFR part 39, subpart E.) When DOT and DOJ issue accessibility standards for the

construction and alteration of passenger vessels covered by the ADA, vessel owners and operators are required to comply with the standards.

A.3 *Alternatives:* In developing the proposed accessibility guidelines, the Access Board has received and considered extensive input from passenger vessel owners and operators, individuals with disabilities, and other interested parties for more than a decade. The Access Board convened an advisory committee comprised of passenger vessel industry trade groups, passenger vessel owners and operators, disability advocacy groups, and state and local government agencies to advise how to develop the accessibility guidelines. The committee submitted its report to the Access Board in 2000. In addition, over the years, the Access Board issued an ANPRM and three versions of draft accessibility guidelines and conducted in-depth case studies on various passenger vessels. The Access Board solicited and analyzed public comments on these documents in developing the proposed guidelines and regulatory impact analysis. All the published documents together with public comments are available on the Access Board's Web site at: *http://www.access-board.gov*/pvaac/.

A.4 *Anticipated Costs and Benefits:* The anticipated compliance costs for certain types of vessels would include: (1) The difference between the cost of constructing a vessel in the absence of the proposed guidelines and the cost of constructing a vessel complying with the guidelines and (2) the additional operation and maintenance costs incurred by vessel owners and operators as a result of complying with the guidelines. For certain large cruise ships, the compliance costs would be estimated based on the number of standard guest rooms and revenues that would be lost when the cruise ships would be replaced by new vessels complying with the proposed guidelines. According to the cruise industry, two guest rooms with mobility features occupy the same square footage as three standard guest rooms resulting in the loss of one standard guest room for every two guest rooms with mobility features. The Board's preliminary estimate of the cost of the draft proposed rule they range from $4 million in 2013 to $45 million in 2012 discounted at 7 percent. The estimate for 2012 is higher than any other year because the methodology assumes that existing vessels would be replaced at the end of their expected service life and a large number of existing vessels are beyond their expect service life so a disproportionate share of the compliance costs are front loaded in the first year.

The Board has not quantified the benefits of the proposed guidelines, but they would afford individuals with disabilities the opportunity to travel on passenger vessels for employment, transportation, public accommodation, and leisure. By promoting equality of opportunity, the proposed guidelines would afford individuals with disabilities to achieve greater participation in our society, independent living, and economic self-sufficiency. The proposed guidelines would promote our national values of equity, human dignity, and fairness, the benefits of which are impossible to quantify.

B. Information and Communication Technology Standards and Guidelines (RIN: 3014–AA37)

The Access Board plans to issue an NPRM to update its standards for electronic and information technology covered by section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794(d)) (Section 508) and its guidelines for telecommunication products and equipment covered by section 255 of the Telecommunications Act of 1996 (47 U.S.C. 153, 255) (Section 255).

The Board published an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** in March 2010, 75 FR 13457 (March 22, 2010). The Board held two public hearings and received 384 comments on the 2010 ANPRM and prepared a 2011 ANPRM based on a review of those comments. The 2011 ANPRM was published in the **Federal Register** in December 2011, 76 FR 76640 (December 8, 2011), and the Access Board held public hearings on January 11, 2012 and March 1, 2012. The Access Board is currently preparing an NPRM based on public comments on the 2011 ANPRM.

B.1 *Statement of Need:* The Board issued the Electronic and Information Technology Accessibility Standards in December 2000, (65 FR 80500, December 21, 2000), and the Telecommunications Act Accessibility Guidelines for telecommunications equipment and customer premises equipment in February 1998 (63 FR 5608, February 3, 1998). Since these standards and the guidelines were issued, technology has evolved and changed. Telecommunications products and electronic and information technology products have converged. For example, smartphones can perform many of the same functions as computers. Real time text technologies and video relay services are replacing TTYs (text telephones). The Board has since decided to update and revise these guidelines and the standards together to address changes in technology and to make both documents consistent.

B.2 *Summary of the Legal Basis:* Section 508 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794 (d) (Section 508) requires that when developing, procuring, maintaining, or using electronic and information technology, each federal department or agency must ensure, unless an undue burden would be imposed on the department or agency, that electronic and information technology (regardless of the type of medium) allows individuals with disabilities to have access to and use of information and data that is comparable to the access and use of the information and data by others without disabilities. Section 255 of the Telecommunications Act of 1996, 47 U.S.C. 153, 255 (Section 255) requires telecommunications manufacturers to ensure that telecommunications equipment and customer premises equipment are designed, developed, and fabricated to be accessible to and usable by individuals with disabilities when it is readily achievable to do so.

Section 508 and Section 255 require that the Access Board periodically review and, as appropriate, amend the standards and guidelines to reflect technological advances or changes in electronic and information technology or in telecommunications equipment and customer premises equipment. Once revised, the Board's standards and guidelines are made enforceable by other federal agencies. Section 508(a)(3) of the Rehabilitation Act provides that within 6 months after the Access Board revises its standards, the Federal Acquisition Regulatory Council shall revise the Federal Acquisition Regulation and each appropriate federal department or agency shall revise their procurement policies and directives, as necessary, to incorporate the revisions.

B.3 *Alternatives:* In developing the ANPRMs, the Board has solicited various stakeholders' views and practices. The Access Board formed the Telecommunications and Electronic and Information Technology Advisory Committee (TEITAC) in 2006 to review the existing guidelines and standards and to recommend changes. TEITAC's 41 members comprised a broad cross-section of stakeholders, including representatives from industry, disability groups, and a number of government agencies in the U.S. and abroad—the European Commission, Canada, Australia, and Japan. Recognizing the importance of standardization across

markets worldwide, TEITAC coordinated its work with standard-setting bodies in the U.S. and abroad, such as the World Wide Web Consortium (W3C). TEITAC members addressed a range of issues, including new or convergent technologies, market forces, and international harmonization. On April 3, 2008, TEITAC presented its report to the Board. The report recommended revisions to the Board's Section 508 standards and Section 255 guidelines. The report is available on the Board's Web site at *www.access-board.gov/sec508/refresh/report/*.

B.4 *Anticipated Costs and Benefits:* The Access Board is seeking input from the public on costs and benefits associated with the standards, and working with an outside contractor to assess costs and benefits associated with the proposed rule and to support the preliminary regulatory impact assessment that will accompany the proposed rule.

The Information and Communication Technology Standards and Guidelines will promote open government for all people, regardless of disability status, by providing federal agencies with standards to ensure that when they procure, develop, maintain or use electronic and information technology, that citizens and employees who are individuals with disabilities have access to and use of information and data that is comparable to the access to and use of the information and data by others without disabilities.

The Access Board expects that the Information and Communication Technology Standards and Guidelines will have international impacts. Accordingly, the agency has incorporated into its rulemaking process extensive outreach efforts to include industry representatives, disability groups, standard-setting bodies in the U.S. and abroad such as the World Wide Web Consortium, and other countries such as representatives from the European Commission, Canada, Australia, and Japan.

C. Accessibility Standards for Medical Diagnostic Equipment (RIN: 3014–AA40)

The Access Board plans to issue a final rule establishing accessibility standards for medical diagnostic equipment used in or in conjunction with medical settings such as physicians' offices, clinics, emergency rooms, and hospitals pursuant to Section 510 of the Rehabilitation Act (29 U.S.C. 794f).

The Access Board published its NPRM with proposed accessibility standards for notice and comment in the **Federal Register** on February 9, 2012, 77 FR 6916. The Access Board's NPRM includes technical design criteria concerning medical equipment that is commonly used by health professionals for diagnostic purposes such as examination tables, examination chairs, weight scales, mammography equipment, and other imaging. The NPRM is available at: *http://www.access-board.gov/mde/nprm.htm*. Since the NPRM publication, the Access Board held two public hearings, on March 14, 2012 and May 8, 2012; the comment period closed on June 8, 2012.

C.1 *Statement of Need:* Under section 510 of the Rehabilitation Act (29 U.S.C. 794f), the Access Board, in consultation with the Commissioner of the Food and Drug Administration, is required to issue standards that contain minimum technical criteria to ensure that medical diagnostic equipment used in or in conjunction with medical settings such as physicians' offices, clinics, emergency rooms, and hospitals are accessible to and usable by individuals with disabilities. The statute provides that the standards must allow for independent access to and use of the medical diagnostic equipment by individuals with disabilities to the maximum extent possible. Section 510 of the Rehabilitation Act requires the standards to be issued not later than 24 months after the enactment of the Patient Protection and Affordable Care Act (P. L. 111–148, 124 Stat. 570). The statutory deadline for issuing the standards was March 23, 2012.

C.2 *Summary of the Legal Basis:* Section 4203 of the Patient Protection and Affordable Care Act (Pub. L. 111–148, 124 Stat. 570) amended title V of the Rehabilitation Act, which establishes rights and protections for individuals with disabilities, by adding section 510.

C.3 *Alternatives:* In developing the NPRM, the Access Board has considered and will continue to consider alternatives proposed by a variety of stakeholders. First, the Access Board considered approaches contained in the Association for the Advancement of Medical Instrumentation's ANSI/AAMI HE 75:2009, ''Human factors engineering-Design of medical devices'' in developing the proposed standards. ANSI/AAMI HE 75 is a recommended practice that provides guidance on human factors design principles for medical devices. In particular, Chapter 16 of ANSI/AAMI HE 75 provides guidance on accessibility for patients and health care professionals with disabilities (Chapter 16 of ANSI/AAMI HE 75 is available at: *http://www.aami.org/he75/*). The Access Board's proposed standards do not reference the guidance in chapter 16 of ANSI/AAMI HE 75 because the guidance is not mandatory. The Access Board seeks to harmonize its standards and guidelines with voluntary consensus standards and plans to participate in future revisions to ANSI/AAMI HE 75.

In addition, the Access Board has consulted closely with the Department of Justice and the Food and Drug Administration in the development of the proposed standards, and plans to continue to work closely with them in the development of the final rule. The Access Board has also established an Advisory Committee to make recommendations to the Board on how to address issues raised in the public comments on the proposed rule.

C.4 *Anticipated Costs and Benefits:* The proposed standards address many of the barriers that have been identified as affecting the accessibility and usability of diagnostic equipment by individuals with disabilities. For example, the proposed standards would facilitate independent transfers by individuals with disabilities onto and off of diagnostic equipment, and enable them to maintain their independence, confidence, and dignity, lessening the need for health care personnel to assist individuals with disabilities when transferring on and off of diagnostic equipment. The proposed standards would improve the quality of health care for individuals with disabilities and ensure that they receive examinations, diagnostic procedures, and other health care services equal to those received by individuals without disabilities.

The Access Board has prepared a preliminary regulatory assessment for the proposed standards, which is available on the Access Board's Web site at: *http://www.access-board.gov/medical-equipment.htm*. The preliminary assessment compares costs of select medical diagnostic equipment with and without accessibility features in the market. The Access Board is seeking input from the public on costs and benefits associated with these proposed standards to support a final regulatory impact assessment that will accompany the final rule.

Section 510 of the Rehabilitation Act does not address who is required to comply with the standards. Compliance with the standards would not be mandatory unless other agencies adopt the standards as mandatory requirements for entities under their jurisdiction. In July 2010, the Department of Justice issued an advance notice of proposed rulemaking

(ANPRM) announcing that it was considering amending its Americans with Disabilities Act (ADA) regulations to ensure that equipment and furniture are accessible to individuals with disabilities. See 75 FR 43452 (July 26, 2010). The ANPRM noted that the ADA has always required the provision of accessible equipment and furniture, and that the Department has entered into settlement agreements with medical care providers requiring them to provide accessible medical equipment. The ANPRM stated that when the Access Board has issued accessibility standards for medical diagnostic equipment, the Department would consider adopting the standards in its ADA regulations. The ANPRM also stated that if the Department adopts the Access Board's accessibility standards for medical diagnostic equipment, it would develop scoping requirements that specify the minimum number of accessible types of equipment required for different medical settings. At that time, the impact of scoping and application of the proposed standards can be more fully assessed.

ATBCB

Proposed Rule Stage

74. Americans With Disabilities Act (ADA) Accessibility Guidelines for Passenger Vessels

Priority: Economically Significant. Major under 5 U.S.C. 801.

Legal Authority: 42 U.S.C. 12204, Americans With Disabilities Act of 1990

CFR Citation: 36 CFR part 1196.

Legal Deadline: None.

Abstract: This rulemaking would establish accessibility guidelines to ensure that newly constructed and altered passenger vessels covered by the Americans With Disabilities Act (ADA) are accessible to and usable by individuals with disabilities. The U.S. Department of Transportation and U.S. Department of Justice are expected to adopt the guidelines as enforceable standards in separate rulemakings for the construction and alteration of passenger vessels covered by the ADA.

Statement of Need: Section 504 of the Americans with Disabilities Act (ADA) requires the Access Board to issue accessibility guidelines for the construction and alteration of passenger vessels covered by the law to ensure that the vessels are readily accessible to and usable by individuals with disabilities (42 U.S.C. 12204).

Summary of Legal Basis: Title II of the ADA applies to state and local governments and title III of the ADA applies to places of public accommodation operated by private entities. The ADA covers designated public transportation services provided by state and local governments and specified public transportation services provided by private entities that are primarily engaged in the business of transporting people and whose operations affect commerce. (See 42 U.S.C. 12141 to 12147 and 12184.) Passenger vessels that provide designated public transportation services or specified public transportation services such as ferries and excursion vessels, and passenger vessels that are places of public accommodation such as vessels that provide dinner or sightseeing cruises are covered by the ADA.

Titles II and III of the ADA require the DOT and DOJ to issue accessibility standards for the construction and alteration of passenger vessels covered by the law that are consistent with the guidelines issued by the Access Board. (See 42 U.S.C. 12134(c), 12149(b), and 12186(c).) The DOT has reserved a subpart in its ADA regulations for accessibility standards for passenger vessels in anticipation of the Access Board issuing these guidelines. (See 49 CFR part 39, subpart E.) When DOT and DOJ issue accessibility standards for the construction and alteration of passenger vessels covered by the ADA, vessel owners and operators are required to comply with the standards.

Alternatives: In developing the proposed accessibility guidelines, the Access Board has received and considered extensive input from passenger vessel owners and operators, individuals with disabilities, and other interested parties for more than a decade. The Access Board convened an advisory committee comprised of passenger vessel industry trade groups, passenger vessel owners and operators, disability advocacy groups, and state and local government agencies to advise how to develop the accessibility guidelines. The committee submitted its report to the Access Board in 2000. In addition, over the years, the Access Board issued an ANPRM and three versions of draft accessibility guidelines and conducted in-depth case studies on various passenger vessels. The Access Board solicited and analyzed public comments on these documents in developing the proposed guidelines and regulatory impact analysis. All the published documents together with public comments are available on the Access Board's Web site at: *http://www.access-board.gov/pvaac/*.

Anticipated Cost and Benefits: The compliance costs for certain types of vessels would include: (1) the difference between the cost of constructing a vessel in the absence of the proposed guidelines and the cost of constructing a vessel complying with the guidelines and (2) the additional operation and maintenance costs incurred by vessel owners and operators as a result of complying with the guidelines. For certain large cruise ships, the compliance costs would be estimated based on the number of standard guest rooms and revenues that would be lost when the cruise ships would be replaced by new vessels complying with the proposed guidelines. According to the cruise industry, two guest rooms with mobility features occupy the same square footage as three standard guest rooms resulting in the loss of one standard guest room for every two guest rooms with mobility features. The Board's preliminary estimate of the cost of the draft proposed rule they range from $4 million in 2013 to $45 million in 2012 discounted at 7 percent. The estimate for 2012 is higher than any other year because the methodology assumes that existing vessels would be replaced at the end of their expected service life and a large number of existing vessels are beyond their expect service life so a disproportionate share of the compliance costs are front loaded in the first year.

The proposed guidelines would afford individuals with disabilities the opportunity to travel on passenger vessels for employment, transportation, public accommodation, and leisure. By promoting equality of opportunity, the proposed guidelines would afford individuals with disabilities to achieve greater participation in our society, independent living, and economic self-sufficiency. The proposed guidelines promote our national values of equity, human dignity, and fairness, the benefits of which are impossible to quantify.

Timetable:

Action	Date	FR Cite
Notice of Intent to Establish Advisory Committee.	03/30/98	63 FR 15175
Establishment of Advisory Committee.	08/12/98	63 FR 43136
Availability of Draft Guidelines.	11/26/04	69 FR 69244
ANPRM	11/26/04	69 FR 69246
Comment Period Extended.	03/22/05	70 FR 14435
ANPRM Comment Period End.	07/28/05	
Availability of Draft Guidelines.	07/07/06	71 FR 38563

Action	Date	FR Cite
Notice of Intent to Establish Advisory Committee.	06/25/07	72 FR 34653
Establishment of Advisory Committee.	08/13/07	72 FR 45200
NPRM	03/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses, Governmental Jurisdictions.

Government Levels Affected: Local, State.

Federalism: This action may have federalism implications as defined in EO 13132.

URL for More Information: www.access-board.gov/pvacc/index.htm.

URL for Public Comments: www.regulations.gov.

Agency Contact: James Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004–1111, *Phone:* 202 272–0040, *TDD Phone:* 202 272–0062, *Fax:* 202 272–0081, *Email: raggio@access-board.gov.*

RIN: 3014–AA11

ATBCB

75. Telecommunications Act Accessibility Guidelines; Electronic and Information Technology Accessibility Standards

Priority: Other Significant.

Legal Authority: 47 U.S.C. 255(e); 29 U.S.C. 794(d)

CFR Citation: 36 CFR part 1193; 36 CFR part 1194.

Legal Deadline: None.

Abstract: This rulemaking would update in a single document the accessibility guidelines for telecommunication equipment and customer premises equipment issued in 1998 under section 255 of the Telecommunications Act of 1966, and the accessibility standards for electronic and information technology issued in 2000 under section 508 of the Rehabilitation Act of 1973, as amended. Section 255 of the Telecommunications Act requires manufacturers of telecommunication equipment and customer premises equipment to ensure that the equipment is designed, developed, and fabricated to be accessible to and usable by individuals with disabilities, if readily achievable. Section 508 of the Rehabilitation Act requires Federal agencies to ensure that electronic and information technology developed, procured, maintained, or used by the agencies allows individuals with disabilities to have comparable access to and use of information and data as afforded others who are not individuals with disabilities, unless an undue burden would be imposed on the Federal agency. The Federal Communications Commission has issued regulations (47 CFR parts 6 and 7) implementing Section 255 of the Telecommunications Act that are consistent with the accessibility guidelines for telecommunication equipment and customer premises equipment. The Federal Acquisition Regulatory Council has incorporated the accessibility standards for electronic and information technology in the Federal Acquisition Regulation (48 CFR Chapter 1). The Federal Communications Commission and Federal Acquisition Regulatory Council are expected to update their regulations in separate rulemakings when the accessibility guidelines for telecommunication equipment and customer premises equipment and accessibility standards for electronic and information technology are updated.

Statement of Need: Since the Access Board first issued the standards and the guidelines, technology has evolved and changed. The Board issued the (Section 508) Electronic and Information Technology Accessibility Standards in December 2000, 65 FR 80500 (December 21, 2000), and the Telecommunications Act Accessibility Guidelines for telecommunications equipment and customer premises equipment in February 1998, 63 FR 5608 (February 3, 1998). The Board has since decided to update and revise these guidelines and the standards together to address changes in technology and to make both documents consistent.

Summary of Legal Basis: Section 508 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794(d) (Section 508) requires that when developing, procuring, maintaining, or using electronic and information technology, each federal department or agency must ensure, unless an undue burden would be imposed on the department or agency, that electronic and information technology (regardless of the type of medium) allows individuals with disabilities to have access to and use of information and data that is comparable to the access and use of the information and data by others without disabilities. Section 255 of the Telecommunications Act of 1996, 47 U.S.C. 153, 255 (Section 255) requires telecommunications manufacturers to ensure that telecommunications equipment and customer premises equipment are designed, developed, and fabricated to be accessible to and usable by individuals with disabilities when it is readily achievable to do so.

Alternatives: In developing the ANPRMs, the Board has solicited various stakeholders' views and practices. The Access Board formed the Telecommunications and Electronic and Information Technology Advisory Committee (TEITAC) in 2006 to review the existing guidelines and standards and to recommend changes. TEITAC's 41 members comprised a broad cross-section of stakeholders, including representatives from industry, disability groups, and a number of government agencies in the U.S. and abroad—the European Commission, Canada, Australia, and Japan. Recognizing the importance of standardization across markets worldwide, TEITAC coordinated its work with standard-setting bodies in the U.S. and abroad, such as the World Wide Web Consortium (W3C). TEITAC members addressed a range of issues, including new or convergent technologies, market forces, and international harmonization. On April 3, 2008, TEITAC presented its report to the Board. The report recommended revisions to the Board's Section 508 standards and Section 255 guidelines. The report is available on the Board's Web site at *www.access-board.gov/sec508/refresh/report/.*

Anticipated Cost and Benefits: The Access Board is seeking input from the public on costs and benefits associated with the standards, and working with an outside contractor to assess costs and benefits associated with the proposed rule and to support the preliminary regulatory impact assessment that will accompany the proposed rule.

The Information and Communication Technology Standards and Guidelines will promote open government for all people, regardless of disability status, by providing federal agencies with standards to ensure that when they procure, develop, maintain or use electronic and information technology, that citizens and employees who are individuals with disabilities have access to and use of information and data that is comparable to the access to and use of the information and data by others without disabilities.

The Access Board expects that the Information and Communication Technology Standards and Guidelines will have international impacts. Accordingly, the agency has incorporated into its rulemaking process extensive outreach efforts to include industry representatives, disability groups, standard-setting bodies in the

U.S. and abroad such as the World Wide Web Consortium, and other countries such as representatives from the European Commission, Canada, Australia, and Japan.

Timetable:

Action	Date	FR Cite
Establishment of Advisory Committee.	07/06/06	71 FR 38324
ANPRM	03/22/10	75 FR 13457
ANPRM Comment Period End.	06/21/10	
ANPRM	12/08/11	76 FR 76640
ANPRM Comment Period End.	03/07/12	
NPRM	06/00/13	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Federal.

URL for More Information: www.access-board.gov/508.htm.

URL for Public Comments: www.regulations.gov.

Agency Contact: Lisa Fairhall, Deputy General Counsel, Architectural and Transportation Barriers Compliance Board, Suite 1000, 1331 F Street NW., Washington, DC 20004, *Phone:* 202 272–0046, *Fax:* 202 272–0081, *Email: fairhall@access-board.gov.*

RIN: 3014–AA37

ATBCB

Final Rule Stage

76. Accessibility Standards for Medical Diagnostic Equipment

Priority: Other Significant.

Legal Authority: 29 U.S.C. 794(f)

CFR Citation: 30 CFR part 1197 (New).

Legal Deadline: Final, Statutory, March 22, 2012, 29 U.S.C. 794(f).

Abstract: This regulation will establish minimum technical criteria to ensure that medical equipment used for diagnostic purposes by health professionals in (or in conjunction with) physician's offices, clinics, emergency rooms, hospitals, and other medical settings is accessible to and usable by individuals with disabilities.

Statement of Need: Under section 510 of the Rehabilitation Act (29 U.S.C.794f), the Access Board, in consultation with the Commissioner of the Food and Drug Administration, is required to issue standards that contain minimum technical criteria to ensure that medical diagnostic equipment used in or in conjunction with medical settings such as physicians' offices, clinics, emergency rooms, and hospitals are accessible to and usable by individuals with disabilities. The statute provides that the standards must allow for independent access to and use of the medical diagnostic equipment by individuals with disabilities to the maximum extent possible. Section 510 of the Rehabilitation Act requires the standards to be issued not later than 24 months after the enactment of the Patient Protection and Affordable Care Act (Pub. L. 111–148, 124 Stat. 570).The statutory deadline for issuing the standards was March 23, 2012.

Summary of Legal Basis: Section 4203 of the Patient Protection and Affordable Care Act (Pub. L. 111–148, 124 Stat. 570) amended title V of the Rehabilitation Act, which establishes rights and protections for individuals with disabilities, by adding section 510.

Alternatives: In developing the NPRM, the Access Board has considered and will continue to consider alternatives proposed by a variety of stakeholders. First, the Access Board considered approaches contained in the Association for the Advancement of Medical Instrumentation's ANSI/AAMI HE 75:2009, ''Human factors engineering-Design of medical devices'' in developing the proposed standards. ANSI/AAMI HE 75 is a recommended practice that provides guidance on human factors design principles for medical devices. In particular, Chapter 16 of ANSI/AAMI HE 75 provides guidance on accessibility for patients and health care professionals with disabilities (Chapter 16 of ANSI/AAMI HE 75 is available at: *http://www.aami.org/he75/*). The Access Board's proposed standards do not reference the guidance in chapter 16 of ANSI/AAMI HE 75 because the guidance is not mandatory. The Access Board seeks to harmonize its standards and guidelines with voluntary consensus standards and plans to participate in future revisions to ANSI/AAMI HE 75.

In addition, the Access Board has consulted closely with the Department of Justice and the Food and Drug Administration in the development of the proposed standards, and plans to continue to work closely with them in the development of the final rule. The Access Board has also established an Advisory Committee to make recommendations to the Board on how to address issues raised in the public comments on the proposed rule.

Anticipated Cost and Benefits: The proposed standards address many of the barriers that have been identified as affecting the accessibility and usability of diagnostic equipment by individuals with disabilities. For example, the proposed standards would facilitate independent transfers by individuals with disabilities onto and off of diagnostic equipment, and enable them to maintain their independence, confidence, and dignity, lessening the need for health care personnel to assist individuals with disabilities when transferring on and off of diagnostic equipment. The proposed standards would improve the quality of health care for individuals with disabilities and ensure that they receive examinations, diagnostic procedures, and other health care services equal to those received by individuals without disabilities.

The Access Board has prepared a preliminary regulatory assessment for the proposed standards, which is available on the Access Board's web site at: *http://www.accessboard.gov/medical-equipment.htm.* The preliminary assessment compares costs of select medical diagnostic equipment with and without accessibility features in the market. The Access Board is seeking input from the public on costs and benefits associated with these proposed standards to support a final regulatory impact assessment that will accompany the final rule.

Section 510 of the Rehabilitation Act does not address who is required to comply with the standards. Compliance with the standards would not be mandatory unless other agencies adopt the standards as mandatory requirements for entities under their jurisdiction. In July 2010, the Department of Justice issued an advance notice of proposed rulemaking (ANPRM) announcing that it was considering amending its Americans with Disabilities Act (ADA) regulations to ensure that equipment and furniture are accessible to individuals with disabilities. See 75 FR 43452 (July 26, 2010). The ANPRM noted that the ADA has always required the provision of accessible equipment and furniture, and that the Department has entered into settlement agreements with medical care providers requiring them to provide accessible medical equipment. The ANPRM stated that when the Access Board has issued accessibility standards for medical diagnostic equipment, the Department would consider adopting the standards in its ADA regulations. The ANPRM also stated that if the Department adopts the Access Board's accessibility standards for medical diagnostic equipment, it would develop scoping requirements that specify the minimum number of accessible types of equipment required for different medical settings. At that time, the impact of scoping and application of the

proposed standards can be more fully assessed.

Timetable:

Action	Date	FR Cite
Notice of Public Information Meeting.	06/22/10	75 FR 35439
NPRM	02/09/12	77 FR 6916
NPRM Comment Period End.	06/08/12	
Notice of Intent to Form Advisory Committee.	03/13/12	77 FR 14706
Final Action	11/00/13	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Undetermined.

URL for More Information: www.access-board.gov/medical-equipment.htm.

URL for Public Comments: www.regulations.gov.

Agency Contact: James Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004–1111, *Phone:* 202 272–0040, *TDD Phone:* 202 272–0062, *Fax:* 202 272–0081, *Email: raggio@access-board.gov.*

RIN: 3014–AA40

BILLING CODE 8150–01–P

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

FY 2013 Regulatory Plan

Statement of Regulatory and Deregulatory Priorities

The Architectural and Transportation Barriers Compliance Board (Access Board) is an independent federal agency established by section 502 of the Rehabilitation Act (29 U.S.C. 792). The Access Board is responsible for developing accessibility guidelines and standards under various laws to ensure that individuals with disabilities have access to and use of buildings and facilities, transportation vehicles, and information and communication technology. Other federal agencies adopt the accessibility guidelines and standards issued by the Access Board as mandatory requirements for entities under their jurisdiction.

The Access Board is engaged in a number of regulatory efforts to promote accessibility that are reflected in the agency's regulatory agenda for FY 2013. This plan highlights three regulatory priorities for the Access Board in FY 2013: (A) Passenger Vessel Accessibility Guidelines; (B) Information and Communication Technology Standards and Guidelines; and (C) Accessibility Standards for Medical Diagnostic Equipment.

Each of these regulatory priorities is expected to provide significant benefits to citizens. By promoting equality of opportunity, the proposed regulations would enable individuals with disabilities to achieve greater participation in our society, independent living, and economic self-sufficiency. Each highlighted proposal promotes our national values of equity, human dignity, and fairness, the benefits of which are impossible to monetize.

In addition, the Information and Communication Technology Standards and Guidelines would also promote open government for all people, regardless of disability status, by providing federal agencies with standards to ensure that when they procure, develop, maintain or use electronic and information technology, that citizens and employees who are individuals with disabilities have access to and use of information and data that is comparable to the access to and use of the information and data by others without disabilities.

The Access Board expects that the Information and Communication Technology Standards and Guidelines will have international impacts, and we have incorporated into our rulemaking process extensive outreach efforts to industry representatives, disability groups, standard-setting bodies in the U.S. and abroad such as the World Wide Web Consortium, and other countries such as representatives from the European Commission, Canada, Australia, and Japan.

These three initiatives are summarized below.

A. Americans With Disabilities Act (ADA) Accessibility Guidelines for Passenger Vessels (RIN 3014–AA11)

The Access Board plans to issue an NPRM requesting public comment on the proposed accessibility guidelines for passenger vessels, pursuant to Section 504 of the Americans with Disabilities Act (ADA). Passenger vessels may include certain types of cruise ships, excursion vessels, ferries, and tenders. The Access Board published an advance notice of proposed rulemaking in 2004, and made drafts of the guidelines available for public review and comment in 2004 and 2006. The U.S. Department of Transportation (DOT) and U.S. Department of Justice (DOJ) are required to issue accessibility standards for the construction and alteration of passenger vessels covered by the ADA that are consistent with the guidelines issued by the Access Board. When DOT and DOJ issue accessibility standards, vessel owners and operators are required to comply with the standards.

The proposed guidelines would apply to the construction and alteration of passenger vessels; they would not require existing passenger vessels to be retrofitted. The proposed guidelines would contain scoping and technical provisions. Scoping provisions specify what passenger vessel features would be required to be accessible and, where multiple features of the same type are provided, how many of the features would be required to be accessible. Technical provisions specify the design criteria for accessible features. The passenger vessel features addressed by the scoping and technical provisions include onboard accessible routes connecting passenger decks and passenger amenities, accessible means of escape, doors and thresholds or coamings, toilet rooms, wheelchair spaces in assembly areas and transportation seating areas, assistive listening systems, and guest rooms and other spaces and facilities used by passengers.

A.1 *Statement of Need:* Section 504 of the Americans with Disabilities Act (ADA) requires the Access Board to issue accessibility guidelines for the construction and alteration of passenger vessels covered by the law to ensure that the vessels are readily accessible to and usable by individuals with disabilities (42 U.S.C. 12204).

A.2 *Summary of the Legal Basis:* Title II of the ADA applies to state and local governments and Title III of the ADA applies to places of public accommodation operated by private entities. The ADA covers designated public transportation services provided by state and local governments and specified public transportation services provided by private entities that are primarily engaged in the business of transporting people and whose operations affect commerce. (See 42 U.S.C. 12141 to 12147 and 12184.) Passenger vessels that provide designated public transportation services or specified public transportation services such as ferries and excursion vessels, and passenger vessels that are places of public accommodation such as vessels that provide dinner or sightseeing cruises are covered by the ADA.

Titles II and III of the ADA require the DOT and DOJ to issue accessibility standards for the construction and alteration of passenger vessels covered by the law that are consistent with the

guidelines issued by the Access Board. (See 42 U.S.C. 12134(c), 12149(b), and 12186(c).) The DOT has reserved a subpart in its ADA regulations for accessibility standards for passenger vessels in anticipation of the Access Board issuing these guidelines. (See 49 CFR part 39, subpart E.) When DOT and DOJ issue accessibility standards for the construction and alteration of passenger vessels covered by the ADA, vessel owners and operators are required to comply with the standards.

A.3 *Alternatives:* In developing the proposed accessibility guidelines, the Access Board has received and considered extensive input from passenger vessel owners and operators, individuals with disabilities, and other interested parties for more than a decade. The Access Board convened an advisory committee comprised of passenger vessel industry trade groups, passenger vessel owners and operators, disability advocacy groups, and state and local government agencies to advise how to develop the accessibility guidelines. The committee submitted its report to the Access Board in 2000. In addition, over the years, the Access Board issued an ANPRM and three versions of draft accessibility guidelines and conducted in-depth case studies on various passenger vessels. The Access Board solicited and analyzed public comments on these documents in developing the proposed guidelines and regulatory impact analysis. All the published documents together with public comments are available on the Access Board's Web site at: *http://www.access-board.gov/pvaac/.*

A.4 *Anticipated Costs and Benefits:* The anticipated compliance costs for certain types of vessels would include: (1) The difference between the cost of constructing a vessel in the absence of the proposed guidelines and the cost of constructing a vessel complying with the guidelines and (2) the additional operation and maintenance costs incurred by vessel owners and operators as a result of complying with the guidelines. For certain large cruise ships, the compliance costs would be estimated based on the number of standard guest rooms and revenues that would be lost when the cruise ships would be replaced by new vessels complying with the proposed guidelines. According to the cruise industry, two guest rooms with mobility features occupy the same square footage as three standard guest rooms resulting in the loss of one standard guest room for every two guest rooms with mobility features. The Board's preliminary estimate of the cost of the draft proposed rule they range from $4 million in 2013 to $45 million in 2012 discounted at 7 percent. The estimate for 2012 is higher than any other year because the methodology assumes that existing vessels would be replaced at the end of their expected service life and a large number of existing vessels are beyond their expect service life so a disproportionate share of the compliance costs are front loaded in the first year.

The Board has not quantified the benefits of the proposed guidelines, but they would afford individuals with disabilities the opportunity to travel on passenger vessels for employment, transportation, public accommodation, and leisure. By promoting equality of opportunity, the proposed guidelines would afford individuals with disabilities to achieve greater participation in our society, independent living, and economic self-sufficiency. The proposed guidelines would promote our national values of equity, human dignity, and fairness, the benefits of which are impossible to quantify.

B. Information and Communication Technology Standards and Guidelines (RIN: 3014–AA37)

The Access Board plans to issue an NPRM to update its standards for electronic and information technology covered by section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794(d)) (Section 508) and its guidelines for telecommunication products and equipment covered by section 255 of the Telecommunications Act of 1996 (47 U.S.C. 153, 255) (Section 255).

The Board published an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** in March 2010, 75 FR 13457 (March 22, 2010). The Board held two public hearings and received 384 comments on the 2010 ANPRM and prepared a 2011 ANPRM based on a review of those comments. The 2011 ANPRM was published in the **Federal Register** in December 2011, 76 FR 76640 (December 8, 2011), and the Access Board held public hearings on January 11, 2012 and March 1, 2012. The Access Board is currently preparing an NPRM based on public comments on the 2011 ANPRM.

B.1 *Statement of Need:* The Board issued the Electronic and Information Technology Accessibility Standards in December 2000, (65 FR 80500, December 21, 2000), and the Telecommunications Act Accessibility Guidelines for telecommunications equipment and customer premises equipment in February 1998 (63 FR 5608, February 3, 1998). Since these standards and the guidelines were issued, technology has evolved and changed. Telecommunications products and electronic and information technology products have converged. For example, smartphones can perform many of the same functions as computers. Real time text technologies and video relay services are replacing TTY's (text telephones). The Board has since decided to update and revise these guidelines and the standards together to address changes in technology and to make both documents consistent.

B.2 *Summary of the Legal Basis:* Section 508 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794(d) (Section 508) requires that when developing, procuring, maintaining, or using electronic and information technology, each federal department or agency must ensure, unless an undue burden would be imposed on the department or agency, that electronic and information technology (regardless of the type of medium) allows individuals with disabilities to have access to and use of information and data that is comparable to the access and use of the information and data by others without disabilities. Section 255 of the Telecommunications Act of 1996, 47 U.S.C. 153, 255 (Section 255) requires telecommunications manufacturers to ensure that telecommunications equipment and customer premises equipment are designed, developed, and fabricated to be accessible to and usable by individuals with disabilities when it is readily achievable to do so.

Section 508 and Section 255 require that the Access Board periodically review and, as appropriate, amend the standards and guidelines to reflect technological advances or changes in electronic and information technology or in telecommunications equipment and customer premises equipment. Once revised, the Board's standards and guidelines are made enforceable by other federal agencies. Section 508(a)(3) of the Rehabilitation Act provides that within 6 months after the Access Board revises its standards, the Federal Acquisition Regulatory Council shall revise the Federal Acquisition Regulation and each appropriate federal department or agency shall revise their procurement policies and directives, as necessary, to incorporate the revisions.

B.3 *Alternatives:* In developing the ANPRMs, the Board has solicited various stakeholders' views and practices. The Access Board formed the Telecommunications and Electronic and Information Technology Advisory Committee (TEITAC) in 2006 to review the existing guidelines and standards

and to recommend changes. TEITAC's 41 members comprised a broad cross-section of stakeholders, including representatives from industry, disability groups, and a number of government agencies in the U.S. and abroad—the European Commission, Canada, Australia, and Japan. Recognizing the importance of standardization across markets worldwide, TEITAC coordinated its work with standard-setting bodies in the U.S. and abroad, such as the World Wide Web Consortium (W3C). TEITAC members addressed a range of issues, including new or convergent technologies, market forces, and international harmonization. On April 3, 2008, TEITAC presented its report to the Board. The report recommended revisions to the Board's Section 508 standards and Section 255 guidelines. The report is available on the Board's Web site at *www.access-board.gov/sec508/refresh/report/*.

B.4 *Anticipated Costs and Benefits:* The Access Board is seeking input from the public on costs and benefits associated with the standards, and working with an outside contractor to assess costs and benefits associated with the proposed rule and to support the preliminary regulatory impact assessment that will accompany the proposed rule.

The Information and Communication Technology Standards and Guidelines will promote open government for all people, regardless of disability status, by providing federal agencies with standards to ensure that when they procure, develop, maintain or use electronic and information technology, that citizens and employees who are individuals with disabilities have access to and use of information and data that is comparable to the access to and use of the information and data by others without disabilities.

The Access Board expects that the Information and Communication Technology Standards and Guidelines will have international impacts. Accordingly, the agency has incorporated into its rulemaking process extensive outreach efforts to include industry representatives, disability groups, standard-setting bodies in the U.S. and abroad such as the World Wide Web Consortium, and other countries such as representatives from the European Commission, Canada, Australia, and Japan.

C. Accessibility Standards for Medical Diagnostic Equipment (RIN: 3014–AA40)

The Access Board plans to issue a final rule establishing accessibility standards for medical diagnostic equipment used in or in conjunction with medical settings such as physicians' offices, clinics, emergency rooms, and hospitals pursuant to Section 510 of the Rehabilitation Act (29 U.S.C. 794f).

The Access Board published its NPRM with proposed accessibility standards for notice and comment in the **Federal Register** on February 9, 2012, 77 FR 6916. The Access Board's NPRM includes technical design criteria concerning medical equipment that is commonly used by health professionals for diagnostic purposes such as examination tables, examination chairs, weight scales, mammography equipment, and other imaging. The NPRM is available at: *http://www.access-board.gov/mde/nprm.htm*. Since the NPRM publication, the Access Board held two public hearings, on March 14, 2012 and May 8, 2012; the comment period closed on June 8, 2012.

C.1 *Statement of Need:* Under section 510 of the Rehabilitation Act (29 U.S.C. 794f), the Access Board, in consultation with the Commissioner of the Food and Drug Administration, is required to issue standards that contain minimum technical criteria to ensure that medical diagnostic equipment used in or in conjunction with medical settings such as physicians' offices, clinics, emergency rooms, and hospitals are accessible to and usable by individuals with disabilities. The statute provides that the standards must allow for independent access to and use of the medical diagnostic equipment by individuals with disabilities to the maximum extent possible. Section 510 of the Rehabilitation Act requires the standards to be issued not later than 24 months after the enactment of the Patient Protection and Affordable Care Act (P.L. 111–148, 124 Stat. 570). The statutory deadline for issuing the standards was March 23, 2012.

C.2 *Summary of the Legal Basis:* Section 4203 of the Patient Protection and Affordable Care Act (Pub. L. 111–148, 124 Stat. 570) amended title V of the Rehabilitation Act, which establishes rights and protections for individuals with disabilities, by adding section 510.

C.3 *Alternatives:* In developing the NPRM, the Access Board has considered and will continue to consider alternatives proposed by a variety of stakeholders. First, the Access Board considered approaches contained in the Association for the Advancement of Medical Instrumentation's ANSI/AAMI HE 75:2009, ''Human factors engineering-Design of medical devices'' in developing the proposed standards. ANSI/AAMI HE 75 is a recommended practice that provides guidance on human factors design principles for medical devices. In particular, Chapter 16 of ANSI/AAMI HE 75 provides guidance on accessibility for patients and health care professionals with disabilities (Chapter 16 of ANSI/AAMI HE 75 is available at: *http://www.aami.org/he75/*). The Access Board's proposed standards do not reference the guidance in chapter16 of ANSI/AAMI HE 75 because the guidance is not mandatory. The Access Board seeks to harmonize its standards and guidelines with voluntary consensus standards and plans to participate in future revisions to ANSI/AAMI HE 75.

In addition, the Access Board has consulted closely with the Department of Justice and the Food and Drug Administration in the development of the proposed standards, and plans to continue to work closely with them in the development of the final rule. The Access Board has also established an Advisory Committee to make recommendations to the Board on how to address issues raised in the public comments on the proposed rule.

C.4 *Anticipated Costs and Benefits:* The proposed standards address many of the barriers that have been identified as affecting the accessibility and usability of diagnostic equipment by individuals with disabilities. For example, the proposed standards would facilitate independent transfers by individuals with disabilities onto and off of diagnostic equipment, and enable them to maintain their independence, confidence, and dignity, lessening the need for health care personnel to assist individuals with disabilities when transferring on and off of diagnostic equipment. The proposed standards would improve the quality of health care for individuals with disabilities and ensure that they receive examinations, diagnostic procedures, and other health care services equal to those received by individuals without disabilities.

The Access Board has prepared a preliminary regulatory assessment for the proposed standards, which is available on the Access Board's web site at: *http://www.access-board.gov/medical-equipment.htm*. The preliminary assessment compares costs of select medical diagnostic equipment with and without accessibility features in the market. The Access Board is seeking input from the public on costs and benefits associated with these proposed standards to support a final regulatory impact assessment that will accompany the final rule. Section 510 of the Rehabilitation Act does not address

who is required to comply with the standards. Compliance with the standards would not be mandatory unless other agencies adopt the standards as mandatory requirements for entities under their jurisdiction. In July 2010, the Department of Justice issued an advance notice of proposed rulemaking (ANPRM) announcing that it was considering amending its Americans with Disabilities Act (ADA) regulations to ensure that equipment and furniture are accessible to individuals with disabilities. See 75 FR 43452 (July 26, 2010). The ANPRM noted that the ADA has always required the provision of accessible equipment and furniture, and that the Department has entered into settlement agreements with medical care providers requiring them to provide accessible medical equipment. The ANPRM stated that when the Access Board has issued accessibility standards for medical diagnostic equipment, the Department would consider adopting the standards in its ADA regulations. The ANPRM also stated that if the Department adopts the Access Board's accessibility standards for medical diagnostic equipment, it would develop scoping requirements that specify the minimum number of accessible types of equipment required for different medical settings. At that time, the impact of scoping and application of the proposed standards can be more fully assessed.

ATBCB

Proposed Rule Stage

74. Americans With Disabilities Act (ADA) Accessibility Guidelines for Passenger Vessels

Priority: Economically Significant. Major under 5 U.S.C. 801.

Legal Authority: 42 U.S.C. 12204, Americans With Disabilities Act of 1990

CFR Citation: 36 CFR part 1196.

Legal Deadline: None.

Abstract: This rulemaking would establish accessibility guidelines to ensure that newly constructed and altered passenger vessels covered by the Americans With Disabilities Act (ADA) are accessible to and usable by individuals with disabilities. The U.S. Department of Transportation and U.S. Department of Justice are expected to adopt the guidelines as enforceable standards in separate rulemakings for the construction and alteration of passenger vessels covered by the ADA.

Statement of Need: Section 504 of the Americans with Disabilities Act (ADA) requires the Access Board to issue accessibility guidelines for the construction and alteration of passenger vessels covered by the law to ensure that the vessels are readily accessible to and usable by individuals with disabilities (42 U.S.C. 12204).

Summary of Legal Basis: Title II of the ADA applies to state and local governments and title III of the ADA applies to places of public accommodation operated by private entities. The ADA covers designated public transportation services provided by state and local governments and specified public transportation services provided by private entities that are primarily engaged in the business of transporting people and whose operations affect commerce. (See 42 U.S.C. 12141 to 12147 and 12184.) Passenger vessels that provide designated public transportation services or specified public transportation services such as ferries and excursion vessels, and passenger vessels that are places of public accommodation such as vessels that provide dinner or sightseeing cruises are covered by the ADA.

Titles II and III of the ADA require the DOT and DOJ to issue accessibility standards for the construction and alteration of passenger vessels covered by the law that are consistent with the guidelines issued by the Access Board. (See 42 U.S.C. 12134(c), 12149(b), and 12186(c).) The DOT has reserved a subpart in its ADA regulations for accessibility standards for passenger vessels in anticipation of the Access Board issuing these guidelines. (See 49 CFR part 39, subpart E.) When DOT and DOJ issue accessibility standards for the construction and alteration of passenger vessels covered by the ADA, vessel owners and operators are required to comply with the standards.

Alternatives: In developing the proposed accessibility guidelines, the Access Board has received and considered extensive input from passenger vessel owners and operators, individuals with disabilities, and other interested parties for more than a decade. The Access Board convened an advisory committee comprised of passenger vessel industry trade groups, passenger vessel owners and operators, disability advocacy groups, and state and local government agencies to advise how to develop the accessibility guidelines. The committee submitted its report to the Access Board in 2000. In addition, over the years, the Access Board issued an ANPRM and three versions of draft accessibility guidelines and conducted in-depth case studies on various passenger vessels. The Access Board solicited and analyzed public comments on these documents in developing the proposed guidelines and regulatory impact analysis. All the published documents together with public comments are available on the Access Board's Web site at: *http://www.access-board.gov/pvaac/*.

Anticipated Cost and Benefits: The compliance costs for certain types of vessels would include: (1) the difference between the cost of constructing a vessel in the absence of the proposed guidelines and the cost of constructing a vessel complying with the guidelines and (2) the additional operation and maintenance costs incurred by vessel owners and operators as a result of complying with the guidelines. For certain large cruise ships, the compliance costs would be estimated based on the number of standard guest rooms and revenues that would be lost when the cruise ships would be replaced by new vessels complying with the proposed guidelines. According to the cruise industry, two guest rooms with mobility features occupy the same square footage as three standard guest rooms resulting in the loss of one standard guest room for every two guest rooms with mobility features. The Board's preliminary estimate of the cost of the draft proposed rule they range from $4 million in 2013 to $45 million in 2012 discounted at 7 percent. The estimate for 2012 is higher than any other year because the methodology assumes that existing vessels would be replaced at the end of their expected service life and a large number of existing vessels are beyond their expect service life so a disproportionate share of the compliance costs are front loaded in the first year.

The proposed guidelines would afford individuals with disabilities the opportunity to travel on passenger vessels for employment, transportation, public accommodation, and leisure. By promoting equality of opportunity, the proposed guidelines would afford individuals with disabilities to achieve greater participation in our society, independent living, and economic self-sufficiency. The proposed guidelines promote our national values of equity, human dignity, and fairness, the benefits of which are impossible to quantify.

Timetable:

Action	Date	FR Cite
Notice of Intent to Establish Advisory Committee.	03/30/98	63 FR 15175
Establishment of Advisory Committee.	08/12/98	63 FR 43136

Action	Date	FR Cite
Availability of Draft Guidelines.	11/26/04	69 FR 69244
ANPRM	11/26/04	69 FR 69246
Comment Period Extended.	03/22/05	70 FR 14435
ANPRM Comment Period End.	07/28/05	
Availability of Draft Guidelines.	07/07/06	71 FR 38563
Notice of Intent to Establish Advisory Committee.	06/25/07	72 FR 34653
Establishment of Advisory Committee.	08/13/07	72 FR 45200
NPRM	03/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses, Governmental Jurisdictions.

Government Levels Affected: Local, State.

Federalism: This action may have federalism implications as defined in EO 13132.

URL for More Information: www.access-board.gov/pvacc/index.htm.

URL for Public Comments: www.regulations.gov.

Agency Contact: James Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004–1111, *Phone:* 202 272–0040, *TDD Phone:* 202 272–0062, *Fax:* 202 272–0081, *Email: raggio@access-board.gov.*

RIN: 3014–AA11

ATBCB

75. Telecommunications Act Accessibility Guidelines; Electronic and Information Technology Accessibility Standards

Priority: Other Significant.

Legal Authority: 47 U.S.C. 255(e); 29 U.S.C. 794(d)

CFR Citation: 36 CFR part 1193; 36 CFR part 1194.

Legal Deadline: None.

Abstract: This rulemaking would update in a single document the accessibility guidelines for telecommunication equipment and customer premises equipment issued in 1998 under section 255 of the Telecommunications Act of 1966, and the accessibility standards for electronic and information technology issued in 2000 under section 508 of the Rehabilitation Act of 1973, as amended. Section 255 of the Telecommunications Act requires manufacturers of telecommunication equipment and customer premises equipment to ensure that the equipment is designed, developed, and fabricated to be accessible to and usable by individuals with disabilities, if readily achievable. Section 508 of the Rehabilitation Act requires Federal agencies to ensure that electronic and information technology developed, procured, maintained, or used by the agencies allows individuals with disabilities to have comparable access to and use of information and data as afforded others who are not individuals with disabilities, unless an undue burden would be imposed on the Federal agency. The Federal Communications Commission has issued regulations (47 CFR parts 6 and 7) implementing Section 255 of the Telecommunications Act that are consistent with the accessibility guidelines for telecommunication equipment and customer premises equipment. The Federal Acquisition Regulatory Council has incorporated the accessibility standards for electronic and information technology in the Federal Acquisition Regulation (48 CFR Chapter 1). The Federal Communications Commission and Federal Acquisition Regulatory Council are expected to update their regulations in separate rulemakings when the accessibility guidelines for telecommunication equipment and customer premises equipment and accessibility standards for electronic and information technology are updated.

Statement of Need: Since the Access Board first issued the standards and the guidelines, technology has evolved and changed. The Board issued the (Section 508) Electronic and Information Technology Accessibility Standards in December 2000, 65 FR 80500 (December 21, 2000), and the Telecommunications Act Accessibility Guidelines for telecommunications equipment and customer premises equipment in February 1998, 63 FR 5608 (February 3, 1998). The Board has since decided to update and revise these guidelines and the standards together to address changes in technology and to make both documents consistent.

Summary of Legal Basis: Section 508 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794(d) (Section 508) requires that when developing, procuring, maintaining, or using electronic and information technology, each federal department or agency must ensure, unless an undue burden would be imposed on the department or agency, that electronic and information technology (regardless of the type of medium) allows individuals with disabilities to have access to and use of information and data that is comparable to the access and use of the information and data by others without disabilities. Section 255 of the Telecommunications Act of 1996, 47 U.S.C. 153, 255 (Section 255) requires telecommunications manufacturers to ensure that telecommunications equipment and customer premises equipment are designed, developed, and fabricated to be accessible to and usable by individuals with disabilities when it is readily achievable to do so.

Alternatives: In developing the ANPRMs, the Board has solicited various stakeholders' views and practices. The Access Board formed the Telecommunications and Electronic and Information Technology Advisory Committee (TEITAC) in 2006 to review the existing guidelines and standards and to recommend changes. TEITAC's 41 members comprised a broad cross-section of stakeholders, including representatives from industry, disability groups, and a number of government agencies in the U.S. and abroad—the European Commission, Canada, Australia, and Japan. Recognizing the importance of standardization across markets worldwide, TEITAC coordinated its work with standard-setting bodies in the U.S. and abroad, such as the World Wide Web Consortium (W3C). TEITAC members addressed a range of issues, including new or convergent technologies, market forces, and international harmonization. On April 3, 2008, TEITAC presented its report to the Board. The report recommended revisions to the Board's Section 508 standards and Section 255 guidelines. The report is available on the Board's Web site at *www.access-board.gov/sec508/refresh/report/.*

Anticipated Cost and Benefits: The Access Board is seeking input from the public on costs and benefits associated with the standards, and working with an outside contractor to assess costs and benefits associated with the proposed rule and to support the preliminary regulatory impact assessment that will accompany the proposed rule.

The Information and Communication Technology Standards and Guidelines will promote open government for all people, regardless of disability status, by providing federal agencies with standards to ensure that when they procure, develop, maintain or use electronic and information technology, that citizens and employees who are individuals with disabilities have access to and use of information and data that is comparable to the access to and use of the information and data by others without disabilities.

The Access Board expects that the Information and Communication Technology Standards and Guidelines will have international impacts. Accordingly, the agency has incorporated into its rulemaking process extensive outreach efforts to include industry representatives, disability groups, standard-setting bodies in the U.S. and abroad such as the World Wide Web Consortium, and other countries such as representatives from the European Commission, Canada, Australia, and Japan.

Timetable:

Action	Date	FR Cite
Establishment of Advisory Committee.	07/06/06	71 FR 38324
ANPRM	03/22/10	75 FR 13457
ANPRM Comment Period End.	06/21/10	
ANPRM	12/08/11	76 FR 76640
ANPRM Comment Period End.	03/07/12	
NPRM	06/00/13	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Federal.

URL for More Information: www.access-board.gov/508.htm.

URL for Public Comments: www.regulations.gov.

Agency Contact: Lisa Fairhall, Deputy General Counsel, Architectural and Transportation Barriers Compliance Board, Suite 1000, 1331 F Street NW., Washington, DC 20004, *Phone:* 202–272–0046, *Fax:* 202–272–0081, *Email: fairhall@access-board.gov.*

RIN: 3014–AA37

ATBCB

Final Rule Stage

76. Accessibility Standards for Medical Diagnostic Equipment

Priority: Other Significant

Legal Authority: 29 U.S.C. 794(f)

CFR Citation: 30 CFR part 1197 (New)

Legal Deadline: Final, Statutory, March 22, 2012, 29 U.S.C. 794(f).

Abstract: This regulation will establish minimum technical criteria to ensure that medical equipment used for diagnostic purposes by health professionals in (or in conjunction with) physician's offices, clinics, emergency rooms, hospitals, and other medical settings is accessible to and usable by individuals with disabilities.

Statement of Need: Under section 510 of the Rehabilitation Act (29 U.S.C.794f), the Access Board, in consultation with the Commissioner of the Food and Drug Administration, is required to issue standards that contain minimum technical criteria to ensure that medical diagnostic equipment used in or in conjunction with medical settings such as physicians' offices, clinics, emergency rooms, and hospitals is accessible to and usable by individuals with disabilities. The statute provides that the standards must allow for independent access to and use of the medical diagnostic equipment by individuals with disabilities to the maximum extent possible. Section 510 of the Rehabilitation Act requires the standards to be issued not later than 24 months after the enactment of the Patient Protection and Affordable Care Act (Pub. L. 111–148, 124 Stat. 570). The statutory deadline for issuing the standards was March 23, 2012.

Summary of Legal Basis: Section 4203 of the Patient Protection and Affordable Care Act (Pub. L. 111–148, 124 Stat. 570) amended title V of the Rehabilitation Act, which establishes rights and protections for individuals with disabilities, by adding section 510.

Alternatives: In developing the NPRM, the Access Board has considered and will continue to consider alternatives proposed by a variety of stakeholders. First, the Access Board considered approaches contained in the Association for the Advancement of Medical Instrumentation's ANSI/AAMI HE 75:2009, ''Human factors engineering—Design of medical devices'' in developing the proposed standards. ANSI/AAMI HE 75 is a recommended practice that provides guidance on human factors design principles for medical devices. In particular, Chapter 16 of ANSI/AAMI HE 75 provides guidance on accessibility for patients and health care professionals with disabilities (Chapter 16 of ANSI/AAMI HE 75 is available at: *http://www.aami.org/he75/*). The Access Board's proposed standards do not reference the guidance in chapter 16 of ANSI/AAMI HE 75 because the guidance is not mandatory. The Access Board seeks to harmonize its standards and guidelines with voluntary consensus standards and plans to participate in future revisions to ANSI/AAMI HE 75.

In addition, the Access Board has consulted closely with the Department of Justice and the Food and Drug Administration in the development of the proposed standards, and plans to continue to work closely with them in the development of the final rule. The Access Board has also established an Advisory Committee to make recommendations to the Board on how to address issues raised in the public comments on the proposed rule.

Anticipated Cost and Benefits: The proposed standards address many of the barriers that have been identified as affecting the accessibility and usability of diagnostic equipment by individuals with disabilities. For example, the proposed standards would facilitate independent transfers by individuals with disabilities onto and off of diagnostic equipment, and enable them to maintain their independence, confidence, and dignity, lessening the need for health care personnel to assist individuals with disabilities when transferring on and off of diagnostic equipment. The proposed standards would improve the quality of health care for individuals with disabilities and ensure that they receive examinations, diagnostic procedures, and other health care services equal to those received by individuals without disabilities.

The Access Board has prepared a preliminary regulatory assessment for the proposed standards, which is available on the Access Board's web site at: *http://www.accessboard.gov/medical-equipment.htm*. The preliminary assessment compares costs of select medical diagnostic equipment with and without accessibility features in the market. The Access Board is seeking input from the public on costs and benefits associated with these proposed standards to support a final regulatory impact assessment that will accompany the final rule.

Section 510 of the Rehabilitation Act does not address who is required to comply with the standards. Compliance with the standards would not be mandatory unless other agencies adopt the standards as mandatory requirements for entities under their jurisdiction. In July 2010, the Department of Justice issued an advance notice of proposed rulemaking (ANPRM) announcing that it was considering amending its Americans with Disabilities Act (ADA) regulations to ensure that equipment and furniture are accessible to individuals with disabilities. See 75 FR 43452 (July 26, 2010). The ANPRM noted that the ADA has always required the provision of accessible equipment and furniture, and that the Department has entered into settlement agreements with medical care providers requiring them to provide accessible medical equipment. The ANPRM stated that when the Access Board has issued accessibility standards for medical diagnostic equipment, the Department would consider adopting the standards in its ADA regulations. The ANPRM also stated that if the

Department adopts the Access Board's accessibility standards for medical diagnostic equipment, it would develop scoping requirements that specify the minimum number of accessible types of equipment required for different medical settings. At that time, the impact of scoping and application of the proposed standards can be more fully assessed.

Timetable:

Action	Date	FR Cite
Notice of Public Information Meeting.	06/22/10	75 FR 35439
NPRM	02/09/12	77 FR 6916
NPRM Comment Period End.	06/08/12	
Notice of Intent to Form Advisory Committee.	03/13/12	77 FR 14706
Final Action	11/00/13	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined.

URL for More Information: www.access-board.gov/medical-equipment.htm.

URL for Public Comments: www.regulations.gov.

Agency Contact: James Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004–1111, *Phone:* 202–272–0040, *TDD Phone:* 202–272–0062, *Fax:* 202–272–0081, *Email: raggio@access-board.gov.*

RIN: 3014–AA40

BILLING CODE 8150–01–P

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Statement of Priorities

Overview

The U.S. Environmental Protection Agency (EPA) was created on December 2, 1970, when Americans across the nation took up a call for cleaner air, safer water and unpolluted land. For the past four decades, EPA has confronted health and environmental challenges, fostered innovations, and cleaned up pollution in the places where people live, work, play and learn.

The EPA remains strongly committed to protecting health and the environment with a focus on:

- Taking action on climate change;
- Improving air quality;
- Assuring the safety of chemicals;
- Cleaning up our communities;
- Protecting America's waters;
- Expanding the conversation on environmentalism and working for environmental justice; and
- Building strong state and tribal partnerships.

EPA and its federal, state, local, and community partners have made enormous progress in protecting the nation's health and environment. From reducing mercury and other toxic air pollution from outdated power plants to doubling the fuel efficiency of our cars and trucks, the Agency is working to save tens of thousands of lives each year and protect the environment. Further, EPA has removed over a billion tons of pollution from the air, and produced hundreds of billions of dollars in benefits for the American people. For example:

- The number of Americans receiving water that meets health standards has gone from 79 percent in 1993 to 92 percent in 2008.
- EPA has also helped realize a 60% reduction in the dangerous air pollutants that cause smog, acid rain, lead poisoning and more since the passage of the Clean Air Act in 1970. Innovations like smokestack scrubbers and catalytic converters in automobiles have helped this process.
- Today, new cars are 98 percent cleaner in terms of smog-forming pollutants than they were in 1970.
- Meanwhile, American families and businesses have gone from recycling about 10 percent of trash in 1980 to more than 34 percent in 2010. Eighty-three million tons of trash are recycled annually—the equivalent of cutting greenhouse gas emissions from more than 33 million automobiles.

Highlights of EPA's Regulatory Plan

EPA's forty years of protecting human health and the environment demonstrates our nation's commitment to reducing pollution that can threaten the air we breathe, the water we use and the communities we live in. Addressing climate change calls for coordinated national and global efforts to reduce emissions and develop new technologies that can be deployed. This Regulatory Plan contains information on some of our most important upcoming regulatory actions. As always, our Semiannual Regulatory Agenda contains information on a broader spectrum of EPA's upcoming regulatory actions.

Seven Guiding Priorities

The EPA's success depends on supporting innovation and creativity in both what we do and how we do it. To guide the agency's efforts, Administrator Lisa P. Jackson has established seven guiding priorities. These priorities are enumerated in the list that follows, along with recent progress and future objectives for each.

1. Taking Action on Climate Change

The Agency will continue to deploy existing regulatory tools where appropriate and warranted. Using the Clean Air Act, EPA will continue to develop greenhouse gas standards for both mobile and stationary sources.

Greenhouse Gas Emission Standards for Power Plants. In April of 2012, EPA proposed emission standards for reducing greenhouse gas emissions new electric power plants. The proposed standards, if finalized, will establish an achievable limit of carbon pollution per megawatt hour for all future units, moving the nation towards a cleaner and more efficient energy future.

Carbon Capture and Storage. EPA proposed a rule to clarify the applicability of the Resource Conservation and Recovery Act (RCRA) hazardous waste regulations to certain Carbon Capture and Storage (CCS) activities. The proposed rule, if finalized, will conditionally exclude CO_2 streams from RCRA hazardous waste requirements when injected into a Class VI Underground Injection Control (UIC) well and meeting certain other conditions. Specifically, the rule will work in conjunction with the Safe Drinking Water Act's Class VI Underground Injection Control Rule, which governs the geological sequestration of CO_2 streams by providing regulatory clarity for defining and managing these CO_2 streams, and help facilitate the deployment of CCS.

2. Improving Air Quality

Since passage of the Clean Air Act Amendments in 1990, nationwide air quality has improved significantly for the six criteria air pollutants for which there are national ambient air quality standards, as well as many other hazardous air pollutants. Long-term exposure to air pollution can cause cancer and damage to the immune, neurological, reproductive, cardiovascular, and respiratory systems.

Reviewing and Implementing Air Quality Standards. Despite progress, millions of Americans still live in areas that exceed one or more of the national standards. Ground-level ozone and particle pollution still present challenges in many areas of the country. This year's regulatory plan describes efforts to review the primary National Ambient Air Quality Standards (NAAQS) for ozone.

Tier 3 Vehicle and Fuel Standards. EPA is now developing vehicle emission and fuel standards to further

reduce NO_X, PM, and air toxics. These standards will also help states to achieve air quality standards.

Cleaner Air From Improved Technology. EPA continues to address hazardous air pollution under authority of the Clean Air Act Amendments of 1990. The centerpiece of this effort is the ''Maximum Achievable Control Technology'' (MACT) program, which requires that all major sources of a given type use emission controls that better reflect the current state of the art.

3. Assuring the Safety of Chemicals

One of EPA's highest priorities is to make significant and long overdue progress in assuring the safety of chemicals. Using sound science as a compass, EPA protects individuals, families, and the environment from potential risks of pesticides and other chemicals. In its implementation of these programs, EPA uses several different statutory authorities, including the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), the Federal Food, Drug and Cosmetic Act (FFDCA), the Toxic Substances Control Act (TSCA) and the Pollution Prevention Act (PPA), as well as collaborative and voluntary activities. In 2013, the Agency will continue efforts to enhance its current chemicals management program under TSCA, address concerns with existing chemicals, including PCBs, Mercury, Lead, and Formaldehyde.

EPA's Chemicals Management Program under TSCA. As part of EPA's ongoing efforts to enhance the Agency's existing chemicals management program, EPA continues to take actions identified on priority chemicals and to assess chemicals to determine if action is needed to address potential concerns.

Addressing Concerns with Formaldehyde. As directed by the Formaldehyde Standards for Composite Wood Products Act of 2010, EPA is developing regulations to address formaldehyde emissions from hardwood plywood, particleboard and medium-density fiberboard that is sold, supplied, offered for sale, or manufactured in the United States.

4. Cleaning Up Its Communities

Improve Accountability and Oversight of Hazardous Secondary Materials Recycling. The Definition of Solid Waste (DSW) final rule will take final action on EPA's 2011 DSW proposal, which was developed to improve the accountability and oversight of hazardous secondary materials recycling, while allowing for important flexibilities that will promote its economic and environmental benefits. Through this rulemaking and other partnerships, EPA supports urban, suburban, and rural community goals of improving environmental, human health, and quality-of-life outcomes through partnerships that also promote economic opportunities, energy efficiency, and revitalized neighborhoods. Sustainable communities balance their economic and natural assets so that the diverse needs of local residents can be met now and in the future with limited environmental impacts. EPA accomplishes these outcomes by working with communities, other Federal agencies, States, and national experts to develop and encourage development strategies that have better outcomes for air quality, water quality, and land preservation and revitalization.

5. Protecting America's Waters

Despite considerable progress, America's waters continue to face complex challenges, from nutrient loadings and storm water runoff to invasive species and drinking water contaminants. These challenges demand both traditional and innovative strategies.

Clean Water Protection. U.S. EPA and the U.S. Army Corps of Engineers are developing a proposed rule for determining whether a waterway, water body, or wetland is protected by the Clean Water Act. This rule would make clear which water bodies are protected under the Clean Water Act.

Cooling Water Intake Structures. EPA plans to finalize standards for cooling water intakes for electric power plants and for other manufacturers who use large amounts of cooling water. The goal of the final rule will be to protect aquatic organisms from being killed or injured through impingement or entrainment.

Steam Electric Power Plants. EPA will propose national technology-based regulations, called effluent guidelines, to reduce discharges of pollutants from industries to waters of the U.S. and publicly owned treatment works. These requirements are incorporated into National Pollutant Discharge Elimination System discharge permits issued by EPA and states. The steam electric effluent guidelines apply to steam electric power plants using nuclear or fossil fuels, such as coal, oil and natural gas. Power plant discharges can have major impacts on water quality, including reduced organism abundance and species diversity, contamination of drinking water sources, and other effects. Pollutants of concern include metals (e.g., mercury, arsenic and selenium), nutrients, and total dissolved solids.

Streamlining Drinking Water Standards. EPA plans to propose revisions to the Lead and Copper Rule in fiscal year 2013. Beginning in 2004, EPA conducted a wide-ranging review of implementation of the Lead and Copper Rule (LCR) to determine if there is a national problem related to elevated lead levels. EPA's comprehensive review identified several short-term and long-term regulatory changes. EPA will consider the more recent science and the input from the SAB to prepare proposed regulatory revisions to make the rule more cost effective and more protective of public health.

Electronic Reporting. EPA intends to propose the National Pollutant Discharge Elimination System (NPDES) Electronic Reporting Rule, which would require reports and data to be transmitted electronically rather than in paper form. Through this regulation, EPA will move reporting into the digital age by requiring that most NPDES data be submitted electronically and by streamlining reporting. EPA seeks to ensure that facility-specific information would be readily available, accurate, timely and nationally consistent for the facilities that are regulated by the NPDES program, with minimum burden on the affected entities.

Responding to Oil Spills in U.S. Waters. The Clean Water Act (CWA), as amended by the Oil Pollution Act (OPA), requires that the National Contingency Plan (NCP) include a schedule identifying ''dispersants, other chemicals, and other spill mitigating devices and substances, if any, that may be used in carrying out'' the NCP. The EPA is considering amending the Subpart J of the NCP (the Product Schedule) for a manufacturer to have chemical, biological, or other spill mitigating substances listed on the Product Schedule; updating the listing requirements to reflect new advancements in scientific understanding and, to the extent practicable, considering and addressing concerns regarding the use of dispersants raised during the Deepwater Horizon oil spill.

6. Expanding the Conversation on Environmentalism and Working for Environmental Justice

Environmental Justice in Rulemaking. EPA released an interim guidance document in 2011 to help Agency staff include environmental justice principles in its rulemaking process. The rulemaking guidance is an important and positive step toward meeting EPA Administrator Lisa P.

Jackson's priority to work for environmental justice and protect the health and safety of communities who have been disproportionately impacted by pollution.

Children's Health. EPA continues to lead efforts to protect children from environmental health risks, in accordance with Executive Order 13045. To accomplish this, EPA intends to use a variety of approaches, including regulation, enforcement, research, outreach, community-based programs, and partnerships to protect pregnant women, infants, children, and adolescents from environmental and human health hazards.

7. Building Strong State and Tribal Partnerships

EPA's success depends more than ever on working with increasingly capable and environmentally conscious partners. EPA is supportive of state and tribal capacity to ensure that programs are consistently delivered nationwide. This provides EPA and its intergovernmental partners with an opportunity to further strengthen their working relationship and, thereby, more effectively pursue their shared goal of protecting the nations environmental and public health.

New Tribal Policy—Finalized in 2012, the new EPA Tribal Policy goes well beyond the requirements of the Executive Order on Consultation and Coordination with Indian Tribes (EO 13175). The Policy establishes national guidelines and sets a broad standard for determining which activities are appropriate for tribal consultation. It also encourages flexibility to tailor consultation approaches to reflect circumstances of each consultation situation. The new EPA Tribal Policy is available at *http://www.epa.gov/indian/consultation/*.

* * * * *

The priorities described above will guide EPA's work in the years ahead. They are built around the challenges and opportunities inherent in our mission to protect health and the environment for all Americans. This mission is carried out by respecting EPA's core values of science, transparency and the rule of law. Within these parameters, EPA carefully considers the impacts its regulatory actions will have on society.

Retrospective Review of Existing Regulations

Just as today's economy is vastly different from that of 40 years before, EPA's regulatory program is evolving to recognize the progress that has already been made in environmental protection and to incorporate new technologies and approaches that allow us to accomplish our mission more efficiently and effectively.

Pursuant to section 6 of Executive Order 13563 ''Improving Regulation and Regulatory Review'' (Jan. 18, 2011), the following Regulatory Identifier Numbers (RINs) have been identified as associated with retrospective review and analysis in the Agency's final retrospective review of regulations plan. Some of these entries on this list may be completed actions, which do not appear in *The Regulatory Plan.* However, more information can be found about these completed rulemakings in past publications of the Unified Agenda on Reginfo.gov in the Completed Actions section for that agency. These rulemakings can also be found on Regulations.gov. EPA's final agency plan can be found at: *http://www.epa.gov/regdarrt/retrospective/*.

Regulatory Identifier No. (RIN)	Rulemaking Title
2060–AO60	New Source Performance Standards (NSPS) Review under CAA § 111(b)(1)(B).
2060–AP06	New Source Performance Standards for Grain Elevators—Amendments.
2060–AR00	Uniform Standards for Equipment Leaks and Ancillary Systems, Closed Vent Systems and Control Devices, Storage Vessels and Transfer Operations, and Wastewater Operations.
2070–AJ75	Electronic Reporting under the Toxic Substances Control Act (TSCA).
2040–AF15	National Primary Drinking Water Regulations for Lead and Copper: Regulatory Revisions.
2040–AF16	Water Quality Standards Regulatory Clarifications.
2040–AF25	National Pollutant Discharge Elimination System (NPDES) Application and Program Updates Rule.
2040–AF29	National Primary Drinking Water Regulations: Group Regulation of Carcinogenic Volatile Organic Compound (VOCs).
2050–AG39	Management Standards for Hazardous Waste Pharmaceuticals.
2050–AG72	Hazardous Waste Requirements for Retail Products; Clarifying and Making the Program More Effective.

Burden Reduction

As described above, EPA continues to review its existing regulations in an effort to achieve its mission in the most efficient means possible. To this end, the Agency is committed to identifying areas in its regulatory program where significant savings or quantifiable reductions in paperwork burdens might be achieved, as outlined in Executive Order 13610, while protecting public health and our environment.

Rules Expected to Affect Small Entities

By better coordinating small business activities, EPA aims to improve its technical assistance and outreach efforts, minimize burdens to small businesses in its regulations, and simplify small businesses' participation in its voluntary programs. Actions that may affect small entities can be tracked on EPA's Regulatory Development and Retrospective Review Tracker (*http://www.epa.gov/regdarrt/*) at any time. This Plan includes a number of rules that may be of particular interest to small entities:

2040–AF15	National Primary Drinking Water Regulations for Lead and Copper: Regulatory Revisions.
2070–AJ44	Formaldehyde; Third-Party Certification Framework for the Formaldehyde Standards for Composite Wood Products.
2070–AJ92	Formaldehyde Emission Standards for Composite Wood Products.

International Regulatory Cooperation Activities

EPA has considered international regulatory cooperation activities as described in Executive Order 13609 and has not identified any international activities that are anticipated to lead to significant regulations in the following year.

EPA

Prerule Stage

77. Hydraulic Fracturing Chemicals; Chemical Information Reporting Under TSCA Section 8(A) and Health and Safety Data Reporting Under TSCA Section 8(D)

Priority: Other Significant. Major status under 5 U.S.C. 801 is undetermined.

Unfunded Mandates: Undetermined.

Legal Authority: 15 U.S.C. 2601 *et seq.*

CFR Citation: 40 CFR part 712; 40 CFR part 716.

Legal Deadline: None.

Abstract: EPA is developing an Advance Notice of Proposed Rulemaking (ANPRM) and intends to initiate a stakeholder process to provide input on the design and scope of possible reporting under the Toxic Substances Control Act (TSCA). EPA anticipates that States, industry, public interest groups and members of the public will be participants in the stakeholder process. The stakeholder process will bring stakeholders together to discuss the information needs and potential reporting under TSCA. As EPA considers potential reporting under TSCA, EPA intends to seek input from the stakeholders to help ensure reporting burdens and costs are minimized, and that information already available is considered in order to avoid duplication of efforts.

Statement of Need: Stakeholder input is needed on the design and scope of possible reporting requirements under Toxic Substances Control Act (TSCA) sections 8(a) and 8(d).

Summary of Legal Basis: TSCA section 8(a) and 8(d).

Alternatives: It is expected that possible alternatives will be identified and evaluated through the ANPRM as part of the stakeholder input process.

Anticipated Cost and Benefits: Costs and benefits will be evaluated during the development of an NPRM.

Risks: Potential risks will be evaluated during development of an NPRM.

Timetable:

Action	Date	FR Cite
ANPRM	05/00/13	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Undetermined.

Federalism: Undetermined.

Additional Information: Docket #: EPA–HQ–OPPT–2011–1019

URL for More Information: http://www.epa.gov/hydraulicfracture/.

Agency Contact: Mark Seltzer, Environmental Protection Agency, Office of Chemical Safety and Pollution Prevention, 7405M, Washington, DC 20460, *Phone:* 202 564–2910, *Email: seltzer.mark@epa.gov.*

Chenise Farquharson, Environmental Protection Agency, Office of Chemical Safety and Pollution Prevention, 7405M, Washington, DC 204060, *Phone:* 202 564–7768, *Fax:* 202 564–4775, *Email: farquharson.chenise@epa.gov.*

RIN: 2070–AJ93

EPA

Proposed Rule Stage

78. Review of the National Ambient Air Quality Standards for Ozone

Priority: Economically Significant. Major under 5 U.S.C. 801.

Legal Authority: 42 U.S.C. 7408; 42 U.S.C. 7409

CFR Citation: 40 CFR part 50.

Legal Deadline: None.

Abstract: Under the Clean Air Act, EPA is required to review and, if appropriate, revise the air quality criteria for the primary (health-based) and secondary (welfare-based) national ambient air quality standards (NAAQS) every 5 years. On March 23, 2008, the EPA published a final rule to revise the primary and secondary NAAQS for ozone to provide increased protection of public health and welfare. With regard to the primary standard for ozone, EPA revised the level of the 8-hour ozone standard to 0.075 ppm. With regard to the secondary ozone standard, EPA made it identical in all respects to the primary ozone standard, as revised. EPA initiated the current review in October 2008 with a workshop to discuss key policy-relevant issues around which EPA would structure the review. This review includes the preparation of an Integrated Science Assessment, Risk/Exposure Assessment, and a Policy Assessment Document by EPA, with opportunities for review by EPA's Clean Air Scientific Advisory Committee and the public. These documents inform the Administrator's proposed decision as to whether to retain or revise the standards.

Statement of Need: National Ambient Air Quality Standards as required by the CAA.

Summary of Legal Basis: CAA Sections 108 and 109.

Alternatives: Not yet determined.

Anticipated Cost and Benefits: Not yet determined.

Risks: Not yet determined.

Timetable:

Action	Date	FR Cite
Notice	04/28/11	76 FR 23755
NPRM	10/00/13	
Final Rule	09/00/14	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Federal, Local, State, Tribal.

Additional Information: Docket #: EPA–HQ–OAR–2008–0699.

URL for More Information: http://www.epa.gov/ozone/.

Agency Contact: Susan Stone, Environmental Protection Agency, Air and Radiation, C504–06, Research Triangle Park, NC 27711, *Phone:* 919 541–1146, *Fax:* 919 541–0237, *Email: stone.susan@epamail.epa.gov.*

Karen Martin, Environmental Protection Agency, Air and Radiation, C504–06, Research Triangle Park, NC 27711, *Phone:* 919 541–5274, *Fax:* 919 541–0237, *Email: martin.karen@epamail.epa.gov.*

RIN: 2060–AP38

EPA

79. Petroleum Refinery Sector Risk and Technology Review and NSPS

Priority: Other Significant. Major under 5 U.S.C. 801.

Legal Authority: Clean Air Act secs 111 and 112

CFR Citation: 40 CFR parts 60 and 63.

Legal Deadline: None.

Abstract: This action pertains to the Petroleum Refining industry and specifically to petroleum refinery sources that are subject to maximum achievable control standards (MACT) in 40 CFR part 63, subparts CC (Refinery MACT 1) and UUU (Refinery MACT 2) and new source performance standards (NSPS) in 40 CFR part 60, subpart Ja. Petroleum refineries are facilities engaged in refining and producing products made from crude oil or unfinished petroleum derivatives. Sources include petroleum refinery-specific process units unique to the industry, such as fluid catalytic cracking

units (FCCU) and catalytic reforming units (CRU), as well as units and processes commonly found at other types of manufacturing facilities (including petroleum refineries), such as storage vessels and wastewater treatment plants. Refinery MACT 1 regulates hazardous air pollutant (HAP) emissions from common processes such as miscellaneous process vents (e.g., delayed coking vents), storage vessels, wastewater, equipment leaks, loading racks, marine tank vessel loading, and heat exchange systems at petroleum refineries. Refinery MACT 2 regulates HAP from those processes that are unique to the industry including sulfur recovery units (SRU) and from catalyst regeneration in FCCU and CRU. This action primarily proposes: (1) amendments to Refinery MACT 1 and 2 to address our obligation to assess the risk remaining after application of the original standards in accordance with CAA section 112(f)(2); and (2) amendments resulting from EPA's review of developments in practices, processes, and control technologies that have occurred since the time the EPA adopted the refinery MACT standards in accordance with CAA sections 112(d)(6). In addition, it proposes: (1) new requirements related to emissions during periods of startup, shutdown, and malfunction to ensure that the MACT standards are consistent with court opinions requiring that standards apply at all times and other Clean Air Act programs; and (2) technical corrections and clarifications for Refinery NSPS Ja. These technical corrections and clarifications were raised in a 2008 petition for reconsideration from the American Petroleum Institute, and we are addressing these petition issues in this action because they also affect sources subject to Refinery MACT 2. On January 16, 2009, the EPA Administrator signed a final rule addressing RTR standards for Refinery MACT 1. Upon further review, we determined that this rule may not have accurately characterized the risk posed by this source category. Therefore, we withdrew the risk and technology portions of the rulemaking (76 FR 42052, July 18, 2011). Subsequently, we began a significant effort to gather additional information in 2010 through a comprehensive industry-wide Information Collection Request (ICR) to gather data on HAP, criteria and other pollutants from all refinery processes sufficient to support both the Refinery MACT and NSPS reviews. Data received in response to the ICR will be used to support the analyses for this rulemaking.

Statement of Need: Risk and Technology Review as required by the CAA.

Summary of Legal Basis: CAA sections 111 and 112.

Alternatives: Not yet determined.

Anticipated Cost and Benefits: EPA is currently assessing the costs and benefits associated with this action.

Risks: EPA is currently assessing risks for this action.

Timetable:

Action	Date	FR Cite
NPRM	03/00/13	
Final Rule	12/00/13	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Federal, Local, State.

Additional Information: Docket #: EPA–HQ–OAR–2010–0682.

Sectors Affected: 324110 Petroleum Refineries

URL for More Information: http://www.epa.gov/ttn/atw/petrefine/petrefpg.html.

Agency Contact: Brenda Shine, Environmental Protection Agency, Air and Radiation, E143–01, Research Triangle Park, NC 27711, *Phone:* 919 541–3608, *Fax:* 919 541–0246, *Email: shine.brenda@epamail.epa.gov.*

Penny Lassiter, Environmental Protection Agency, Air and Radiation, E1430–01, Research Triangle Park, NC 27711, *Phone:* 919 541–5396, *Fax:* 919 541–0246, *Email: lassiter.penny@epamail.epa.gov.*

RIN: 2060–AQ75

EPA

80. Control of Air Pollution From Motor Vehicles: Tier 3 Motor Vehicle Emission and Fuel Standards

Priority: Economically Significant. Major under 5 U.S.C. 801.

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: CAA 202(a), 202(k), and 211(c)

CFR Citation: 40 CFR part 80; 40 CFR part 85; 40 CFR part 86; 40 CFR part 600; 40 CFR part 1036; 40 CFR part 1037; 40 CFR part 1065; 40 CFR part 1066.

Legal Deadline: None.

Abstract: This action would establish more stringent vehicle emissions standards and reduce the sulfur content of gasoline as part of a systems approach to addressing the impacts of motor vehicles and fuels on air quality and public health. The rule would result in significant reductions in pollutants such as ozone, particulate matter, and air toxics across the country and help state and local agencies in their efforts to attain and maintain health-based National Ambient Air Quality Standards. These proposed vehicle standards are intended to harmonize with California's Low Emission Vehicle program, thus creating a federal vehicle emissions program that would allow automakers to sell the same vehicles in all 50 states. The vehicle standards would also coordinate with the light-duty vehicle greenhouse gas standards for model years 2017–2025, creating a nationwide alignment of vehicle programs for criteria pollutant and greenhouse gases.

Statement of Need: States are working to attain National Ambient Air Quality Standards for ozone, PM, and NO_X. Light-duty vehicles are responsible for a significant portion of the precursors to these pollutants and are large contributors to ambient air toxic pollution. In many nonattainment areas, by 2014, cars and light trucks are projected to contribute 30–45 percent of total nitrogen oxides (NO_X) emissions, 20–25 percent of total volatile organic compound (VOC) emissions, and 5–10 percent of total direct particulate matter ($PM_{2.5}$) emissions. Importantly, without future controls, by 2020 mobile sources are expected to be as much as 50 percent of the inventories of these pollutants for some individual urban areas. EPA has estimated that light-duty vehicles will contribute about half of the 2030 inventory of air toxic emissions from all mobile sources. The most recent National-Scale Air Toxics Assessment in 2005, mobile sources were responsible for over 50 percent of cancer risk and noncancer hazard.

Summary of Legal Basis: The Clean Air Act section 202(a) provides EPA with general authority to prescribe vehicle standards, subject to any specific limitations elsewhere in the Act. In addition, section 202(k) provides EPA with authority to issue and revise regulations applicable to evaporative emissions of hydrocarbons from all gasoline-fueled motor vehicles. EPA is also using its authority under section 211(c) of the Clean Air Act to address gasoline sulfur controls.

Alternatives: The rulemaking proposal will include an evaluation of regulatory alternatives that can be considered in addition to the Agency's primary proposal.

Anticipated Cost and Benefits: Detailed analysis of economy-wide cost impacts, emissions reductions, and societal benefits will be performed during the rulemaking process.

Risks: Approximately 159 million people currently live in counties designated nonattainment for one or more of the NAAQS, and this figure does not include the people living in areas with a risk of exceeding the NAAQS in the future. These people experience unhealthy levels of air pollution, which are linked with respiratory and cardiovascular problems and other adverse health impacts that lead to increased medication use, hospital admissions, emergency department visits, and premature mortality. The reductions in ambient ozone and $PM_{2.5}$ that would result from the proposed Tier 3 standards would provide significant health benefits. In the absence of additional controls such as Tier 3 standards, many counties will continue to have ambient ozone and $PM_{2.5}$ concentrations exceeding the NAAQS in the future. In addition, more than 50 million people live, work, or go to school in close proximity to high-traffic roadways, and the average American spends more than one hour traveling along roads each day. Exposure to traffic-related pollutants has been linked with adverse health impacts such as respiratory problems (particularly in asthmatic children) and cardiovascular problems. The Tier 3 standards would reduce criteria pollutant and air toxic emissions from cars and light trucks, which continue to be a significant contributor to air pollution directly near roads.

Timetable:

Action	Date	FR Cite
NPRM	03/00/13	
Final Action	12/00/13	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Federal, Local, Tribal.

Federalism: This action may have federalism implications as defined in EO 13132.

Additional Information: Docket #: EPA–HQ–OAR–2011–0135.

Sectors Affected: 811198 All Other Automotive Repair and Maintenance; 336111 Automobile Manufacturing; 811112 Automotive Exhaust System Repair; 336311 Carburetor, Piston, Piston Ring, and Valve Manufacturing; 336312 Gasoline Engine and Engine Parts Manufacturing; 336120 Heavy Duty Truck Manufacturing; 336112 Light Truck and Utility Vehicle Manufacturing; 454312 Liquefied Petroleum Gas (Bottled Gas) Dealers; 541690 Other Scientific and Technical Consulting Services; 324110 Petroleum Refineries; 484220 Specialized Freight (except Used Goods) Trucking, Local; 484230 Specialized Freight (except Used Goods) Trucking, Long-Distance

Agency Contact: Catherine Yanca, Environmental Protection Agency, Air and Radiation, NVFEL S87, Ann Arbor, MI 48105, *Phone:* 734 214–4769, *Email: yanca.catherine@epamail.epa.gov.*

Kathryn Sargeant, Environmental Protection Agency, Air and Radiation, NVFEL S77, Ann Arbor, MI 48105, *Phone:* 734 214–4441, *Email: sargeant.kathryn@epamail.epa.gov.*

RIN: 2060–AQ86

EPA

81. Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements

Priority: Other Significant.

Legal Authority: 42 U.S.C. 7409; 42 U.S.C. 7410; 42 U.S.C. 7511 to 7511f; 42 U.S.C. 7601(a)(1)

CFR Citation: 40 CFR part 50; 40 CFR part 51; 40 CFR part 70; 40 CFR part 71.

Legal Deadline: None.

Abstract: This proposed rule will address a range of implementation requirements for the 2008 National Ambient Air Quality Standards (NAAQS) for ozone, including requirements pertaining to attainment demonstrations, reasonable further progress, reasonably available control technology, reasonably available control measures, nonattainment new source review, emission inventories, and the timing of State Implementation Plan submissions and compliance. Other issues also addressed in this proposed rule are the revocation of the 1997 ozone NAAQS for purposes other than transportation conformity; anti-backsliding requirements that would apply when the 1997 NAAQS are revoked; and routes to terminate the section 185 fee program.

Statement of Need: This rule is needed to establish submission deadlines and requirements for what states must include in their state implementation plans (SIPs) to bring nonattainment areas into compliance with the 2008 ozone NAAQS. There is no court-ordered deadline for this proposed rule. However, the CAA requires the nonattainment area plans addressed by this rule to be developed and submitted within two to three years after the July 20, 2012 date of nonattainment designations.

Summary of Legal Basis: CAA Section 110.

Alternatives: Not yet determined.

Anticipated Cost and Benefits: The annual burden for this information collection averaged over the first 3 years is estimated to be a total of 120,000 labor hours per year at an annual labor cost of $2.4 million (present value) over the 3-year period or approximately $91,000 per state for the 26 state respondents, including the District of Columbia. The average annual reporting burden is 690 hours per response, with approximately 2 responses per state for 58 state respondents. There are no capital or operating and maintenance costs associated with the proposed rule requirements. Burden is defined at 5 CFR 1320.3(b).

Risks: Not yet determined.

Timetable:

Action	Date	FR Cite
NPRM	04/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Federal, Local, State, Tribal.

Additional Information: Docket #: EPA–HQ–OAR–2010–0885. Split from RIN 2060–AP24.

Agency Contact: Karl Pepple, Environmental Protection Agency, Air and Radiation, C539–01, Research Triangle Park, NC 27711, *Phone:* 919 541–2683, *Fax:* 919 541–0824, *Email: pepple.karl@epa.gov.*

Rich Damberg, Environmental Protection Agency, Air and Radiation, C539–01, Research Triangle Park, NC 27711, *Phone:* 919 541–5592, *Fax:* 919 541–0824, *Email: damberg.rich@epamail.epa.gov.*

RIN: 2060–AR34

EPA

82. • Petroleum Refinery Sector Amendment for Flares

Priority: Other Significant.

Legal Authority: CAA sec 111; CAA sec 112

CFR Citation: 40 CFR part 60; 40 CFR part 63.

Legal Deadline: None.

Abstract: In this action EPA plans to conduct a review of the standards dealing with overall flare performance and efficiency at petroleum refineries. Flares are often used at petroleum refineries as a control device for regulated vent streams, as well as to handle non-routine emissions (e.g., leaks, purges, emergency releases); and since the development of the current flare regulations, industry has significantly reduced the amount of waste gas being routed to flares. Generally, this reduction has affected

the base load to flares and many are now receiving a small fraction of what the flare was originally designed to receive with only periodic releases of episodic or emergency waste gas that may use up to the full capacity of the flare. Many flare vent gas streams that are regulated by NESHAP and NSPS are often continuous streams that contribute to the base load of a flare; therefore, it is critical for flares to achieve good combustion efficiency at all levels of utilization. The EPA concluded an ad-hoc flare peer review study in the spring of 2012, dedicated to determining parameters for properly designed and operated flares. An eight-person review panel was tasked with answering specific charge questions relating to proper design and operation of steam and air assisted flares. The available data suggest that factors that may affect combustion efficiency and overall flare performance include over-steaming of steam assisted flares, excess aeration of air assisted flares, and maintenance of a stable flame (flame velocity and wind speed). Better flare operation practices will ultimately result in improved combustion efficiencies that have the potential to improve public health by reducing emissions of air toxics and volatile organic compounds that may pose a health risk to vulnerable populations including the young, elderly, and those with respiratory problems. The EPA does not currently plan to include potential flare amendments in RIN 2060–AQ75, ''the Petroleum Refinery Sector Risk and Technology Review and NSPS'' (described as Item 3 of this Regulatory Plan) because the EPA is currently reviewing the results of the peer review panel and is reaching out to various stakeholders to determine the best approach to ensure a high level of combustion efficiency at flares. The EPA is also evaluating whether to amend 40 CFR part 63, subparts CC and UUU (a.k.a., Refinery Maximum Achievable Control Technology (MACT) 1 and 2) and the Refinery New Source Performance Standards (NSPS) 40 CFR subpart Ja or to develop a separate set of requirements for flares since there are other industries in addition to the refining industry that rely on flares.

Statement of Need: Revising work practice standards for flares and the refining industry to assure proper operation and good combustion efficiency as part of EPA's technology review obligation under CAA section 112.

Summary of Legal Basis: CAA section 111 and 112.

Alternatives: Not yet determined.

Anticipated Cost and Benefits: Not yet determined.

Risks: Risk will be addressed under a separate RTR package (See RIN 2060–AQ75).

Timetable:

Action	Date	FR Cite
NPRM	11/00/13	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Federal.

Federalism: Undetermined.

Agency Contact: Andrew Bouchard, Environmental Protection Agency, Air and Radiation, E143–01, Research Triangle Park, NC 27711, *Phone:* 919 541–4036, *Fax:* 919 541–0246, *Email: bouchard.andrew@epamail.epa.gov.*

Penny Lassiter, Environmental Protection Agency, Air and Radiation, E1430–01, Research Triangle Park, NC 27711, *Phone:* 919 541–5396, *Fax:* 919 541–0246, *Email: lassiter.penny@epamail.epa.gov.*

RIN: 2060–AR69

EPA

83. NPDES Electronic Reporting Rule

Priority: Other Significant.

Legal Authority: 33 U.S.C. 1314(i) and 1361(a); CWA sections 304(i) and 501(a)

CFR Citation: 40 CFR part 123; 40 CFR part 403 ; 40 CFR part 501.

Legal Deadline: None.

Abstract: The EPA has responsibility to ensure that the Clean Water Act's (CWA) National Pollutant Discharge Elimination System (NPDES) program is effectively and consistently implemented across the country. This regulation would mandate electronic reporting of NPDES data. Through this regulation, EPA seeks to ensure that such facility-specific information would be accurate, timely, and nationally consistent on the facilities that are regulated by the NPDES program. In the past, EPA primarily obtained this information from the Permit Compliance System (PCS). However, the evolution of the NPDES program since the inception of PCS has created an increasing need to better reflect a more complete picture of the NPDES program and the diverse universe of regulated sources. In addition, information technology has advanced significantly so that PCS no longer meets EPA's national needs to manage the full scope of the NPDES program or the needs of individual states that use PCS to implement and enforce the NPDES program.

Statement of Need: EPA views the draft proposed rule as a key means to transform the NPDES program, and provide significant savings and flexibilities to States and the NPDES-regulated universe. The electronic availability of the information would enable States and EPA to better ensure the protection of public health and the environment, effectively manage the national NPDES permitting and enforcement program, monitor compliance, redirect resources, and identify and address environmental problems.

Summary of Legal Basis: The Clean Water Act establishes a comprehensive program for protecting and restoring our Nation's waters. The Clean Water Act established the NPDES permit program to authorize and regulate the discharges of pollutants to waters of the United States. Section 402(a). EPA is proposing this rule under CWA sections 101(f), 304(i), 308, 402, and 501. This proposed rule, which is intended to reduce resource burdens associated with the paper-based system and increase the speed, quality and scope of information echoes the goals of CWA section 101(f). CWA section 304(i)(2) authorizes EPA to promulgate guidelines establishing the minimum procedural and other elements of state programs under section 402, including reporting requirements and procedures to make information available to the public. In addition, EPA is proposing this rule under section 308, which authorizes EPA to require information to carry out the objectives of the CWA, including section 402, which establishes the NPDES permit program. EPA is proposing this rule under CWA sections 402(b) and (c), which require each authorized state, tribe, or territory to ensure that permits meet certain substantive requirements, and provide EPA information from point sources, industrial users, and the authorized program in order to ensure proper oversight. Finally, EPA is issuing this rule under CWA section 501, which authorizes EPA to prescribe such regulations as are necessary to carry out provisions of the Act.

Alternatives: Within the rulemaking process itself, various alternatives are being considered. One alternative would be status quo, where most States are moving toward electronic reporting of some NPDES information. However, unless electronic reporting is made mandatory, participation is not high and States are essentially operating two different reporting systems (i.e., one electronic-based and one paper-based). States also find that they must implement a costly public relations

effort to recruit new users and train new users. State development of their own electronic reporting tools is an additional cost of the status quo. As another alternative, in the absence of electronically available information, EPA could seek this NPDES information from each State, as each State should currently be receiving this information in hard-copy format from regulated facilities. Another alternative that EPA could consider in rule implementation is whether third-party vendors may be better equipped to develop and modify such electronic reporting tools than EPA or States.

Anticipated Cost and Benefits: The economic analysis for the draft proposed rule indicates that significant savings should be anticipated after full implementation. Savings of approximately $30.3 million annually should be realized within three years after the final rule. Most of these savings (approximately $28.5 million) would accrue to the States, largely because of the elimination of data entry by States of paper-based discharge monitoring reports (DMRs) and program reports. The regulated universe would also receive some annual savings and would benefit from reduced incidence of data errors in transcription of the data from hard-copy submissions to electronic form. Some States (e.g., Ohio) have been able to quantify savings realized through mandatory electronic reporting. Additional benefits of this rule will include improved transparency of information regarding the NPDES program, improved information regarding the national NPDES program, improved targeting of resources based on identified program needs and noncompliance problems, and ultimately improved protection of public health and the environment. Some NPDES information associated with NPDES program implementation activities (e.g., permit issuance, inspections, violations, enforcement actions) will also be reported by States to EPA. There will be some upfront initial investment costs needed to realize these savings. EPA will have initial implementation costs to revise the data systems and to develop tools for electronic reporting by permittees, as well as annual operation and maintenance costs associated with those tools (in addition to ongoing ICIS–NPDES operation and maintenance costs). States would have initial investment costs associated with data system upgrades (if not already done) and initial data entry for facilities not currently tracked electronically.

Risks: EPA does not receive sufficient facility-specific NPDES information from the states to be able to fully assess the full scope of compliance with the national NPDES program. This lack of complete information on compliance may adversely impact the states' and EPA's ability to better ensure the protection of public health and the environment, nationally and locally.

Timetable:

Action	Date	FR Cite
NPRM	02/00/13	
Final Rule	01/00/14	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: State.

Federalism: This action may have federalism implications as defined in EO 13132.

URL for More Information: http://www.regulations.gov/exchange/topic/npdes.

Agency Contact: Andrew Hudock, Environmental Protection Agency, Office of Enforcement and Compliance Assurance, 2222A, Washington, DC 20460, *Phone:* 202 564–6032, *Email: hudock.andrew@epamail.epa.gov*.

John Dombrowski, Environmental Protection Agency, Office of Enforcement and Compliance Assurance, 2222A, Washington, DC 20460, *Phone:* 202 566–0742, *Email: dombrowski.john@epamail.epa.gov*.

RIN: 2020–AA47

EPA

84. Formaldehyde; Third-Party Certification Framework for the Formaldehyde Standards for Composite Wood Products

Priority: Other Significant.

Legal Authority: 15 U.S.C. 2697; TSCA sec 601

CFR Citation: 40 CFR part 770.

Legal Deadline: Final, Statutory, January 1, 2013, Deadline for promulgation of regulations, per 15 U.S.C. 2697(d).

Abstract: On July 7, 2010, the Formaldehyde Standards for Composite Wood Products Act was enacted. This law amends Toxic Substances Control Act (TSCA) to establish specific formaldehyde emission limits for hardwood plywood, particleboard, and medium-density fiberboard, which are identical to the California emission limits for these products. The law further requires EPA to promulgate implementing regulations by January 1, 2013. This rulemaking includes provisions related to third-party testing and certification. EPA intends to propose a third-party certification program that will help ensure compliance with the emissions standards. A separate Regulatory Agenda entry (RIN 2070–AJ92) covers the other regulations to implement the statutory formaldehyde emission standards for hardwood plywood, medium-density fiberboard, and particleboard sold, supplied, offered for sale, or manufactured (including imported) in the United States.

Statement of Need: Formaldehyde is a colorless, flammable gas at room temperature that has a strong odor. It is found in resins used in the manufacture of composite wood products (i.e., hardwood plywood, particleboard, and medium-density fiberboard). It is also found in household products such as glues, permanent press fabrics, carpets, antiseptics, medicines, cosmetics, dishwashing liquids, fabric softeners, shoe care agents, lacquers, plastics, and paper product coatings. It is a by-product of combustion and certain other natural processes. Examples of sources of formaldehyde gas inside homes include cigarette smoke, unvented, fuel-burning appliances (gas stoves, kerosene space heaters), and composite wood products made using formaldehyde-based resins.

Summary of Legal Basis: The Formaldehyde Standards for Composite Wood Products Act, which created title VI of the Toxic Substances Control Act (TSCA), established formaldehyde emission standards for composite wood products (hardwood plywood, medium-density fiberboard (MDF), and particleboard) sold, supplied, offered for sale or manufactured in the United States. Under TSCA title VI, manufacturers of composite wood products must comply with specific formaldehyde emission standards, and their compliance must be verified by a third-party certifier (TPC).

Alternatives: TSCA title VI establishes national formaldehyde emission limits for hardwood plywood, particleboard, and medium-density fiberboard and EPA has not been given the authority to change the limits. However, EPA will evaluate various implementation alternatives during the course of this rulemaking.

Anticipated Cost and Benefits: EPA is currently evaluating the costs and benefits of this action.

Risks: EPA is currently evaluating the risks presented by exposure to formaldehyde emissions from composite wood products (hardwood plywood, medium-density fiberboard (MDF), and particleboard) in excess of the statutory limits.

Formaldehyde is both an irritant and a known human carcinogen. Depending on concentration, formaldehyde can cause eye, nose, and throat irritation, even when exposure is of relatively short duration. In the indoor environment, sensory reactions and various symptoms as a result of mucous membrane irritation are some potential effects from exposure. There is also evidence that formaldehyde may be associated with changes in pulmonary function and increased risk of asthma in children. In addition, formaldehyde is a by-product of human metabolism; therefore, endogenous levels are present in the body.

Timetable:

Action	Date	FR Cite
ANPRM	12/03/08	73 FR 73620
Second ANPRM	01/30/09	74 FR 5632
NPRM	01/00/13	
Final Rule	02/00/14	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

International Impacts: This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

Additional Information: Docket #: ANPRM stage: EPA–HQ–OPPT–2008–0627; NPRM Stage: EPA–HQ–OPPT–2011–0380.

Sectors Affected: 541611 Administrative Management and General Management Consulting Services; 541990 All Other Professional, Scientific, and Technical Services; 561990 All Other Support Services; 813910 Business Associations; 541330 Engineering Services; 813920 Professional Organizations; 321219 Reconstituted Wood Product Manufacturing; 541380 Testing Laboratories; 3212 Veneer, Plywood, and Engineered Wood Product Manufacturing.

URL for More Information: http://www.epa.gov/opptintr/chemtest/formaldehyde/index.html.

Agency Contact: Erik Winchester, Environmental Protection Agency, Office of Chemical Safety and Pollution Prevention, 7404T, Washington, DC 20460, *Phone:* 202 564–6450, *Email: winchester.erik@epa.gov*.

Lynn Vendinello, Environmental Protection Agency, Office of Chemical Safety and Pollution Prevention, 7404T, Washington, DC 20460, *Phone:* 202 566–0514, *Email: vendinello.lynn@epa.gov*.

RIN: 2070–AJ44

EPA

85. Formaldehyde Emissions Standards for Composite Wood Products

Priority: Economically Significant. Major under 5 U.S.C. 801.

Unfunded Mandates: This action may affect the private sector under Pub. L. 104–4.

Legal Authority: 15 U.S.C. 2697; TSCA sec 601

CFR Citation: Not Yet Determined.

Legal Deadline: Final, Statutory, January 1, 2013, Deadline for promulgation of regulations, per 15 U.S.C. 2697(d).

Abstract: On July 7, 2010, the Formaldehyde Standards for Composite Wood Products Act was enacted. This law amends TSCA to establish specific formaldehyde emission limits for hardwood plywood, particleboard, and medium-density fiberboard, which limits are identical to the California emission limits for these products. The law further requires EPA to promulgate implementing regulations by January 1, 2013. This rulemaking will address the mandate to promulgate regulations to implement the statutory formaldehyde emission standards for hardwood plywood, medium-density fiberboard, and particleboard sold, supplied, offered for sale, or manufactured (including imported) in the United States. As directed by the statute, EPA will also consider provisions relating to, among other things, laminated products, products made with no added formaldehyde resins, testing requirements, product labeling, chain of custody documentation and other recordkeeping requirements, and product inventory sell-through provisions. A separate Regulatory Agenda entry (RIN 2070–AJ44) covers the mandate for EPA to promulgate regulations to address requirements for accrediting bodies and third-party certifiers.

Statement of Need: Formaldehyde is a colorless, flammable gas at room temperature that has a strong odor. It is found in resins used in the manufacture of composite wood products (i.e., hardwood plywood, particleboard, and medium-density fiberboard). It is also found in household products such as glues, permanent press fabrics, carpets, antiseptics, medicines, cosmetics, dishwashing liquids, fabric softeners, shoe care agents, lacquers, plastics, and paper product coatings. It is a by-product of combustion and certain other natural processes. Examples of sources of formaldehyde gas inside homes include cigarette smoke, unvented, fuel-burning appliances (gas stoves, kerosene space heaters), and composite wood products made using formaldehyde-based resins.

Summary of Legal Basis: The Formaldehyde Standards for Composite Wood Products Act, which created title VI of the Toxic Substances Control Act (TSCA), established formaldehyde emission standards for composite wood products (hardwood plywood, medium-density fiberboard (MDF), and particleboard) sold, supplied, offered for sale or manufactured in the United States. Under TSCA title VI, manufacturers of composite wood products must comply with specific formaldehyde emission standards, and their compliance must be verified by a third-party certifier (TPC).

In addition, Congress directed EPA to consider a number of elements for inclusion in implementing the regulations. These elements include: labeling, chain of custody requirements, sell-through provisions, ultra low-emitting formaldehyde resins, no added formaldehyde-based resins, finished goods, third-party testing and certification, auditing and reporting of TPCs, recordkeeping, enforcement, laminated products, and exceptions from the requirements of regulations promulgated for products and components containing de minimis amounts of composite wood products.

Alternatives: TSCA title VI establishes national formaldehyde emission limits for hardwood plywood, particleboard, and medium-density fiberboard and EPA has not been given the authority to change the limits. However, EPA will evaluate various implementation alternatives during the course of this rulemaking.

Anticipated Cost and Benefits: EPA is currently evaluating the costs and benefits of this action.

Risks: EPA is currently evaluating the risks presented by exposure to formaldehyde emissions from composite wood products (hardwood plywood, medium-density fiberboard (MDF), and particleboard) in excess of the statutory limits.

Formaldehyde is both an irritant and a known human carcinogen. Depending on concentration, formaldehyde can cause eye, nose, and throat irritation, even when exposure is of relatively short duration. In the indoor environment, sensory reactions and various symptoms as a result of mucous membrane irritation are some potential effects from exposure. There is also evidence that formaldehyde may be associated with changes in pulmonary function and increased risk of asthma in children. In addition, formaldehyde is a by-product of human metabolism;

therefore, endogenous levels are present in the body.

Timetable:

Action	Date	FR Cite
NPRM	01/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

International Impacts: This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

Sectors Affected: 325199 All Other Basic Organic Chemical Manufacturing; 423110 Automobile and Other Motor Vehicle Merchant Wholesalers; 337212 Custom Architectural Woodwork and Millwork Manufacturing; 321213 Engineered Wood Member (except Truss) Manufacturing; 423210 Furniture Merchant Wholesalers; 442110 Furniture Stores; 444130 Hardware Stores; 321211 Hardwood Veneer and Plywood Manufacturing; 444110 Home Centers; 337127 Institutional Furniture Manufacturing; 423310 Lumber, Plywood, Millwork, and Wood Panel Merchant Wholesalers; 453930 Manufactured (Mobile) Home Dealers; 321991 Manufactured Home (Mobile Home) Manufacturing; 336213 Motor Home Manufacturing; 337122 Nonupholstered Wood Household Furniture Manufacturing; 444190 Other Building Material Dealers; 423390 Other Construction Material Merchant Wholesalers; 325211 Plastics Material and Resin Manufacturing; 321992 Prefabricated Wood Building Manufacturing; 321219 Reconstituted Wood Product Manufacturing; 441210 Recreational Vehicle Dealers; 337215 Showcase, Partition, Shelving, and Locker Manufacturing; 321212 Softwood Veneer and Plywood Manufacturing; 336214 Travel Trailer and Camper Manufacturing; 337121 Upholstered Household Furniture Manufacturing; 337110 Wood Kitchen Cabinet and Countertop Manufacturing; 337211 Wood Office Furniture Manufacturing; 337129 Wood Television, Radio, and Sewing Machine Cabinet Manufacturing

URL for More Information: http://www.epa.gov/opptintr/chemtest/formaldehyde/index.html

Agency Contact: Cindy Wheeler, Environmental Protection Agency, Office of Chemical Safety and Pollution Prevention, 7404T, Washington, DC 20460, *Phone:* 202 566–0484, *Email: wheeler.cindy@epa.gov*.

Lynn Vendinello, Environmental Protection Agency, Office of Chemical Safety and Pollution Prevention, 7404T, Washington, DC 20460, *Phone:* 202 566–0514, *Email: vendinello.lynn@epa.gov*.

RIN: 2070–AJ92

EPA

86. Revisions to the National Oil and Hazardous Substances Pollution Contingency Plan; Subpart J Product Schedule Listing Requirements

Priority: Other Significant.

Legal Authority: 33 U.S.C. 1321(d)(2); 33 U.S.C. 1321(b)(3); 33 U.S.C. 1321(j)

CFR Citation: 40 CFR part 300; 40 CFR part 110.

Legal Deadline: None.

Abstract: The Clean Water Act requires EPA to prepare a schedule identifying dispersants, other chemicals, and other spill mitigating devices and substances, if any, that may be used in carrying out the National Contingency Plan (NCP); and the waters and quantities in which they may be used. EPA is considering revising subpart J of the NCP to address the efficacy, toxicity, and environmental monitoring of dispersants, other chemical and biological agents, and other spill mitigating substances, as well as public, State, local, and Federal officials' concerns on their authorization and use. Specifically, the Agency is considering revisions to the technical product requirements under subpart J, including amendments to the effectiveness and toxicity testing protocols, and establishing new effectiveness and toxicity thresholds for listing certain products on the Schedule. Additionally, the Agency is considering amendments to area planning requirements for agent use authorization, and advanced monitoring techniques. The Agency is also considering revisions to harmonize 40 CFR part 110.4 with the definitions for chemical and biological agents proposed for subpart J. These changes, if finalized, will help ensure that chemical and biological agents have met rigorous efficacy and toxicity requirements, that product manufacturers provide important use and safety information, and that the planning and response community is equipped with the proper information to authorize and use the products in a judicious and effective manner.

Statement of Need: The use of dispersants in response to the Deepwater Horizon incident, both on surface slicks and injected directly into the oil from the well riser, raised many questions about efficacy, toxicity, environmental trade-offs, and monitoring challenges. The Agency is considering amendments to subpart J that would increase the overall scientific soundness of the data collected on mitigation agents, take into consideration not only the efficacy but also the toxicity, long-term environmental impacts, endangered species protection, and human health concerns raised during responses to oil discharges, including the Deepwater Horizon incident. The additional data requirements being considered would aid OSCs and RRTs when evaluating specific product information and when deciding whether and which products to use to mitigate hazards caused by discharges or threatened discharges of oil. Additionally, the Agency is considering amendments to area planning requirements for dispersant use authorization, toxicity thresholds, and advanced monitoring techniques. This action is a major component of EPA's effort to inform the use of dispersants and other chemical or biological agents when responding to oil discharges based on lessons learned from the Federal Government's experiences in responding to off-shore oil discharges, including the Deepwater Horizon incident, in the Gulf of Mexico and anticipation of the expansion of oil exploration and production activities in the Arctic.

Summary of Legal Basis: The Federal Water Pollution Control Act (FWPCA) requires the President to prepare and publish a National Contingency Plan (NCP) for the removal of oil and hazardous substances. In turn, the President delegated the authority to implement this section of the FWPCA to EPA through Executive Order 12777 (56 FR 54757; October 22, 1991). Section 311(d)(2)(G)(i) of the FWPCA (a.k.a., Clean Water Act), as amended by the OPA, requires that the NCP include a schedule identifying ''dispersants, other chemicals, and other spill mitigating devices and substances, if any, that may be used in carrying out'' the NCP. Currently, the use of dispersants, other chemicals, and other oil spill mitigating devices and substances (e.g., bioremediation agents) to respond to oil discharges in U.S. waters is governed by subpart J of the NCP (40 CFR part 300 series 900).

Alternatives: The Agency is not proposing to maintain the status quo, and will consider alternatives to the current regulation that address the efficacy, toxicity, and environmental monitoring of dispersants, and other chemical and biological agents, as well as public, State, local, and Federal officials' concerns regarding their use.

Specifically, the alternative requirements to the current NCP Product Schedule (Schedule) consider new listing criteria, revisions to the efficacy and toxicity testing protocols, and clarifications to the evaluation criteria for removing products from the Schedule. EPA is also considering alternatives to the current requirements for the authorities, notifications, monitoring, and data reporting when using chemical or biological agents in response to oil discharges in waters of the U.S. The alternatives to the exxisting rule being considered are intended to encourage the development of safer and more effective spill mitigating products, to better target the use of these products in order to reduce the risks to human health and the environment, and to ensure that On-Scene Coordinators (OSCs), Regional Response Teams (RRTs), and Area Committees have sufficient information to support agent preauthorization or authorization of use decisions.

Anticipated Cost and Benefits: Not yet determined.

Risks: Although major catastrophic oil discharges where chemical or biological agents may be used are relatively infrequent, this proposed rulemaking under subpart J may lead to the manufacture and use of less toxic, more effective oil spill mitigating products. The use of these products may reduce the potential for human and environmental impact, emergency response duration, and costs associated with any oil discharge. However, the impacts will vary greatly depending on factors that include the size, location, and duration of an oil discharge, as well as the type of oil being discharged. While the reduction in environmental impacts associated with the use of oil spill mitigating agents driven by this action are likely small for typical oil discharges, they could be significant in the event of a large oil discharge.

Timetable:

Action	Date	FR Cite
NPRM	03/00/13	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: Federal, Local, State, Tribal.

International Impacts: This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

Additional Information: Includes Retrospective Review under Executive Order 13563.

Sectors Affected: 325 Chemical Manufacturing; 424 Merchant Wholesalers, Nondurable Goods; 211 Oil and Gas Extraction; 541 Professional, Scientific, and Technical Services; 562 Waste Management and Remediation Services.

URL for More Information: www.epa.gov/oilspill.

Agency Contact: William Nichols, Environmental Protection Agency, Solid Waste and Emergency Response, 5104A, Washington, DC 20460, *Phone:* 202 564–1970, *Fax:* 202 564–2625, *Email: nichols.nick@epa.gov.*

Craig Matthiessen, Environmental Protection Agency, Solid Waste and Emergency Response, 5104A, Washington, DC 20460, *Phone:* 202 564–8016, *Fax:* 202 564–2625, *Email: mattheissen.craig@epa.gov.*

RIN: 2050–AE87

EPA

87. Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category

Priority: Economically Significant. Major under 5 U.S.C. 801.

Unfunded Mandates: Undetermined.

Legal Authority: 33 U.S.C. 1311; 33 U.S.C. 1314; 33 U.S.C. 1316; 33 U.S.C. 1317; 33 U.S.C. 1318; 33 U.S.C. 1342; 33 U.S.C. 1361

CFR Citation: 40 CFR part 423 (revision).

Legal Deadline: NPRM, Judicial, December 14, 2012, Consent Decree.

Final, Judicial, April 19, 2013, 4/19/2013—Consent Decree deadline for Final Action—Defenders of Wildlife v. Jackson, 10—1915, D. D.C.

Abstract: EPA establishes national technology-based regulations, called effluent limitations guidelines and standards, to reduce discharges of pollutants from industries to waters of the U.S. These requirements are incorporated into National Pollutant Discharge Elimination System (NPDES) discharge permits issued by EPA and States and through the national pretreatment program. The steam electric effluent guidelines apply to steam electric power plants using nuclear or fossil fuels, such as coal, oil, and natural gas. There are about 1,200 nuclear- and fossil-fueled steam electric power plants nationwide; approximately 500 of these power plants are coal-fired. In a study completed in 2009, EPA found that the current regulations, which were last updated in 1982, do not adequately address the pollutants being discharged and have not kept pace with changes that have occurred in the electric power industry over the last three decades. Power plant discharges can have impacts on water quality, including reduced organism abundance and species diversity and contamination of drinking water sources. Pollutants of concern include metals (e.g., mercury, arsenic, and selenium), nutrients, and total dissolved solids.

Statement of Need: As described, EPA determined the existing regulations do not adequately address the pollutants being discharged and that revisions are appropriate.

Summary of Legal Basis: Section 301(b)(2) of the Clean Water Act requires EPA to promulgate effluent limitations for categories of point sources, using technology-based standards, that govern the sources' discharge of certain pollutants. 33 U.S.C. Section 1311(b). Section 304(b) of the Act directs EPA to develop effluent limitations guidelines (ELGs) that identify certain technologies and control measures available to achieve effluent reductions for each point source category, specifying factors to be taken into account in identifying those technologies and control measures. 33 U.S.C. Section 1314(b). Since the 1970s, EPA has formulated effluent limitations and ELGs in tandem through a single administrative process. Am. Frozen Food Inst. v. Train, 539 F.2d 107 (DC Cir. 1976). The CWA also requires EPA to perform an annual review of existing ELGs and to revise them, if appropriate. 33 U.S.C. Section 1314(b); see also 33 U.S.C. Section 1314(m)(1)(A). EPA originally established effluent limitations and guidelines for the steam electric generating industry in 1974 and last updated them in 1982. 47 Fed. Reg. 52,290 (Nov. 19, 1982).

Alternatives: To be determined.

Anticipated Cost and Benefits: To be determined.

Risks: To be determined.

Timetable:

Action	Date	FR Cite
NPRM	04/00/13	
Final Rule	04/00/14	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Undetermined.

Federalism: Undetermined.

Additional Information: Docket #: EPA–HQ–OW–2009–0819.

Sectors Affected: 221112 Fossil Fuel Electric Power Generation; 221113 Nuclear Electric Power Generation.

URL for More Information: http://water.epa.gov/scitech/wastetech/guide/steam_index.cfm.

Agency Contact: Ronald Jordan, Environmental Protection Agency, Water, 4303T, Washington, DC 20460, *Phone:* 202 566–1003, *Fax:* 202 566–1053, *Email: jordan.ronald@epamail.epa.gov.*

Jezebele Alicea, Environmental Protection Agency, Water, 4303T, Washington, DC 20460, *Phone:* 202 566–1755, *Fax:* 202 566–1053, *Email: alicea.jezebele@epamail.epa.gov.*

RIN: 2040–AF14

EPA

88. National Primary Drinking Water Regulations for Lead and Copper: Regulatory Revisions

Priority: Economically Significant. Major under 5 U.S.C. 801.

Unfunded Mandates: Undetermined.

Legal Authority: 42 U.S.C. 300f *et seq.*

CFR Citation: 40 CFR part 141; 40 CFR part 142.

Legal Deadline: None.

Abstract: Beginning in 2004, EPA conducted a wide-ranging review of implementation of the Lead and Copper Rule (LCR) to determine if there is a national problem related to elevated lead levels. EPA's comprehensive review consisted of several elements, including a series of workshops designed to solicit issues, comments, and suggestions from stakeholders on particular issues; a review of monitoring data to evaluate the effectiveness of the LCR; and a review of the LCR implementation by States and water utilities. As a result of this multi-part review, EPA identified seven targeted rules changes and EPA promulgated a set of short-term regulatory revisions and clarifications on October 10, 2007, to strengthen implementation of the existing Lead and Copper Rule. In developing the short-term revisions, EPA identified several regulatory changes to be considered as part of identifying more comprehensive changes to the rule. These considerations are longer-term in nature as they require additional data collection, research, analysis, and stakeholder involvement to support decisions. This action addresses the remaining regulatory revisions to be completed in the 2013/2014 time frame. Changes will be made to make the rule more cost effective and more protective of public health.

Statement of Need: EPA identified several regulatory changes to be considered as part of identifying more comprehensive changes to the rule. These considerations are longer-term in nature as they require additional data collection, research, analysis, and stakeholder involvement to support decisions. Changes will be made to make the rule more cost effective and more protective of public health.

Summary of Legal Basis: The Safe Drinking Water Act (SDWA) (42 U.S.C. 300f *et seq.*) requires EPA to establish maximum contaminant level goals (MCLGs) and National Primary Drinking Water Regulations (NPDWRs) for contaminants that may have an adverse effect on the health of persons, may occur in public water systems at a frequency and level of public concern, and in the sole judgment of the Administrator, regulation of the contaminant would present a meaningful opportunity for health risk reduction for persons served by public water systems (section 1412(b)(1)(A)). The 1986 amendments to SDWA established a list of 83 contaminants for which EPA is to develop MCLGs and NPDWRs, which included lead and copper. The 1991 NPDWR for Lead and Copper (56 FR 26460, U.S. EPA, 1991a) fulfilled the requirements of the 1986 SDWA amendments with respect to lead and copper.'' EPA promulgated a set of short-term regulatory revisions and clarifications on October 10, 2007, to strengthen implementation of the existing Lead and Copper Rule. In developing the short-term revisions, EPA identified several regulatory changes to be considered as part of identifying more comprehensive changes to the rule. These considerations are longer-term in nature as they require additional data collection, research, analysis, and stakeholder involvement to support decisions. Changes will be made to make the rule more cost effective and more protective of public health.

Alternatives: To be determined.

Anticipated Cost and Benefits: To be determined.

Risks: To be determined.

Timetable:

Action	Date	FR Cite
NPRM	09/00/13	
Final Rule	05/00/14	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Undetermined.

Federalism: Undetermined.

Additional Information: This action includes retrospective review under EO 13563; see: *http://www.epa.gov/regdarrt/retrospective/history.html.*

URL for More Information: http://water.epa.gov/lawsregs/rulesregs/sdwa/lcr/index.cfm.

Agency Contact: Jeffrey Kempic, Environmental Protection Agency, Water, 4607M, Washington, DC 20460, *Phone:* 202 564–4880, *Fax:* 202 564–3760, *Email: kempic.jeffrey@epamail.epa.gov.*

RIN: 2040–AF15

EPA

89. Clean Water Protection Rule

Priority: Other Significant. Major under 5 U.S.C. 801.

Unfunded Mandates: Undetermined.

Legal Authority: 33 U.S.C. 1251

CFR Citation: Not Yet Determined

Legal Deadline: None.

Abstract: After U.S. Supreme Court decisions in SWANCC and Rapanos, the scope of ''waters of the US'' protected under all CWA programs has been an issue of considerable debate and uncertainty. The Act has a single definition for ''waters of the United States.'' As a result, these decisions affect the geographic scope of all CWA programs. SWANCC and Rapanos did not invalidate the current regulatory definition of ''waters of the United States.'' However, the decisions established important considerations for how those regulations should be interpreted, and experience implementing the regulations has identified several areas that could benefit from additional clarification through rulemaking. U.S. EPA and the U.S. Army Corps of Engineers are developing a proposed rule for determining whether a water is protected by the Clean Water Act. This rule would clarify which water bodies are protected under the Clean Water Act.

Statement of Need: After U.S. Supreme Court decisions in SWANCC and Rapanos, the scope of ''waters of the US'' protected under all CWA programs has been an issue of considerable debate and uncertainty. The Act has a single definition for ''waters of the United States.'' As a result, these decisions affect the geographic scope of all CWA programs. SWANCC and Rapanos did not invalidate the current regulatory definition of ''waters of the United States.'' However, the decisions established important considerations for how those regulations should be interpreted, and experience implementing the regulations has identified several areas that could benefit from additional clarification through rulemaking. U.S. EPA and the U.S. Army Corps of Engineers are developing a proposed rule for determining whether a water is

protected by the Clean Water Act. This rule would clarify which water bodies are protected under the Clean Water Act.

Summary of Legal Basis: To be determined.

Alternatives: To be determined.

Anticipated Cost and Benefits: To be determined.

Risks: To be determined.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Undetermined.

Federalism: Undetermined.

Agency Contact: Donna Downing, Environmental Protection Agency, Water, 4502T, Washington, DC 20460, *Phone:* 202 566–1367, *Email: downing.donna@epamail.epa.gov*.

Rachel Fertik, Environmental Protection Agency, Water, 4502T, Washington, DC 20460, *Phone:* 202 566–1452, *Email: fertik.rachel@epamail.epa.gov*.

RIN: 2040–AF30

EPA

Final Rule Stage

90. Greenhouse Gas New Source Performance Standard for Electric Generating Units for New Sources

Priority: Other Significant.

Legal Authority: CAA 111

CFR Citation: 40 CFR part 60.

Legal Deadline: None.

Abstract: This action will amend the new source performance standards (NSPS) for electric generating units (EGUs) and will establish the first NSPS for greenhouse gas (GHG) emissions. The rule will establish CO2 emission standards for certain new and reconstructed fossil fuel-fired electric generating units (EGUs).

Statement of Need: Electric Generating Units (EGUs) are the largest stationary source of greenhouse gas (GHG) emissions in the US. Plants have a 40 plus year life, so sources that commence construction today may be emitting GHGs past 2050.

Summary of Legal Basis: In Massachusetts vs. EPA, in April of 2007 the Supreme Court found that EPA has authority to regulate greenhouse gases under the Clean Air Act. One of the logical outgrowths of the Massachusetts decision is that EPA should be addressing significant GHG emissions from stationary sources.

Alternatives: While we proposed a standard of 1000 lbs GHG/MWh, we took comment on a range of standards from 950 lbs GHG/MWh to 1100 Lbs GHG/MWh. We also proposed to allow coal-fired units to comply using a 30 year average, and took comment on various ways to average GHG emissions across time.

Anticipated Cost and Benefits: Because both Energy Information Administration (EIA) and EPA do not project any new coal-fired EGUs to be constructed beyond a handful that will install CCS (as part of a DOE demonstration project), we do not project costs and benefits associated with the rule.

Risks: The risk addressed is the current and future threat of climate change to public health and welfare, as demonstrated in the 2009 Endangerment and Cause or Contribute Findings for Greenhouse Gases Under section 202(a) of the Clean Air Act. The EPA made this determination based primarily upon the recent, major assessments by the U.S. Global Change Research Program (USGCRP), the National Research Council (NRC) of the National Academies and the Intergovernmental Panel on Climate Change (IPCC).

Timetable:

Action	Date	FR Cite
NPRM	04/13/12	77 FR 22392
Final Rule	03/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Energy Effects: Statement of Energy Effects planned as required by Executive Order 13211.

Additional Information: Docket #: EPA–HQ–OAR–2011–0660.

Sectors Affected: 221 Utilities.

URL for Public Comments: http://www.regulations.gov/#!documentDetail;D=EPA–HQ–OAR–2011–0660–0001.

Agency Contact: Christian Fellner, Environmental Protection Agency, Air and Radiation, D243–01, Research Triangle Park, NC 27711, *Phone:* 919 541–4003, *Fax:* 919 541–5450, *Email: fellner.christian@epamail.epa.gov.*

Nick Hutson, Environmental Protection Agency, Air and Radiation, D243–01, Research Triangle Park, NC 27711, *Phone:* 919 451–2968, *Fax:* 919 541–5450, *Email: hutson.nick@epa.gov.*

RIN: 2060–AQ91

EPA

91. Hazardous Waste Management Systems: Identification and Listing of Hazardous Waste: Carbon Dioxide (CO_2) Streams in Geological Sequestration Activities

Priority: Other Significant.

Legal Authority: 42 U.S.C. 6912; 42 U.S.C. 6921 to 29; 42 U.S.C. 6934

CFR Citation: 40 CFR parts 260 to 261.

Legal Deadline: None.

Abstract: On July 25, 2008, EPA published a proposed rule under the Safe Drinking Water Act Underground Injection Control Program to create a new class of injection wells (Class VI) for geological sequestration (GS) of carbon dioxide (CO_2). In response to that proposal, EPA received numerous comments asking for clarification on how the Resource Conservation and Recovery Act (RCRA) hazardous waste requirements apply to CO_2 streams. EPA is considering a rule that would conditionally exclude from the RCRA requirements CO_2 streams that otherwise meet the definition of hazardous waste, in order to facilitate implementation of GS, while protecting human health and the environment.

Statement of Need: The development of the proposed rule was the result of numerous outside stakeholder comments seeking clarity on the applicability of the Resource Conservation and Recovery Act (RCRA) hazardous waste regulations to carbon dioxide (CO_2) streams to be geologically sequestered in Underground Injection Control (UIC) Class VI wells. These comments, received in response to a separate proposed rulemaking establishing new UIC Class VI permitting standards, were from industry, trade groups, State and local representatives, environmental interest groups, and concerned citizens. In addition, on February 3, 2010, President Obama established an Interagency Task Force on CCS composed of 14 Executive Departments and Federal Agencies. The Task Force, co-chaired by the Department of Energy and EPA, was charged with proposing a plan to overcome the barriers to the widespread, cost-effective deployment of Carbon Capture and Storage (CCS) within ten years, with a goal of bringing five to ten commercial demonstration projects online by 2016. One of the Task Force recommendations was that EPA propose and finalize a rulemaking to clarify the applicability of RCRA to CCS activities.

Summary of Legal Basis: 42 U.S.C. 6912, 42 U.S.C. 6921–29, and 42 U.S.C. 6934 provide the legal authority for this rule.

Anticipated Cost and Benefits: Due to the high level of uncertainty regarding the percent of CO_2 that may be generated as RCRA hazardous waste and the uncertainty regarding the actual number of facilities potentially affected over the projected 50 year period, EPA's best estimate for the impacts of the proposed rule ranges from a low-end annualized net savings of $7.3 million (7% discount rate) to the high-end annualized net savings of $44.9 million (3% discount rate).

Risks: EPA stated in the proposal its belief that the management of CO_2 streams in accordance with the proposed conditions and thus excluded from RCRA would not present a substantial risk to human health or the environment and, therefore, additional regulation pursuant to RCRA's hazardous waste regulations is unnecessary.

Timetable:

Action	Date	FR Cite
NPRM	08/08/11	76 FR 48073
Notice	09/09/11	76 FR 55846
Final Rule	04/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Federal, State, Tribal.

Additional Information: Docket #: EPA–HQ–RCRA–2010–0695. NPRM—*http://www.regulations.gov/#!documentDetail*; D=EPA-HQ-RCRA-2010-0695-0001; Notice—*http://www.regulations.gov/#!documentDetail;D=EPA-HQ-RCRA-2010-0695-0054.*

Sectors Affected: 211111 Crude Petroleum and Natural Gas Extraction.

URL for More Information: http://www.epa.gov/epawaste/nonhaz/industrial/geo-sequester/index.htm.

Agency Contact: Ross Elliott, Environmental Protection Agency, Solid Waste and Emergency Response, 5304P, Washington, DC 20460, *Phone:* 703 308–8748, *Fax:* 703 308–0514, *Email: elliott.ross@epa.gov.*

Melissa Kaps, Environmental Protection Agency, Solid Waste and Emergency Response, 5304P, Washington, DC 20460, *Phone:* 703 308–6787, *Email: kaps.melissa@epa.gov.*

RIN: 2050–AG60

EPA

92. Rulemaking on the Definition of Solid Waste

Priority: Other Significant.

Legal Authority: 42 U.S.C. 6903; RCRA sec 1004

CFR Citation: 40 CFR 261.2.

Legal Deadline: NPRM, Judicial, June 30, 2011, The settlement agreement requires signature of the proposed rule by June 30, 2011.

Final, Judicial, December 31, 2012, The settlement agreement requires signature of the final rule by December 31, 2012.

Abstract: EPA's reexamination of the 2008 definition of solid waste final rule identified areas that could be improved to better protect public health and the environment with a particular focus on adjacent communities. Potential regulatory changes should improve accountability and oversight of hazardous materials recycling, while allowing flexibility to promote economic and environmental benefits. Facilities affected include those that send hazardous waste offsite to be recycled and those that recycle hazardous waste onsite.

Statement of Need: The new DSW rulemaking may address concerns raised about potential adverse impacts to human health and the environment from the 2008 DSW final rule, including potential disproportionate impacts to minority and low income communities.

Summary of Legal Basis: These regulations are promulgated under the authority of sections 2002, 3001, 3002, 3003, 3004, 3007, 3010 and 3017 of the Solid Waste Disposal Act of 1970, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), 42 U.S.C. 6921, 6922, 6923 and 6924. This statute is commonly referred to as ''RCRA.''

Alternatives: Alternatives considered include (1) no action (retain the 2008 DSW rule), and (2) additional regulatory requirements for hazardous secondary materials recycling.

Anticipated Cost and Benefits: The Regulatory Impact Analysis (RIA) for the 2011 DSW proposed rule estimates the future average annualized costs to industry to comply with the proposed revisions at between $7.2 million and $47.5 million per year. However, in many cases these costs are not direct costs, but rather are reduced savings from what a company might have otherwise experienced under the 2008 DSW rule. In other words, companies that are currently operating under full Subtitle C hazardous waste regulations would still experience cost savings under the 2011 DSW proposal, but not as much cost savings as they would under the 2008 DSW final rule.

The RIA identifies three categories of expected future benefits for the final action consisting of: (1) Reduction in future environmental damages from industrial recycling of hazardous secondary materials; (2) improved industry environmental compliance; and (3) indirect legal and financial benefits to industry consisting of reduced liability, less uncertainty for regulated facilities, and lower legal and financial credit costs. However, the RIA does not quantify or monetize these benefit categories.

Risks: The 2012 DSW rule is expected to reduce overall risks to human health and the environment as compared to the 2008 DSW rule.

Timetable:

Action	Date	FR Cite
NPRM	07/22/11	76 FR 44094
Notice	08/26/11	76 FR 53376
Final Rule	04/00/13	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: Federal, State.

Additional Information: Docket #: EPA–HQ–RCRA–2010–0742.

Sectors Affected: 61 Educational Services; 31–33 Manufacturing; 54 Professional, Scientific, and Technical Services; 92 Public Administration.

URL for More Information: http://www.epa.gov/epawaste/hazard/dsw/rulemaking.htm.

URL for Public Comments: http://www.regulations.gov/#!documentDetail;D=EPA-HQ-RCRA-2010-0742-0001.

Agency Contact: Marilyn Goode, Environmental Protection Agency, Solid Waste and Emergency Response, 5304P, Washington, DC 20460, *Phone:* 703 308–8800, *Fax:* 703 308–0514, *Email: goode.marilyn@epa.gov.*

Tracy Atagi, Environmental Protection Agency, Solid Waste and Emergency Response, 5304–P, Washington, DC 20460, *Phone:* 703 308–8672, *Fax:* 703 308–0514, *Email: atagi.tracy@epa.gov.*

RIN: 2050–AG62

EPA

93. Criteria and Standards for Cooling Water Intake Structures

Priority: Economically Significant. Major under 5 U.S.C. 801.

Unfunded Mandates: This action may affect the private sector under Pub. L. 104–4.

Legal Authority: CWA 101; CWA 301; CWA 304; CWA 308; CWA 316; CWA 401; CWA 402; CWA 501; CWA 510

CFR Citation: 40 CFR part 122; 40 CFR part 125.

Legal Deadline: NPRM, Judicial, March 28, 2011, NPRM: 3/28/2011—Settlement Agreement—As per 14 day extension granted 3/10 (or 4 days if no CR). Riverkeeper v. EPA, 06–12987, SDNY (signed 11/22/2010).

Final, Judicial, June 27, 2013, Settlement Agreement—Riverkeeper v. EPA, 06–12987, SDNY (signed 07/17/2012).

Abstract: Section 316(b) of the Clean Water Act (CWA) requires EPA to ensure that the location, design, construction, and capacity of cooling water intake structures reflect the best technology available (BTA) for minimizing adverse environmental impacts. Under a consent decree with environmental organizations, EPA divided the section 316(b) rulemaking into three phases. All new facilities except offshore oil and gas exploration facilities were addressed in Phase I in December 2001; in July, 2004, EPA promulgated Phase II which covered large existing electric generating plants; and all new offshore oil and gas exploration facilities were later addressed in June 2006 as part of Phase III. In July 2007, EPA suspended the Phase II rule following the Second Circuit decision. Several parties petitioned the U.S. Supreme Court to review that decision, and the Supreme Court granted the petitions, limited to the issue of whether the Clean Water Act authorized EPA to consider the relationship of costs and benefits in establishing section 316(b) standards. On April 1, 2009, the Supreme Court reversed and remanded the case to the Second Circuit. The Second Circuit subsequently granted a request from EPA that the case be returned to the Agency for further consideration. Petitions to review this rule were filed in the U.S. Court of Appeals for the Fifth Circuit. In July 2010, the U. S. Court of Appeals for the Fifth Circuit issued a decision upholding EPA's rule for new offshore oil and gas extraction facilities. Further, the court granted the request of EPA and environmental petitioners in the case to remand the existing facility portion of the rule back to the Agency for further rulemaking. EPA entered into a settlement agreement with the plaintiffs in two lawsuits related to Section 316(b) rulemakings. Under the settlement agreement, as twice modified, EPA agreed to sign a notice of a proposed rulemaking implementing section 316(b) of the CWA at existing facilities no later than March 28, 2011 and to sign a notice taking final action on the proposed rule no later than June 27, 2013. Plaintiffs agreed to seek dismissal of both their suits, subject to a request to reopen one of the lawsuits in the event EPA failed to meet the agreed deadlines. EPA's proposed regulation includes uniform controls at all existing facilities to prevent fish from being trapped against screens (impingement), site-specific controls for existing facilities other than new units to prevent fish from being drawn through cooling systems (entrainment), and uniform controls equivalent to closed cycle cooling for new units at existing facilities. Other regulatory options analyzed included similar uniform impingement controls, and progressively more stringent requirements for entrainment controls. Another option considered would imposed the uniform impingement controls only for facilities withdrawing 50 million or more gallons per day of cooling water, with site-specific impingement controls for facilities withdrawing less than 50 million gallons per day. EPA issued two Notices of Data Availability (NODA) in June 2012 that described flexibilities EPA is considering as part of the impingement mortality limitations and that described the preliminary results of surveys of households' willingness to pay for incremental reductions in fish mortality.

Statement of Need: The Clean Water Act requires EPA to establish best technology available standards to minimize adverse environmental impacts from cooling water intake structures. On February 16, 2004, EPA took final action on regulations governing cooling water intake structures at certain existing power producing facilities under section 316(b) of the Clean Water Act (Phase II rule). 69 FR 41576 (July 9, 2004). These regulations were challenged, and the Second Circuit remanded several provisions of the Phase II rule on various grounds. Riverkeeper, Inc. v. EPA, 475F.3d83, (2d Cir., 2007). EPA suspended most of the rule in response to the remand. 72 FR 37107 (July 9, 2007). The remand of Phase III does not change permitting requirements for these facilities. Until the new rule is issued, permit directors continue to issue permits on a case-by-case, Best Professional Judgment basis for Phase II facilities.

Summary of Legal Basis: On February 16, 2004, EPA took final action on regulations governing cooling water intake structures at certain existing power producing facilities under section 316(b) of the Clean Water Act (Phase II rule). 69 FR 41576 (July 9, 2004). These regulations were challenged, and the Second Circuit remanded several provisions of the Phase II rule on various grounds. Riverkeeper, Inc. v. EPA, 475F.3d83, (2d Cir., 2007). EPA suspended most of the rule in response to the remand. 72 FR 37107 (July 9, 2007). The remand of Phase III does not change permitting requirements for these facilities. Until the new rule is issued, permit directors continue to issue permits on a case-by-case, Best Professional Judgment basis for Phase II facilities.

Alternatives: This analysis will cover various sizes and types of potentially regulated facilities, and control technologies. EPA is considering whether to regulate on a national basis, by subcategory, by broad water body category, on a site-specific basis, or some other basis.

Anticipated Cost and Benefits: The technologies under consideration in this rulemaking are similar to the technologies considered for the original Phase II and Phase III rules, and costs have been updated to 2009. The annual social costs associated with EPA's proposed regulation are $384 million, plus an additional $15 million in costs associated with the new units provision. EPA monetized only a portion of the expected annual benefits of the rule, amounting to $18 million.

Risks: Cooling water intake structures may pose significant risks for aquatic ecosystems.

Timetable:

Action	Date	FR Cite
NPRM	04/20/11	76 FR 22174
NPRM Comment Period Extended.	07/20/11	76 FR 43230
Notice	06/11/12	77 FR 34315
Notice	06/12/12	77 FR 34927
Final Rule	05/00/13	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: Federal, Local, State.

Additional Information: Docket #: EPA–HQ–OW–2008–0667.

Sectors Affected: 336412 Aircraft Engine and Engine Parts Manufacturing; 332999 All Other Miscellaneous Fabricated Metal Product Manufacturing; 321999 All Other Miscellaneous Wood Product Manufacturing; 324199 All Other Petroleum and Coal Products Manufacturing; 326299 All Other Rubber Product Manufacturing; 331521 Aluminum Die-Casting Foundries; 331524 Aluminum Foundries (except Die-Casting); 331315 Aluminum Sheet, Plate, and Foil Manufacturing; 311313 Beet Sugar Manufacturing; 313210 Broadwoven Fabric Mills; 311312 Cane Sugar Refining; 327310 Cement Manufacturing; 611310 Colleges, Universities, and Professional Schools;

333120 Construction Machinery Manufacturing; 333922 Conveyor and Conveying Equipment Manufacturing; 331525 Copper Foundries (except Die-Casting); 339914 Costume Jewelry and Novelty Manufacturing; 211111 Crude Petroleum and Natural Gas Extraction; 321912 Cut Stock, Resawing Lumber, and Planing; 332211 Cutlery and Flatware (except Precious) Manufacturing; 312140 Distilleries; 221121 Electric Bulk Power Transmission and Control; 221122 Electric Power Distribution; 331112 Electrometallurgical Ferroalloy Product Manufacturing; 313320 Fabric Coating Mills; 333111 Farm Machinery and Equipment Manufacturing; 311225 Fats and Oils Refining and Blending; 221112 Fossil Fuel Electric Power Generation; 332212 Hand and Edge Tool Manufacturing; 332510 Hardware Manufacturing; 221111 Hydroelectric Power Generation; 212210 Iron Ore Mining; 331111 Iron and Steel Mills; 221210 Natural Gas Distribution; 211112 Natural Gas Liquid Extraction; 221113 Nuclear Electric Power Generation; 332323 Ornamental and Architectural Metal Work Manufacturing; 221119 Other Electric Power Generation; 332618 Other Fabricated Wire Product Manufacturing; 332439 Other Metal Container Manufacturing; 332919 Other Metal Valve and Pipe Fitting Manufacturing; 321918 Other Millwork (including Flooring); 312229 Other Tobacco Product Manufacturing; 333923 Overhead Traveling Crane, Hoist, and Monorail System Manufacturing; 322130 Paperboard Mills; 324110 Petroleum Refineries; 325992 Photographic Film, Paper, Plate, and Chemical Manufacturing; 333315 Photographic and Photocopying Equipment Manufacturing; 212391 Potash, Soda, and Borate Mineral Mining; 332117 Powder Metallurgy Part Manufacturing; 331312 Primary Aluminum Production; 331419 Primary Smelting and Refining of Nonferrous Metal (except Copper and Aluminum); 333911 Pump and Pumping Equipment Manufacturing; 336510 Railroad Rolling Stock Manufacturing; 321219 Reconstituted Wood Product Manufacturing; 326192 Resilient Floor Covering Manufacturing; 331221 Rolled Steel Shape Manufacturing; 322291 Sanitary Paper Product Manufacturing; 321113 Sawmills; 331492 Secondary Smelting, Refining, and Alloying of Nonferrous Metal (except Copper and Aluminum); 337215 Showcase, Partition, Shelving, and Locker Manufacturing; 321212 Softwood Veneer and Plywood Manufacturing; 311222 Soybean Processing; 221330 Steam and Air-Conditioning Supply; 331222 Steel Wire Drawing; 111991 Sugar Beet Farming; 111930 Sugarcane Farming; 311311 Sugarcane Mills; 326211 Tire Manufacturing (except Retreading); 312210 Tobacco Stemming and Redrying; 311221 Wet Corn Milling

URL for More Information: http://water.epa.gov/lawsregs/lawsguidance/cwa/316b/index.cfm.

Agency Contact: Julie Hewitt, Environmental Protection Agency, Water, 4303T, Washington, DC 20460, *Phone:* 202 566–1031, *Email: hewitt.julie@epamail.epa.gov.*

RIN: 2040–AE95

BILLING CODE 6560–50–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

Statement of Regulatory and Deregulatory Priorities

The mission of the Equal Employment Opportunity Commission (EEOC, Commission, or Agency) is to ensure equality of opportunity in employment by vigorously enforcing and educating the public about the following Federal statutes: Title VII of the Civil Rights Act of 1964, as amended (prohibits employment discrimination on the basis of race, color, sex (including pregnancy), religion, or national origin); the Equal Pay Act of 1963, as amended (makes it illegal to pay unequal wages to men and women performing substantially equal work under similar working conditions at the same establishment); the Age Discrimination in Employment Act of 1967, as amended (prohibits employment discrimination based on age of 40 or older); titles I and V of the Americans with Disabilities Act, as amended, and sections 501 and 505 of the Rehabilitation Act, as amended (prohibit employment discrimination based on disability); Title II of the Genetic Information Nondiscrimination Act (prohibits employment discrimination based on genetic information and limits acquisition and disclosure of genetic information); and section 304 of the Government Employee Rights Act of 1991 (protects certain previously exempt State & local government employees from employment discrimination on the basis of race, color, religion, sex, national origin, age, or disability).

The first three items in this Regulatory Plan are the three remaining items identified in the EEOC's Plan for Retrospective Analysis of Existing Rules in compliance with Executive Order 13563: (1) ''Revisions to Procedures for Complaints or Charges of Employment Discrimination Based on Disability Subject to the Americans With Disabilities Act and Section 504 of the Rehabilitation Act of 1973,'' (2) ''Revisions to Procedures for Complaints/Charges of Employment Discrimination Based on Disability Filed Against Employers Holding Government Contracts or Subcontracts,'' and (3) ''Revisions to Procedures for Complaints of Employment Discrimination Filed Against Recipients of Federal Financial Assistance.'' These revisions pertain to joint coordination regulations that EEOC has with the Department of Justice and the Department of Labor (DOL) (29 CFR parts 1640, 1641 and 1691) which govern the agencies' internal charge/complaint handling procedures. The EEOC plans to propose to amend and revise these regulations so that they conform to each other and to EEOC's recently revised Memorandum of Understanding with DOL's Office of Federal Contract Compliance Programs. The resulting revisions are expected to make the agency's regulatory program more effective and will not impose any regulatory costs on employers or complainants/charging parties. They instead will provide a net benefit to stakeholders and the agencies by creating consistency between these coordination regulations.

The fourth item in this Regulatory Plan is entitled ''Revisions to the Federal Sector's Affirmative Employment Obligations of Individuals with Disabilities Under Section 501, as amended.'' This revision pertains to the Federal Government's affirmative employment obligations pursuant to section 501 of the Rehabilitation Act, as reflected in 29 CFR part 1614. The EEOC plans to develop a Notice of Proposed Rulemaking to seek comment on revisions to the current rule at 29 CFR section 1614.203 which would reflect a more detailed explanation of how Federal Agencies and Departments should give full consideration to the hiring, placement, and advancement of qualified individuals with disabilities. Any revisions would be informed by Management Directive 715, and may include goals consistent with Executive Order 13548. Furthermore, any revisions would result in costs only to the Federal Government; would contribute to increasing the employment of individuals with disabilities; and would not affect risks to public health, safety, or the environment.

Consistent with section 4(c) of Executive Order 12866, this statement was reviewed and approved by the

Chair of the Agency. The statement has not been reviewed or approved by the other members of the Commission.

Retrospective Review of Existing Regulations

Pursuant to section 6 of Executive Order 13563, ''Improving Regulation and Regulatory Review'' (Jan. 18, 2011), the following Regulatory Identifier Numbers (RINs) have been identified as associated with retrospective review and analysis in the EEOC's final retrospective review of regulations plan. Some of the entries on this list may be completed actions, which do not appear in The Regulatory Plan. However, more information can be found about these completed rulemakings in past publications of the Unified Agenda on Reginfo.gov (*http://reginfo.gov/*) in the Completed Actions section. These rulemakings can also be found on Regulations.gov (*http://regulations.gov*). The EEOC's final Plan for Retrospective Analysis of Existing Rules can be found at: *http://www.eeoc.gov/laws/regulations/retro_review_plan_final.cfm*.

RIN	Title	Effect on small business
3046–AA91	Revisions to Procedures for Complaints or Charges of Employment Discrimination Based on Disability Subject to the Americans With Disabilities Act and Section 504 of the Rehabilitation Act of 1973.	This rulemaking may decrease burdens on small businesses by making the charge/complaint process more efficient.
3046–AA92	Revisions to Procedures for Complaints/Charges of Employment Discrimination Based on Disability Filed Against Employers Holding Government Contracts or Subcontracts.	This rulemaking may decrease burdens on small businesses by making the charge/complaint process more efficient.
3046–AA93	Revisions to Procedures for Complaints of Employment Discrimination Filed Against Recipients of Federal Financial Assistance Completed.	This rulemaking may decrease burdens on small businesses by making the charge/complaint process more efficient.
	Completed	
3046–AA76	Disparate Impact and Reasonable Factors Other Than Age Under the Age Discrimination in Employment Act.	This rulemaking is not expected to alter burdens on small businesses.
3046–AA73	Federal Sector Equal Employment Opportunity Complaint Processing.	This rulemaking does not apply to small businesses. It applies only to the Federal Government.

EEOC

Proposed Rule Stage

94. • Revisions to Procedures for Complaints or Charges of Employment Discrimination Based on Disability Subject to the Americans With Disabilities Act and Section 504 of the Rehabilitation Act of 1973

Priority: Other Significant.

Legal Authority: 5 U.S.C. 301; 29 U.S.C. 794(d); 42 U.S.C. 12117(b); EO 12067

CFR Citation: 29 CFR part 1640.

Legal Deadline: None.

Abstract: The EEOC has a joint regulation with the Department of Justice (DOJ) to explain how Federal agencies that provide financial assistance should process disability-based employment discrimination complaints/charges against entities subject to both title I of the Americans with Disabilities Act, as amended (ADA) (prohibiting disability-based employment discrimination by employers with 15 or more employees), and section 504 of the Rehabilitation Act (Section 504) (prohibiting disability-based discrimination in programs or activities receiving Federal financial assistance).[1]

This proposed rule would amend this joint regulation to revise the definitions of certain terms and clarify the procedures for referring these complaints/charges between agencies with responsibility for enforcing title I of the ADA and section 504. These revisions would create consistency between this regulation and two other coordination regulations (29 CFR part 1641 and 29 CFR part 1691), as well as with the recently revised Memorandum of Understanding (MOU) between the EEOC and the Department of Labor's Office of Federal Contract Compliance Programs (OFCCP). This MOU addresses the investigation and processing of complaints or charges alleging employment discrimination that may fall within the jurisdiction of title VII of the Civil Rights Act of 1964, as amended, and/or Executive Order 11246.

Statement of Need: This regulation was identified as needing revision during a retrospective analysis of existing rules that took place in 2011 under Executive Order 13563. It is identified in EEOC's Final Plan for Retrospective Analysis of Existing Rules available at: *http://www.eeoc.gov/laws/regulations/retro_review_plan_final.cfm*.

Alternatives: The EEOC will consider all alternatives offered by the public commenters.

Anticipated Cost and Benefits: These procedures govern the agencies' internal handling of complaints/charges of employment discrimination and do not impose any regulatory costs on employers or complainants/charging parties. The revised procedures, however, will provide a net benefit to stakeholders and the agencies by creating consistency between this coordination regulation and others.

Risks: The proposed changes do not affect risks to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	10/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Federal, Local, State.

Agency Contact: Corbett L. Anderson, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 131 M Street NE., Washington, DC 20507, *Phone:* 202 663–4579, *Fax:* 202 663–4679, *Email: corbett.anderson@eeoc.gov.*

Kerry Leibig, Senior Attorney Advisor, Office of the Legal Counsel, Equal Employment Opportunity Commission, 131 M Street NE.,

[1] The proposed rule would also incorporate provisions established by the DOJ's rule on title II of the ADA (which prohibits discrimination on the basis of disability in all programs and activities of State and local government entities) for coordinating the processing of discrimination complaints that: (1) Fall within the jurisdiction of title II and title I (but are not covered by section 504); and (2) fall within the jurisdiction of title II, but not title I (whether or not they are covered by section 504). See 28 CFR 35.171(b)(2) and (3). The revisions described above would not impact the portions of the regulation addressing title II.

Washington, DC 20507, *Phone:* 202 663–4516, *Fax:* 202 663–4679, *Email: kerry.leibig@eeoc.gov*.

Related RIN: Related to 3046–AA92, Related to 3046–AA93.

RIN: 3046–AA91

EEOC

95. • Revisions to Procedures for Complaints/Charges of Employment Discrimination Based on Disability Filed Against Employers Holding Government Contracts or Subcontracts

Priority: Other Significant.

Legal Authority: 42 U.S.C. 12117(b); EO 12067

CFR Citation: 29 CFR part 1641.

Legal Deadline: None.

Abstract: The EEOC has a joint regulation with the Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) to coordinate the processing of disability-based employment discrimination complaints/charges filed against employers holding Government contracts or subcontracts, where the complaints/charges appear to state a claim under both section 503 of the Rehabilitation Act (Section 503) (requiring affirmative action and prohibiting disability-based employment discrimination by Federal Government contractors and subcontractors), and title I of the ADA (prohibiting disability-based employment discrimination by employers with 15 or more employees).

This proposed rule would amend this joint regulation to revise the definition of certain terms and clarify the procedures for referring these complaints/charges between the agencies with responsibility for enforcing section 503 and title I of the ADA. These revisions would create consistency between this regulation and two other coordination regulations (29 CFR part 1640 and 29 CFR part 1691), as well as the recently revised Memorandum of Understanding between EEOC and OFCCP. This MOU addresses the investigation and processing of complaints or charges alleging employment discrimination that may fall within the jurisdiction of title VII of the Civil Rights Act of 1964, as amended and/or Executive Order 11246.

Statement of Need: This regulation was identified as needing revision during a retrospective analysis of existing rules that took place in 2011 under Executive Order 13563. It is identified in EEOC's Final Plan for Retrospective Analysis of Existing Rules available at: *http://www.eeoc.gov/laws/regulations/retro_review_plan_final.cfm.*

Alternatives: The EEOC will consider all alternatives offered by the public commenters.

Anticipated Cost and Benefits: These procedures govern the agencies' internal handling of complaints/charges of employment discrimination and do not impose any regulatory costs on employers or complainants/charging parties. The revised procedures, however, will provide a net benefit to stakeholders and the agencies by creating consistency between this coordination regulation and others.

Risks: The proposed changes do not affect risks to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	10/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Federal, Local, State.

Agency Contact: Corbett L. Anderson, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 131 M Street NE., Washington, DC 20507, *Phone:* 202 663–4579, *Fax:* 202 663–4679, *Email: corbett.anderson@eeoc.gov*.

Kerry Leibig, Senior Attorney Advisor, Office of the Legal Counsel, Equal Employment Opportunity Commission, 131 M Street NE., Washington, DC 20507, *Phone:* 202 663–4516, *Fax:* 202 663–4679, *Email: kerry.leibig@eeoc.gov*.

Related RIN: Related to 3046–AA91, Related to 3046–AA93.

RIN: 3046–AA92

EEOC

96. • Revisions to Procedures for Complaints of Employment Discrimination Filed Against Recipients of Federal Financial Assistance

Priority: Other Significant.

Legal Authority: EO 12250; EO 12067

CFR Citation: 29 CFR part 1691.

Legal Deadline: None.

Abstract: The EEOC has a joint regulation with the Department of Justice (DOJ) to explain how Federal agencies that grant financial assistance or revenue sharing funds should process complaints of employment discrimination subject to various EEO statutes if the complaints allege discrimination that is also prohibited by title VII of the Civil Rights Act of 1964, as amended (Title VII), or the Equal Pay Act of 1963 (EPA).[1] This proposed rule would amend this joint regulation to revise the definitions of certain terms and clarify the procedures for handling these complaints. The revisions would create consistency between this regulation and two other coordination regulations (29 CFR part 1640 and 29 CFR part 1641), as well as the recently revised Memorandum of Understanding between EEOC and the Department of Labor's Office Federal Contract Compliance Programs. This MOU addresses the investigation and processing of complaints or charges alleging employment discrimination that may fall within the jurisdiction of title VII and/or Executive Order 11246.

Statement of Need: This regulation was identified as needing revision during a retrospective analysis of existing rules that took place in 2011 under Executive Order 13563. It is identified in EEOC's Final Plan for Retrospective Analysis of Existing Regulations available at: *http://www.eeoc.gov/laws/regulations/retro_review_plan_final.cfm.*

Alternatives: The EEOC will consider all alternatives offered by the public commenters.

Anticipated Cost and Benefits: These procedures govern the agencies' internal handling of complaints of employment discrimination and do not impose any regulatory costs on employers or complainants. The revised procedures, however, will provide a net benefit to stakeholders and the agencies by creating consistency between this coordination regulation and others.

Risks: The proposed changes do not affect risks to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	10/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Federal, Local, State.

Agency Contact: Corbett L. Anderson, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 131 M Street NE., Washington, DC 20507, *Phone:* 202

[1] The relevant EEO statutes are: Title VI of the Civil Rights Act of 1964, title IX of 1972, the State and Local Fiscal Assistance Act of 1972, as amended (the revenue sharing act), and provisions similar to title VI and title IX in Federal grant statutes to the extent they prohibit discrimination on the basis of race, color, religion, sex, or national origin.

663–4579, *Fax:* 202 663–4679, *Email: corbett.anderson@eeoc.gov.*

Kerry Leibig, Senior Attorney Advisor, Office of the Legal Counsel, Equal Employment Opportunity Commission, 131 M Street NE., Washington, DC 20507, *Phone*: 202 663–4516, *Fax:* 202 663–4679, *Email: kerry.leibig@eeoc.gov. Related RIN:* Related to 3046–AA91, Related to 3046–AA92. *RIN:* 3046–AA93

EEOC

97. • Revisions to the Federal Sector's Affirmative Employment Obligations of Individuals With Disabilities Under Section 501 of the Rehabilitation Act of 1973, as Amended

Priority: Other Significant.

Legal Authority: 29 U.S.C. 791(b)

CFR Citation: 29 CFR 1614.203(a).

Legal Deadline: None.

Abstract: Section 501 of the Rehabilitation Act, as amended (Section 501), prohibits discrimination against individuals with disabilities in the Federal Government. The EEOC's regulations implementing section 501, as set forth in 29 CFR part 1614, require Federal agencies and departments to be ''model employers'' of individuals with disabilities.'' [2]

This proposed rule would revise the Federal Government's affirmative employment obligations in 29 CFR part 1614, to include a more detailed explanation of how Federal agencies and departments should ''give full consideration to the hiring, placement and advancement of qualified individuals with disabilities.''[3] The revisions would be informed by the discussion in Management Directive 715 of the tools Federal agencies should use to establish goals for the employment and advancement of individuals with disabilities. The revisions may also include goals consistent with Executive Order 13548 to increase the employment of individuals with disabilities, with a particular focus on the employment of individuals with targeted disabilities.

Statement of Need: Pursuant to section 501 of the Rehabilitation Act, the Commission is authorized to issue such regulations as it deems necessary to carry out its responsibilities under this Act. Executive Order 13548 called for increased efforts by Federal agencies and departments to recruit, hire, retain, and return individuals with disabilities to the Federal workforce.

Alternatives: The EEOC will consider all alternatives offered by public commenters.

Anticipated Cost and Benefits: Any costs that might result would only be borne by the Federal Government. The revisions would contribute to increased employment of individuals with disabilities.

Risks: The proposed changes do not affect risks to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	10/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Federal.

Agency Contact: Christopher Kuczynski, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 131 M Street NE., Washington, DC 20507, *Phone:* 202 663–4665, *TDD Phone:* 202 663–7026, *Fax:* 202 663–4679, *Email: christopher.kuczynski@eeoc.gov.*

Related RIN: Related to 3046–AA73.

RIN: 3046–AA94

BILLING CODE 6570–01–P

GENERAL SERVICES ADMINISTRATION (GSA)–REGULATORY PLAN–OCTOBER 2012

I. Mission and Overview

GSA oversees the business of the Federal Government. GSA's acquisition solutions supplies Federal purchasers with cost-effective, high-quality products and services from commercial vendors. GSA provides workplaces for Federal employees and oversees the preservation of historic Federal properties. GSA helps keep the Nation safe by providing tools, equipment, and non-tactical vehicles to the U.S. military, and providing State and local governments with law enforcement equipment, firefighting and rescue equipment, and disaster recovery products and services.

GSA serves the public by delivering services directly to its Federal customers through the Federal Acquisition Service (FAS), the Public Buildings Service (PBS), and the Office of Governmentwide Policy (OGP). GSA has a continuing commitment to its Federal customers and the U.S. taxpayers by providing those services in the most cost-effective manner possible.

Federal Acquisition Service (FAS)

FAS is the lead organization for procurement of products and services (other than real property) for the Federal Government. The FAS organization leverages the buying power of the Government by consolidating Federal agencies' requirements for common goods and services. FAS provides a range of high-quality and flexible acquisition services that increase overall Government effectiveness and efficiency. FAS business operations are organized into four business portfolios based on the product or service provided to customer agencies: Integrated Technology Services (ITS); Assisted Acquisition Services (AAS); General Supplies and Services (GSS); and Travel, Motor Vehicles, and Card Services (TMVCS). The FAS portfolio structure enables GSA and FAS to provide best value services, products, and solutions to its customers by aligning resources around key functions.

Public Buildings Service (PBS)

PBS is the largest public real estate organization in the United States, providing facilities and workspace solutions to more than 60 Federal agencies. PBS aims to provide a superior workplace for the Federal worker and superior value for the U.S. taxpayer. Balancing these two objectives is PBS' greatest management challenge. PBS' activities fall into two broad areas. The first is space acquisition through both leases and construction. PBS translates general needs into specific requirements, marshals the necessary resources, and delivers the space necessary to meet the respective missions of its Federal clients. The second area is management of space. This involves making decisions on maintenance, servicing tenants, and ultimately, deciding when and how to dispose of a property at the end of its useful life.

Office of Governmentwide Policy (OGP)

OGP sets Governmentwide policy in the areas of personal and real property, travel and transportation, information technology, regulatory information, and use of Federal advisory committees. OGP also helps direct how all Federal supplies and services are acquired as well as GSA's own acquisition programs. OGP's regulatory function fully incorporates the provisions of the President's priorities and objectives under Executive Order 12866 and 13563 with policies covering acquisition, travel, and property and management practices to promote efficient Government operations. OGP's strategic

[2] 29 CFR 1614.203(a).

[3] Id.

direction is to ensure that Governmentwide policies encourage agencies to develop and utilize the best, most cost effective management practices for the conduct of their specific programs. To reach the goal of improving Governmentwide management of property, technology, and administrative services, OGP builds and maintains a policy framework by (1) incorporating the requirements of Federal laws, Executive orders, and other regulatory material into policies and guidelines; (2) facilitating Governmentwide reform to provide Federal managers with business-like incentives and tools and flexibility to prudently manage their assets; (3) identifying, evaluating, and promoting best practices to improve efficiency of management processes; and (4) performing ongoing analysis if existing rules that may be obsolete, unnecessary, unjustified, excessively burdensome, or counterproductive.

OGP's policy regulations are described in the following subsections:

Office of Asset and Transportation Management (Federal Travel Regulation)

Federal Travel Regulation (FTR) enumerates the travel and relocation policy for all title 5 executive agency employees. The Code of Federal Regulations (CFR) is available at *www.gpoaccess.gov/cfr.* Each version is updated as official changes are published in the **Federal Register** (FR). FR publications and complete versions of the FTR are available at *www.gsa.gov/ftr.*

The FTR is the regulation contained in 41 Code of Federal Regulations (CFR), chapters 300 through 304, that implements statutory requirements and executive branch policies for travel by Federal civilian employees and others authorized to travel at Government expense.

The Administrator of General Services promulgates the FTR to: (a) Interpret statutory and other policy requirements in a manner that balances the need to ensure that official travel is conducted in a responsible manner with the need to minimize administrative costs and (b) communicate the resulting policies in a clear manner to Federal agencies and employees.

Office of Asset and Transportation Management (Federal Management Regulation)

Federal Management Regulation (FMR) establishes policy for aircraft, transportation, personal property, real property, and mail management. The FMR is the successor regulation to the Federal Property Management Regulation (FPMR), and it contains updated regulatory policies originally found in the FPMR. However, it does not contain FPMR material that describes how to do business with the GSA.

Office of Acquisition Policy (Federal Acquisition Regulation and GSA Acquisition Regulation Manual)

The Federal Acquisition Regulation (FAR) was established to codify uniform policies for acquisition of supplies and services by executive agencies. It is issued and maintained jointly, pursuant to the Office of Federal Procurement Policy (OFPP) Reauthorization Act, under the statutory authorities granted to the Administrator of General Services, Secretary of Defense, and the Administrator, National Aeronautics and Space Administration. Statutory authorities to issue and revise the FAR have been delegated to the procurement executives in Department of Defense (DoD), GSA, and National Aeronautics and Space Administration (NASA).

GSA helps provide to the public and the Federal buying community the updating and maintaining the FAR, the rule book for all Federal agency procurements. This is achieved through its extensive involvement with the FAR Council. The FAR Council is comprised of senior representation from OFPP, GSA, DoD, and NASA. The FAR Council directs the writing of the FAR cases, which is accomplished, in part, by teams of expert FAR analysts. All changes to the FAR are accompanied by review and analysis of public comment. Public comments play an important role in clarifying and enhancing this rulemaking process. The regulatory agenda pertaining to changes to the FAR can be found in publications of the FAR Unified Agenda on reginfo.gov. The FAR rules are identified under Regulatory Identifier Numbers (RINs) beginning with the 9000—prefix. Additionally, the DoD Regulatory Plan identifies priorities for the FAR.

GSA's internal rules and practices on how it buys goods and services from its business partners are covered by the General Services Administration Acquisition Manual (GSAM) and the General Services Administration Acquisition Regulation (GSAR). The GSAM is closely related to the FAR as it supplements areas of the FAR where GSA has additional and unique regulatory requirements. Office of Acquisition Policy writes and revises the GSAM and the GSAR. The size and scope of the FAR are substantially larger than the GSAR. The GSAM, which incorporates the GSAR, as well as internal agency acquisition policy, rules that require publication fall into two major categories:

- Those that affect GSA's business partners (*e.g.,* prospective offerors and contractors).
- Those that apply to acquisition of leasehold interests in real property. The FAR does not apply to leasing actions. GSA establishes regulations for lease of real property under the authority of 40 U.S.C. 490 note.

GSA Acquisition Regulation (GSAR): The GSAR establishes agency acquisition rules and guidance, which contains agency acquisition policies and practices, contract clauses, solicitation provisions, and forms that control the relationship between GSA and contractors and prospective contractors.

II. Statement of Regulatory and Deregulatory Priorities

FTR Regulatory Priorities

In fiscal year 2013, GSA plans to amend the FTR by:

- Revising the Relocation Income Tax (RIT) Allowance; amending coverage on family relocation;
- Amending the calculations regarding the commuted rate for employee-managed household goods shipments;
- Removing the Conference Lodging Allowance that allows agencies to exceed the established lodging portion of the per diem rate by up to 25 percent;
- Removing 301–74, Conference Planning from the FTR;
- Revising chapter 301, Temporary Duty Travel, ensuring accountability and transparency to aid in meeting agency missions in an effective and efficient manner at the lowest logical travel cost. This revision will increase travel efficiency and effectiveness, reduce costs, promote sustainability, and incorporate industry best practices.
- Revising chapter 302, Relocation Allowances for miscellaneous items to address current Government relocation needs which the last major rewrite (FTR Amendment 2011–01) did not update.

FMR Regulatory Priorities

In fiscal year 2013, GSA plans to amend the FMR by:

- Revising rules regarding management of Government aircraft;
- Adding Conference Planning section (transferred from FTR 301–74);
- Revising rules regarding mail management;
- Amending transportation management regulations by revising coverage on open skies agreements, obligating authority, commuted rate, and transportation data reporting;

• Amending Transportation Management and Audit by revising the requirements regarding the refund of unused and expired tickets;
• Revising rules on the disposal of electronics;
• Revising rules regarding personal property requiring special handling;
• Amending rules regarding the donation of Federal surplus property to address the transfer of title for vehicles, and incorporating provisions to enable Veteran's organizations to receive surplus property;
• Revising rules related to the Federal Asset Sales program, which initiated the program (policies began rulemaking process in fiscal year 2011); and
• Migrating supply and procurement policy from the FPMR to the FMR.

GSAR Regulatory Priorities

GSA plans, in fiscal year 2013 and 2014, to finalize the rewrite of the GSAR to maintain consistency with the Federal Acquisition Regulation (FAR) and to implement streamlined and innovative acquisition procedures that contractors, offerors, and GSA contracting personnel can utilize when entering into and administering contractual relationships. Currently, there are only a few parts of the GSAR rewrite effort still outstanding.

GSA is clarifying the GSAR by—
• Providing consistency with the FAR;
• Eliminating coverage that duplicates the FAR or creates inconsistencies within the GSAR;
• Correcting inappropriate references listed to indicate the basis for the regulation;
• Rewriting sections that have become irrelevant because of changes in technology or business processes or that place unnecessary administrative burdens on contractors and the Government;
• Streamlining or simplifying the regulation;
• Rolling up coverage from the services and regions/zones that should be in the GSAR;
• Providing new and/or augmented coverage; and
• Deleting unnecessary burdens on small businesses.

Specific GSAR cases that the agency plans to address in FY 2013 and 2014 include:
• The rewrite of GSAM part 515, Contracting by Negotiation;
• The rewrite of GSAM part 538, Federal Supply Schedule Contracting; and
• The rewrite of GSAM part 536, Construction and A/E Contracts.

These cases are more fully described in the Agency's approved Final Plan for Retrospective Analysis of Existing Rules (Aug. 18, 2011), created in response to Executive Order 13563.

Regulations of Concern to Small Businesses

FAR and GSAR rules are relevant to small businesses who do or wish to do business with the Federal Government. Approximately 18,000 businesses, most of whom are small, have GSA schedule contracts. GSA assists its small businesses by providing assistance through its Office of Small Business Utilization. In addition, GSA extensively utilizes its regional resources, within FAS and PBS, to provide grassroots outreach to small business concerns, through hosting such outreach events, or participating in a vast array of other similar presentations hosted by others.

Regulations Which Promote Open Government and Disclosure

There are currently no regulations which promote open Government and disclosure

Regulations Required by Statute or Court Order

GSA plans to publish FTR Case 2011–308; Payment of Expenses Connected with the Death of Certain Employees in FY 2013. Presidential Memorandum ''Delegation Under section 2(a) of the Special Agent Samuel Hicks Families of Fallen Heroes Act,'' dated September 12, 2011, delegates to the Administrator of General Services the authority to issue regulations under Public Law 111–178, the Special Agent Samuel Hicks Families of Fallen Heroes Act, codified at 5 U.S.C. 5724d, relating to the payment of certain expenses when a covered employee dies as a result of injuries sustained in the performance of his or her official duties. GSA is amending the FTR to establish policy for the transportation of the immediate family, household goods, personal effects, and one privately owned vehicle of a covered employee whose death occurred as a result of personal injury sustained while in the performance of the employee's duty as defined by the agency.

GSA plans to publish a FTR Amendment in updating Chapter 303: Payment of Expenses Connected With Death of Certain Employees in FY13. The final rule will incorporate language based on Public Law 110–181, the National Defense Authorization Act (NDAA) for Fiscal Year 2008, section 1103 and codified at 5 U.S.C. 5742, to allow agencies to provide for relocation of dependents and household effects of an employee whose death occurred while performing official duties outside the continental United States (OCONUS) or for an employee whose death occurred while subject to a mandatory mobility agreement OCONUS and was supporting an overseas contingency operation or overseas emergency as declared by the President. This final rule allows the agency to relocate the dependents and household goods to the covered employee's former actual residence or such other place as is determined by the head of the agency concerned. Also, the final rule amends and updates the FTR regarding the authority to relocate dependents and household goods of an employee on a service agreement or mandatory mobility agreement who dies at or while in transit to or from an official station OCONUS, amends to allow transportation of the remains to the place of interment and shipment of a POV from the TDY location or from an official station OCONUS when the agency previously determined that use of POV was in the best interest of the Government, amends the household goods temporary storage timeframe in subpart H, and allows the agency to authorize additional storage not to exceed a total of 150 days, which is the same as what's allotted to an employee with relocation entitlements. Finally, this final rule reorganizes FTR part 303–70 to make it easier to understand.

III. Retrospective Review of Existing Regulations

Pursuant to section 6 of Executive Order 13563 ''Improving Regulation and Regulatory Review'' (January 18, 2011), the GSA retrospective review and analysis final and updated regulations plan can be found at *www.gsa.gov/improvingregulations*. The FAR retrospective review and analysis final and updated regulations plan can be found at *www.acquisition.gov.*

Regulation dentifier Number	Title
	Proposed Rule Stage
3090–AI81	General Services Administration Acquisition Regulation (GSAR); GSAR Case 2008–G509, Rewrite GSAR 536, Construction and Architect-Engineer Contracts.
3090–AJ27	Federal Travel Regulation (FTR); FTR Case 2012–301; Removal of Conference Lodging Allowance Provisions.
3090–AJ29	Federal Management Regulation (FMR); FMR Case 2012–102–3; Government Domain Registration and Management.
3090–AJ30	Federal Management Regulation (FMR); FMR Case 2012–102–4, Disposal and Reporting of Federal Electronic Assets (FEA).
3090–AJ31	General Services Administration Acquisition Regulation (GSAR); GSAR Case 2012–G503; Industrial Funding Fee (IFF) and Sales Reporting.
	Final Rule Stage
3090–AI51	General Services Administration Acquisition Regulation (GSAR); GSAR Case 2007–G500, Rewrite of GSAR Part 517, Special Contracting Methods.
3090–AI76	General Services Administration Acquisition Regulation (GSAR); GSAR Case 2008–G506, Rewrite of GSAR Part 515, Contracting by Negotiation.
3090–AI77	General Services Administration Acquisition Regulation (GSAR); GSAR Case 2006–G507, Rewrite of Part 538, Federal Supply Schedule Contracting.
3090–AI95	Federal Travel Regulation (FTR); FTR Case 2009–307, Temporary Duty (TDY) Travel Allowances (Taxes); Relocation Allowances (Taxes).
3090–AJ21	Federal Travel Regulation (FTR); FTR Case 2011–308; Payment of Expenses Connected With the Death of Certain Employees.
3090–AJ23	Federal Travel Regulation (FTR); FTR Case 2011–310; Telework Travel Expenses Test Programs.
3090–AJ26	Federal Management Regulation (FMR); FMR Case 2012–102–2; Donation of Surplus Personal Property.
3090–AJ28	General Services Administration Federal Property Management Regulations (GSPMR); GSPMR Case 2012–105–1; Administrative Wage Garnishment.
	Completed Actions
3090–AI72	General Services Administration Acquisition Regulation (GSAR); GSAR Case 2006–G510, Rewrite of GSAR Part 504, Administrative Matters.
3090–AJ11	Federal Travel Regulation (FTR); FTR Case 2011–301; Per Diem, Miscellaneous Amendments.
3090–AJ25	Federal Management Regulation (FMR); FMR Case 2012–102–1; Annual Vehicle Allocation Methodology Requirement.

Dated: November 2, 2012.

Virginia A. Huth,

Acting Senior Procurement Executive.

BILLING CODE 6824–34–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA)

Statement of Regulatory Priorities

NASA continues to implement programs according to its 2011 Strategic Plan, released in February 2011. NASA's mission is to ''Drive advances in science, technology, and exploration to enhance knowledge, education, innovation, economic vitality, and stewardship of the Earth.'' The 2011 Strategic Plan guides NASA's program activities through a framework of the following six strategic goals:

- Goal 1: Extend and sustain human activities across the solar system.
- Goal 2: Expand scientific understanding of Earth and the universe in which we live.
- Goal 3: Create innovative new space technologies for our exploration, science, and economic future.
- Goal 4: Advance aeronautics research for societal benefit.
- Goal 5: Enable program and institutional capabilities to conduct NASA's aeronautics and space activities.
- Goal 6: Share NASA with the public, educators, and students to provide opportunities to participate in our mission, foster innovation, and contribute to a strong national economy.

In the decades since Congress enacted the National Aeronautics and Space Act of 1958, NASA has challenged its scientific and engineering capabilities in pursuing its mission, generating tremendous results and benefits for humankind. NASA will continue to push scientific and technical boundaries in pursuit of these goals.

The Federal Acquisition Regulation (FAR), 48 CFR chapter 1, contains procurement regulations that apply to NASA and other Federal agencies. NASA implements and supplements FAR requirements through the NASA FAR Supplement (NFS), 48 CFR chapter 18. NASA is planning to review and update the entire NFS starting in 2013, and will provide further information on contemplated regulatory actions in the spring 2013 Unified Agenda. Concurrently, we will continue to make routine changes to the NFS to implement NASA initiatives and Federal procurement policy.

Retrospective Review of Existing Regulations

Pursuant to section 6 of Executive Order 13563 ''Improving Regulations and Regulatory Review'' (Jan. 18, 2011), the following Regulation Identifier Numbers (RINs) have been identified as associated with retrospective review and analysis in NASA's final retrospective plan of existing regulations. Some of the entries on this list may be completed or withdrawn actions, which do not appear in The Regulatory Plan. However, more information can be found about these rulemakings in past publications of the Unified Agenda on reginfo.gov in the Completed Actions section for NASA. These rulemakings can also be found on regulations.gov. NASA's final plan and updates can be found at *http://www.nasa.gov/open*, under the Compliance Documents Section.

Regulation Identifier No.	Title
2700–AD56	NASA Grant and Cooperative Agreement Handbook, Delete Requirement for U.S. Citizenship.
2700–AD60	NASA Grant and Cooperative Agreement: Change Procedures for Letter of Credit Advance Payments.
2700–AD81	Nonprocurement Rule, Suspension and Debarment.
2700–AD82	NASA, Contract Adjustment Board.
2700–AD96	Use of NASA Airfield Facilities by Aircraft Not Operated for the Benefit of the Federal Government.
2700–AD97	Small Business Policy.
2700–AD98	Space Flight.
2700–AD51	Inventions and Contributions.
2700–AD61	Information Security Protection.
2700–AD63	Claims for Patent and Copyright Infringement.
2700–AD71	Procedures for Implementing the National Environmental Policy Act.
2700–AD72	Tracking and Data Relay Satellite System.
2700–AD78	Removal of Obsolete Regulations.
2700–AD83	Collection of Civil Claims of the United States Arising Out of the Activities of NASA.
2700–AD84	Research Misconduct.
2700–AD85	Accessibility Standards for New Construction and Alterations in Federally-Assisted Programs.
2700–AD86	Privacy Act—NASA Regulations.
2700–AD87	Space Flight Mission Critical Systems Personnel Reliability Program.
2700–AD88	Aeronautics and Space—Statement of Organization and General Information.
2700–AD89	Security Program; Arrest Authority and Use of Force by NASA Security Force Personnel.
2700–AD90	Inspection of Persons and Personal Effects at NASA Installations or on NASA's Property.
2700–AD91	NASA Security Areas.
2700–AD95	Delegations and Designations.
2700–AD99	Duty-Free Entry of Space Articles.
2700–AE00	National Space Grant College and Fellowship Program.

Abstracts for regulations to be amended or repealed between October 2012 and October 2013 are reported in the fall 2012 edition of the Unified Agenda of Federal Regulatory and Deregulation actions.

BILLING CODE 7510–13–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA)

Statement of Regulatory Priorities

Overview

The National Archives and Records Administration (NARA) issues regulations directed to other Federal agencies and to the public. Records management regulations directed to Federal agencies concern the proper management and disposition of Federal records. Through the Information Security Oversight Office (ISOO), NARA also issues Government wide regulations concerning information security classification and declassification programs. NARA regulations directed to the public address access to and use of our historically valuable holdings, including archives, donated historical materials, Nixon Presidential materials, and Presidential records. NARA also issues regulations relating to the National Historical Publications and Records Commission (NHPRC) grant programs.

NARA has two regulatory priorities for fiscal year 2013, which are included in The Regulatory Plan. The first is NARA's revisions to the Federal records management regulations found at 36 CFR chapter XII, subchapter B, to include the Electronic Records Archives (ERA). ERA is NARA's system that Federal agencies use to draft new records retention schedules for records, officially submit those schedules for approval by NARA, request the transfer of records to NARA for accessioning or pre-accessioning, and submit electronic records for storage in the ERA electronic records repository. The revisions will cover provisions in 36 CFR parts 1220, 1225, 1226, and 1235.

The second priority is NARA's revisions to its Freedom of Information Act (FOIA) regulations, clarifying the applicability of the FOIA to categories of records in NARA's accessioned holdings as well as operational records. Furthermore, the revisions explain NARA's responsibility in answering FOIA requests, the procedures for requesting a FOIA and the response a requester can expect for a submitted FOIA. The revisions will cover 36 CFR parts 1250 and 1256.

BILLING CODE 7515–01–P

OFFICE OF PERSONNEL MANAGEMENT (OPM)

Statement of Regulatory Priorities

The Office of Personnel Management's mission is to recruit, retain, and honor a world class workforce to serve the American people. OPM fulfills that mission by, among other things, providing human capital advice and leadership for the President and Federal agencies; delivering human resources policies, products, and services; administering a broad range of benefits programs; and holding agencies accountable for their human capital practices. OPM's 2013 regulatory priorities are designed to support these activities.

Phased Retirement

OPM is working on proposed regulations that would implement a new statutory benefit available to Federal employees. This new benefit, called phased retirement, allows an employee to begin to collect a partial annuity while working a part-time schedule for the agency. Individuals taking advantage of this new benefit will be expected to mentor other agency employees to facilitate knowledge transfer and smooth staff transitions.

Extending FEHBP Coverage to the Children of an Employee's Same-Sex Domestic Partner

OPM has issued proposed regulations that would allow employees participating in the Federal Employees Health Benefits Program to obtain health insurance coverage for the children of their same-sex domestic partner. This regulation implements the Presidential Memorandum of June 2, 2010, which requires agencies to provide equity in benefits between employees with spouses and those with same-sex domestic partners, to the greatest extent permitted by law.

Multi-State Plan Program Regulations

Under the Affordable Care Act, OPM is charged with entering contracts with health insurance issuers to establish at least two multi-State plans that are to offer health insurance coverage on the Affordable Care exchanges that are to be established in each of the 50 States and the District of Columbia. The multi-State plans must be available in 31 states as of January 1, 2014. OPM is in the process of completing proposed regulations to implement the Multi-State Plan Program.

Combined Federal Campaign

OPM is planning to issue proposed regulations to modernize the Combined Federal Campaign. The proposed regulations are informed by recommendations made by the CFC 50 Commission. They seek to implement changes that will streamline this charity drive by leveraging available technology and modifying the campaign structures.

Benefits for Family Members of Military Members

OPM is planning to issue proposed regulations to implement amendments to the Family and Medical Leave Act (FMLA). These regulations will implement section 585(b) of the National Defense Authorization Act for Fiscal Year 2008 (NDAA) (Pub. L. 110–181, Jan. 28, 2008) and section 565(b)(1) of the National Defense Authorization Act for Fiscal Year 2010 (Pub. L. 111–84, Oct. 28, 2009). The statutory changes amended the FMLA provisions in 5 U.S.C. 6381–6383 (applicable to Federal employees) to provide that a Federal employee who is the spouse, son, daughter, parent, or next of kin of a covered service member (either a current or former service member) with a serious injury or illness incurred or aggravated in the line of duty on active duty is entitled to a total of 26 administrative workweeks of leave during a single 12-month period to care for the covered service member.

Under 5 U.S.C. 6387, OPM is required, to the extent appropriate, to be consistent with Department of Labor (DOL) regulations. DOL issued proposed regulations on February 15, 2012, (77 FR 8960). The comment period for the regulations closes April 30, 2012. After DOL issues final regulations, OPM will publish proposed regulations.

Elimination of the Certification of Job Readiness Requirement

OPM is planning to issue final regulations on the appointment of persons with mental retardation, severe physical disabilities, or psychiatric disabilities. The proposed changes would modify or possibly eliminate the certification of job readiness requirement for people with mental retardation, severe physical disabilities, or psychiatric disabilities using Schedule A appointment authority.

Recruitment, Relocation, and Retention Incentives

In OPM's continuing effort to improve the administration and oversight of recruitment, relocation, and retention incentives, OPM anticipates issuing final regulations to improve oversight of recruitment and retention incentive determinations; add succession planning to the list of factors that an agency must consider before approving a retention incentive, if applicable; and provide that OPM may require data on recruitment, relocation, and retention incentives from agencies. These regulations will help support OPM's efforts to ensure agencies actively manage their incentive programs so that they continue to be cost-effective compensation tools.

Senior-Level and Scientific and Professional (SL/ST) Pay for Performance

OPM is planning to issue proposed regulations on pay-for-performance, as appropriate, with respect to senior-level, scientific, and professional employees, consistent with Public Law 110–372.

Managing Senior Executive Performance

OPM is planning to issue proposed regulations to revise the current regulations addressing the performance management of Senior Executives to provide for a Government-wide appraisal system built around the Executive Core Qualifications and agency mission results.

BILLING CODE 6325–44–P

PENSION BENEFIT GUARANTY CORPORATION (PBGC)

Statement of Regulatory and Deregulatory Priorities

The Pension Benefit Guaranty Corporation (PBGC) protects the pensions of about 44 million people in more than 27,000 private-sector defined benefit plans. PBGC receives no funds from general tax revenues. Operations are financed by insurance premiums, investment income, assets from pension plans trusteed by PBGC, and recoveries from the companies formerly responsible for the trusteed plans.

To carry out these functions, PBGC issues regulations on such matters as termination, payment of premiums, reporting and disclosure, and assessment and collection of employer liability. The Corporation is committed to issuing simple, understandable, flexible, and timely regulations to help affected parties.

PBGC is changing its regulatory approach so that its regulations do not inadvertently discourage the maintenance of existing defined benefit plans or the establishment of new plans. Businesses and plans have commented that PBGC's regulations impose burdens where the actual risk to plans and PBGC is minimal. Thus, in developing new regulations and reviewing existing regulations, the focus, to the extent possible, is to avoid placing burdens on plans, employers, and participants, and to ease and simplify employer compliance. In particular, PBGC strives to meet the needs of small businesses that sponsor defined benefit plans.

PBGC develops its regulations in accordance with the principles set forth in Executive Order 13563 ''Improving Regulation and Regulatory Review'' (Jan. 18, 2011), and PBGC's Plan for Regulatory Review (Regulatory Review Plan), which can be found at *www.pbgc.gov/documents/plan-for-regulatory-review.pdf.* This Statement of Regulatory and Deregulatory Priorities reflects PBGC's ongoing implementation of its Regulatory Review Plan. Progress reports on the plan can be found at *http://www.pbgc.gov/Documents/PBGC-Retrospective-Review-Plan-Report-May2012.pdf* and *http://www.pbgc.gov/Documents/PBGC-Retrospective-Review-Plan-Report.pdf.*

PBGC Insurance Programs

PBGC administers two insurance programs for privately defined benefit plans under title IV of the Employee Retirement Income Security Act of 1974 (ERISA): A single-employer plan termination insurance program and a multiemployer plan insolvency insurance program.

- *Single-Employer Program.* Under the single-employer program, when a plan terminates with insufficient assets to cover all plan benefits (distress and involuntary terminations), PBGC pays plan benefits that are guaranteed under title IV. PBGC also pays nonguaranteed plan benefits to the extent funded by plan assets or recoveries from employers.
- *Multiemployer Program.* The smaller multiemployer program covers more than 1,450 collectively bargained plans involving more than one unrelated employer. PBGC provides financial assistance (in the form of a loan) to the plan if the plan is unable to pay benefits at the guaranteed level.

Guaranteed benefits are less than single-employer guaranteed benefits.

At the end of fiscal year 2012, PBGC had a $34 billion deficit in its insurance programs.

Regulatory Objectives and Priorities

PBGC's regulatory objectives and priorities are developed in the context of the Corporation's statutory purposes:

- To encourage voluntary private pension plans.
- To provide for the timely and uninterrupted payment of pension benefits.
- To keep premiums at the lowest possible levels.

Pensions and the statutory framework in which they are maintained and terminate are inherently complex. Despite this inherent complexity, PBGC is committed to issuing simple, understandable, flexible, and timely regulations and other guidance that do not impose undue burdens that could impede maintenance or establishment of defined benefit plans.

Through its regulations and other guidance, PBGC strives to minimize burdens on plans, plan sponsors, and plan participants; simplify filing; provide relief for small businesses and plans; and assist plans in complying with applicable requirements. To enhance policy-making through collaboration, PBGC also plans to expand opportunities for public participation in rulemaking (see Open Government and Public Participation below).

PBGC's current regulatory objectives and priorities are to simplify its regulations and reduce burden, particularly in the areas of premiums and reporting, enhance retirement security, and complete implementation of the Pension Protection Act of 2006 (PPA 2006).

Retrospective Review of Existing Regulations

Pursuant to section 6 of Executive Order 13563 ''Improving Regulation and Regulatory Review'' (Jan. 18, 2011), the following Regulatory Identifier Numbers (RINs) have been identified as associated with retrospective review and analysis in the Department's final retrospective review of regulations plan. The proposals are described below.

Title	RIN	Effect on Small Business
Reportable Events; Pension Protection Act of 2006	1212–AB06	Expected to reduce burden on small business.
Liability for Termination of Single-Employer Plans; Treatment of Substantial Cessation of Operations; ERISA section 4062(e).	1212–AB20	Expected to reduce burden on small business.
Premium Rates; Payment of Premiums; Reducing Regulatory Burden	1212–AB26	Expected to reduce burden on small business.
Termination of Multiemployer Plans; Duties of Plan Sponsor Following Mass Withdrawal; Mergers and Transfers Between Multiemployer Plans.	1212–AB25	Expected to reduce burden on small business.
Allocation of Assets in Single-Employer Plans; Valuation of Benefits and Assets	1212–AA55	Undetermined.

Reportable events. PPA 2006 affected certain provisions in PBGC's reportable events regulation (part 4043), which requires employers to notify PBGC of certain plan or corporate events. In November 2009, PBGC published a proposed rule to conform the regulation to the PPA 2006 changes and make other changes.[1] In response to Executive Order 13563 and comments on the non-PPA 2006 provisions of the proposed rule, PBGC decided to re-propose the rule. PBGC is trying to take advantage of other existing reporting requirements and methods to avoid burdening companies and plans, possibly by expanding waivers and redefining events to reduce reporting. PBGC is also considering how to implement stakeholder suggestions that different reporting requirements should apply in circumstances where the risk to PBGC is low or compliance is especially burdensome. The draft proposed rule is currently under OMB review..

ERISA section 4062(e). The statutory provision requires reporting of, and liability for, certain substantial cessations of operations by employers that maintain single-employer plans. In August 2010, PBGC issued a proposed rule to provide guidance on the applicability and enforcement of section 4062(e).[2] In light of comments, PBGC is reconsidering its 2010 proposed rule. At the same time, PBGC is in the process of developing and implementing working criteria for cases involving financially strong companies. Historically, this requirement has been enforced regardless of the financial health of the plan sponsor. The business community argued that this imposed an onerous burden on many companies where there was little or no threat to the retirement security of their employees or the agency. After careful review, PBGC agreed. PBGC has announced a 4062(e) enforcement pilot program under which it will not enforce in the case of financially strong companies and small plans. PBGC has already issued some no-action letters to financially strong companies.

Premiums. Based on PBGC's regulatory review and in response to public comments, PBGC is developing a proposed rule to change filing deadlines and streamline valuation procedures for the payment of premiums to make PBGC's premium rules more effective and less burdensome, including for small plans (see *Small plan premium due date* below under Small Businesses). PBGC also proposes to expand premium payment penalty relief[3] and implement changes to premium rates resulting from the Moving Ahead for Progress in the 21st Century Act of 2012 (MAP–21) (see Moving Ahead for Progress in the 21st Century Act below).

Changes to selected multiemployer plan regulations. PBGC has reviewed selected aspects of its regulations on multiemployer plans:

- Termination of Multiemployer Plans (29 CFR part 4041A). When a multiemployer plan terminates, the plan must perform an annual valuation of the plan's assets and benefits. PBGC has reviewed the regulation to determine whether annual valuation requirements may be reduced for certain plans.
- Duties of plan sponsor following mass withdrawal (29 CFR part 4281). Terminated multiemployer plans that determine that they will be insolvent for a plan year must file a series of notices and updates to notices. These notice requirements can be detrimental to plan participants because they may use up assets that would be available to pay plan benefits.
- Mergers and transfers between multiemployer plans (29 CFR part

[1] 74 FR 61248 (Nov. 23, 2009), *www.pbgc.gov/Documents/E9-28056.pdf.*

[2] 75 FR 48283 (Aug. 10, 2010), *www.pbgc.gov/Documents/2010-19627.pdf.*

[3] See 76 FR 57082 (Sep. 15, 2011), *www.pbgc.gov/Documents/2011-23692.pdf* and 77 FR 6675 (Feb. 9, 2012), *www.pbgc.gov/Documents/2012-3054.pdf.*

4231). Multiemployer plans must file certain information with PBGC. Multiemployer plan mergers do not pose any increase in the risk of loss to PBGC or to plan participants. These filing requirements increase administrative costs to PBGC and plans and create an unnecessary burden in completing the merger.

PBGC is developing a proposed rule that would make changes to address these concerns.

PPA 2006 Implementation

Cash balance plans. PPA 2006 changed the rules for determining benefits in cash balance plans and other statutory hybrid plans. In October 2011, PBGC published a proposed rule implementing the changes in both PBGC-trusteed plans and in plans that close out in the private sector. This rule is on hold until Treasury issues final regulations.

Missing participants. Currently, PBGC's Missing Participants Program applies only to terminating single-employer defined benefit plans insured by PBGC. PPA 2006 expanded the program to cover single-employer plans sponsored by professional service employers with fewer than 25 employees, multiemployer defined benefit plans, and 401(k) and other defined contribution plans. PBGC is developing a proposed rule to implement the expansion and streamline the existing program.

Shutdown benefits. Under PPA 2006, the phase-in period for the guarantee of a benefit payable solely by reason of an ''unpredictable contingent event,'' such as a plant shutdown, starts no earlier than the date of the shutdown or other unpredictable contingent event. PBGC published a proposed rule implementing this statutory change in March 2011 [4] and received one comment.

Other Regulations

DC to DB plan rollovers. PBGC is developing a proposed rule to address title IV treatment of rollovers from defined contribution plans to defined benefit plans, including asset allocation and guarantee limits. This rule is part of PBGC's efforts to enhance retirement security by promoting lifetime income options and follows related Department of Treasury guidance.[5]

ERISA section 4010. In response to comments, PBGC is reviewing its regulation on Annual Financial and Actuarial Information Reporting (part 4010) and the related e-filing application to consider ways of reducing reporting burden, without forgoing receipt of critical information. PBGC is considering waiving reporting for plans that must file 4010 information solely based on (1) the conditions for a statutory lien resulting from missed required contributions totaling over one million dollars being met, or (2) outstanding funding waivers totaling over one million dollars. Waiving such reporting would reduce the compliance and cost burden on plan sponsors; PBGC can obtain some information similar to that reported under section 4010 from other sources, such as reportable events filings. PBGC is also considering other changes to section 4010 reporting that would further reduce burden for financially sound companies, by taking into account company financial health and targeting reporting more closely to the risk of plan termination; such changes might require legislative action.

Moving Ahead for Progress in the 21st Century Act

Public Law 112–141, the Moving Ahead for Progress in the 21st Century Act (MAP–21), was signed into law on July 6, 2012. The new law limits the volatility of discount rates for funding single-employer plans (stabilization), increases PBGC premiums for both single-employer and multiemployer plans, and makes certain changes in PBGC governance.

PBGC has issued guidance on the effect of MAP–21 on premiums and 4010 reporting.[6] As noted above under *Premiums,* PBGC is revising its premium regulations to implement changes to premium rates resulting from MAP–21.

Small Businesses

PBGC takes into account the special needs and concerns of small businesses in making policy. A large percentage of the plans insured by PBGC are small or maintained by small employers. PBGC in considering several proposed rules that will focus on small businesses:

Small plan premium due date. The premium due date for plans with fewer than 100 participants is four months after year-end (April 30 for calendar year plans). PBGC has heard that some small plans with year-end valuation dates have difficulty meeting the filing deadline because such plans traditionally do not complete their actuarial valuation for funding purposes until after the premium due date. In light of this concern, PBGC has reviewed part 4007 to determine whether changes could be made that would enable small plans to streamline their premium valuation procedures and thereby reduce actuarial fees. Changes related to the small plan premium due date will be included in the proposed rule discussed above under Retrospective Review of Existing Regulations.

Missing participants. See *Missing participants* under PPA 2006 Implementation above. Expansion of the program will benefit small businesses closing out terminating plans.

Open Government and Public Participation

PBGC views public participation as very important to regulatory development and review. For example, PBGC's current efforts to reduce regulatory burden are in substantial part a response to public comments. Regulatory projects discussed above, such as reportable events, ERISA section 4062(e), and ERISA section 4010, highlight PBGC's customer-focused efforts to reduce regulatory burden.

PBGC's Regulatory Review Plan sets forth ways to expand opportunities for public participation in the regulatory process. For example, PBGC plans to hold public hearings as it develops major regulations, so that the agency has a better understanding of the needs and concerns of plan administrators and plan sponsors.

Further, PBGC plans to provide additional means for public involvement, including on-line town hall meetings, social media, and continuing opportunity for public comment on PBGC's Web site.

PBGC also invites comments on the Regulatory Review Plan on an on-going basis as we engage in the review process. Comments should be sent to *regs.comments@pbgc.gov*.

PBGC will continue to look for ways to further improve its regulations.

BILLING CODE 7709–01–P

U.S. SMALL BUSINESS ADMINISTRATION (SBA)

Statement of Regulatory Priorities

Overview

The mission of the U.S. Small Business Administration (SBA) is to maintain and strengthen the Nation's

[4] 76 FR 13304 (Mar. 11, 2011), *www.pbgc.gov/Documents/2011-5696.pdf.*

[5] On February 21, 2012, the Internal Revenue Service of the Department of Treasury issued Rev. Rul. 2012–4, which clarified the qualification requirements under section 401(a) of the Internal Revenue Code for use of rollover amounts to purchase an additional annuity under a defined benefit plan.

[6] Technical Update 12–1: Effect of MAP–21 on PBGC Premiums (Aug. 28, 2012). Technical Update 12–2: Effect of MAP–21 on 4010 Reporting (Sept. 11, 2012).

economy by enabling the establishment and viability of small businesses and by assisting in economic recovery of communities after disasters. In carrying out this mission, SBA strives to improve the economic environment for small businesses, including those in areas that have significantly higher unemployment and lower income levels than the Nation's averages and those in traditionally underserved markets. The Agency serves as a guarantor of small business loans, and also provides management and technical assistance to existing or potential small business owners through various grants, cooperative agreements or contracts. This access to capital and other assistance provide a crucial foundation for those starting a new business, or growing an existing business and ultimately creating new jobs. SBA also provides direct financial assistance to homeowners, renters, and small business owners to help communities to rebuild in the aftermath of a disaster.

Reducing Burden on Small Businesses

SBA's regulatory policy reflects a commitment to developing regulations that reduce or eliminate the burden on the public, especially the Agency's core constituents—small businesses. SBA's regulatory process generally includes an assessment of the costs and benefits of the regulations as required by Executive Order 12866 ''Regulatory Planning and Review,'' Executive Order 13563, Improving Regulations and Regulatory Review, and the Regulatory Flexibility Act. SBA's program offices are particularly invested in finding ways to reduce the burden imposed by the Agency's activities in its loan, innovation, and procurement programs. As a result, SBA is currently assessing or developing the following initiatives, which are expected to yield time and cost savings for impacted small businesses or entities:

• Single Electronic Lender Application for 7(a) Loan Programs.

SBA is developing a simplified, web-based process for submission of Section7(a) loans under for all approved SBA lenders. Extending this streamlined process to all lenders for this category of loans will help lower the cost of originating small dollar loans for many small businesses, reduce paperwork burden and improve underwriting efficiencies, thereby enabling lenders to originate more loans for small businesses.

• Uniform SBIR Portal for Information and Solicitations.

Until this past year there has not been a central place for applicants to browse open solicitations across all eleven participating agencies in the Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Programs. The new SBIR.gov Web site now contains a central searchable database to find open solicitations. This saves applicants time in finding opportunities that fit the goals of their research and development work.

The reauthorization of the SBIR/STTR Programs in December 2011 brought a host of new data reporting requirements that pose new challenges for SBA's efforts to streamline time and cost burdens for small businesses. During the next couple of years SBA will focus on meeting new congressionally mandated reporting requirements, while streamlining data collection and preventing reporting duplication by small businesses. SBA's efforts to streamline administrative burden fall into three areas:

(i) *Company Registry*—The SBIR/STTR statute requires new reporting requirements regarding the ownership structure of small businesses. SBA will develop and deploy a company registry system for all SBIR and STTR applicants. SBA will develop a secure method of sharing this data with all other participating agencies that a company applies to in order to ensure that small businesses report this data only once. The new system is projected to be operational by January 2013.

(ii) *Application and Award Databases*—The new statute requires data reporting that is broader in scope and collected more frequently. SBA is assessing ways to leverage technology across participating agencies to reduce the administrative burden on small businesses of applying to the program.

(iii) *Commercialization Database*—The new SBIR/STTR statute also requires additional commercialization data from program awardees. SBA and DOD, together, are assessing ways to leverage and scale existing technology platforms to collect this data, while ensuring companies will not have to re-enter any data they have previously entered.

• Automated Credit Decision Model for 7(a) Loan Program.

For loans of less than $250,000, SBA is evaluating an optional credit scoring methodology to be used by SBA lender partners in their underwriting process, which could result in lowering the lenders' cost of delivering capital to borrowers and would likely expand their interest in making low dollar loans. This initiative may also attract additional lenders (e.g., small community banks, credit unions, and rural lenders) to become SBA partners and increase credit availability for small businesses.

• One Track Certification and Program Management System.

This system would allow the HUBZone and 8(a) programs to process applications, certifications and other program processes (e.g. protests, and annual reviews) electronically. This approach would reduce the amount of paperwork that a small business has to submit to SBA, and increase the efficiency of the program by allowing applicants to submit information common to both programs once rather than with each application. The planned initiative is projected to result in substantial maintenance cost savings. In addition to reducing waste, fraud and abuse, it will support three new programs and business processes currently handled manually. SBA estimates that this initiative will impact approximately 25 percent of all HUBZone participants that are also in the 8(a) program. During the later phases of this initiative, the system will be extended to other SBA contracting programs such as the Women-Owned Small Business, and Service-Disabled Veteran-Owned Small Business.

• Auto-Approve Disaster Loans Based on Credit Scores.

Private industry approves a substantial number of loans through credit scoring to reduce the cost of underwriting. The portfolio analysis that is being currently completed indicates that the performance of loans to borrowers with a higher FICO score have limited risk. Changing this process would allow SBA more flexibility to design a loan approval that is in line with current private sector practices and reduce the processing cost for lower dollar disaster loans. Parameters for this auto approval initiative are in development, and the agency is assessing which changes would be necessary to fully complete the process through the Disaster Credit Management System (DCMS), the electronic system used by SBA to process disaster loan applications.

Openness and Transparency

SBA promotes transparency, collaboration, and public participation in its rulemaking process. To that end, SBA routinely solicits comments on its regulations, even those that are not subject to the public notice and comment requirement under the Administrative Procedure Act. Where appropriate, SBA also conducts hearings, webinars, and other public events as part of its regulatory process. For example, during May and June 2012, SBA held public webinars and

roundtable discussions to solicit public feedback on the Agency's proposed implementation of the National Defense Authorization Act for Fiscal Year 2012 amendments to the ownership, control and affiliation rules for the SBIR and STTR Programs. These public discussions will not only help to shape the final rule but the development and implementation of other SBIR and STTR program changes as well.

Retrospective Review of Existing Regulations

SBA also promotes public participation in the retrospective review of its rules, as the agency seeks to determine which rules may be outmoded, ineffective, insufficient, or excessively burdensome, and which ones should be streamlined, expanded, or repealed. Pursuant to section 6 of Executive Order 13563 ''Improving Regulation and Regulatory Review'' (Jan. 18, 2011), the following Regulatory Identifier Numbers (RINs) have been identified as associated with retrospective review and analysis in SBA's final retrospective review of regulations plan. The final agency plan can be found at *http://www.sba.gov/content/sba-final-plan-restropective-analysis-existing-rules-0*.

RIN	Rule Title	Small Business Burden Reduction
3245–AF45	Small Business Technology Transfer (STTR) Policy Directive	YES.
3245–AF84	Small Business Innovation Research (SBIR) Policy Directive	YES.
3245–AG04	504 and 7(a) Regulatory Enhancements	YES.
3245–AG25	Small Business Size Standards for Utilities	NO.
3245–AG36	Small Business Size Standards: Arts, Entertainment, and Recreation	NO.
3245–AG37	Small Business Size Standards: Construction	NO.
3245–AG43	Small Business Size Standards: Agriculture, Forestry, Fishing, and Hunting	NO.
3245–AG44	Small Business Size Standards: Mining, Quarrying, and Oil and Gas Extraction	NO.
3245–AG45	Small Business Size Standards: Finance and Insurance; Management of Companies and Enterprises	NO.
3245–AG46	Small Business Size Regulations, Small Business Innovation Research (SBIR) Program and Small Business Technology Transfer (STTR) Program.	YES.
3245–AG49	Small Business Size Standards for Wholesale Trade	NO.
3245–AG50	Small Business Size Standards for Manufacturing	NO.
3245–AG51	Small Business Size Standards for other industries with employee-based size standards not part of Manufacturing or Wholesale Trade.	NO.

Regulatory Framework

SBA FY 2011 to FY 2016 strategic plan serves as the foundation for the regulations that the Agency will develop during the next 12 months. This strategic plan proposes three primary strategic goals: (1) growing businesses and creating jobs; (2) building an SBA that meets the needs of today's and tomorrow's small businesses; and (3) serving as the voice for small business. In order to achieve these goals SBA will, among other objectives, focus on:

- Expanding access to capital through SBA's extensive lending network;
- Ensuring Federal contracting goals are met or exceeded by collaborating across the Federal Government to expand opportunities for small businesses and strengthen the integrity of the Federal contracting data and certification process;
- Promoting awareness among federal agencies, of the impact of regulatory enforcement and compliance efforts on small businesses and the importance of reducing burdens on such businesses;
- Strengthening SBA's relevance to high growth entrepreneurs and small businesses to more effectively drive innovation and job creation; and
- Mitigating risk and improving program oversight.

The regulations reported in SBA's semi-annual regulatory agenda and plan are intended to facilitate achievement of these goals and objectives. Over the next twelve months, SBA's highest regulatory priorities will include: (1) Implementing policy and procedural changes to the SBIR and STTR programs through the Policy Directives that provide guidance to the other SBIR/STTR federal agencies; (2) finalizing the Small Business Jobs Act amendments to the regulations governing multiple award contracts and small business set-asides; (3) implementing the Mentor-Protégé Programs, which were also authorized by the Small Business Jobs Act, for participants in the HUBZone, Women Owned Small Business (WOSB) Contracting, and Service-Disabled Veteran-Owned Small Business (SDVOSB) Programs; and (4) proposing amendments to regulations for the 504 and 7(a) loan programs.

(1) Small Business Innovation and Research (SBIR) Program (RIN: 3245–AF84):

The SBIR Policy Directive was listed in SBA's E.O. 13563 Retrospective Review Plan as one of the initial candidates for review. At that time, one of the reasons for the review was to address small business concerns regarding certain program guidelines, including the uncertainty regarding the SBIR data rights afforded to SBIR Awardees and the Federal Government. As a result of recent amendments to the program by the National Defense Reauthorization Act of 2012, one of SBA's priorities is issuance of a revised policy directive that simplifies and standardizes the proposal, selection, contracting, compliance, and audit procedures for the SBIR program to the extent practicable while allowing the SBIR agencies flexibility in the operation of their individual SBIR Programs. Wherever possible, SBA is reducing the paperwork and regulatory compliance burden on the small businesses that apply to and participate in the SBIR program while still meeting the statutory reporting and data collection requirements. For example, as identified above, SBA created a program data management system for collecting and storing information that will be utilized by all SBIR agencies, thus eliminating the need for SBIR applicants to submit the same data to multiple agencies.

(2) Small Business Technology Transfer (STTR) Program (RIN: 3245–AF45):

The STTR Policy Directive is also identified in the Retrospective Review Plan required by E.O. 13563. Many elements of the STTR program are designed and intended to be identical to those of the SBIR program. SBA is therefore issuing an updated STTR Policy Directive to maintain the appropriate consistency with the SBIR program, as described in the preceding paragraphs.

The revised SBIR and STTR Policy Directives are reducing confusion for both small businesses and the Federal agencies that make awards under the program, reducing the regulatory cost

burden, potentially increasing the number of SBIR and STTR solicitations, and leading to savings of administrative costs as a result of fewer informational inquiries and disputes.

(3) Multiple Award Contracts and Small Business Set-Asides (RIN: 3245–AG20):

SBA intends to implement authorities provided by section 1331 of the Small Business Jobs Act that would allow Federal agencies to set-aside a part or parts of multiple awards contracts for small business concerns; set-aside orders placed against multiple award contracts for small business concerns; and reserve one or more contract awards for small business concerns under full and open competition in certain circumstances. Allowing small businesses to gain access to multiple award contracts through prime contract awards or through set asides off the orders of the prime contracts should increase Federal contracting opportunities for the small businesses.

(4) Small Business Mentor-Protégé Programs (RIN: 3245–AG24):

SBA currently has a mentor-protégé program for the 8(a) Business Development Program that is intended to enhance the capabilities of the protégé and to improve its ability to successfully compete for Federal contracts. The Small Business Jobs Act authorized SBA to use this model to establish similar mentor-protégé programs for the Service Disabled Veteran Owned, HUBZone and Women-Owned Small Business Programs. During the next 12 months, one of SBA's priorities will be to issue regulations establishing these three newly authorized mentor-protégé programs. The various types of assistance that a mentor will be expected to provide to a protégé include technical and/or management assistance; financial assistance in the form of equity investment and/or loans; subcontracts and/or assistance in performing prime contracts with the Government in the form of joint venture arrangements.

(5) 504 and 7(a) Regulatory Enhancements (RIN: 3245–AG04)

SBA also plans to propose revised regulations to reinvigorate the Section 504 and Section 7(a) loan programs, which are both vital tools for creating and preserving American jobs. This rule is identified in SBA's Retrospective Review Plan required by Executive Order 13563. SBA proposes to strip away regulatory restrictions that detract from the 504 Loan Program's core job creation mission as well as the 7(a) Loan Program's positive job creation impact on the American economy. The revised rule will enhance job creation through increasing eligibility for loans under SBA's business loan programs, including its Microloan Program, and by modifying certain program participant requirements applicable to the 504 Loan Program. The major amendments that SBA is proposing include expanding eligibility for these programs by redefining the permitted affiliations for borrowers when determining the applicant's size, but balancing the expansion by requiring an affidavit as to ownership; eliminating the personal resources test; and changing the 9-month rule for the 504 Loan Program, and CDC operational and organizational requirements.

SBA

Proposed Rule Stage

1. 504 and 7(A) Regulatory Enhancements

Priority: Other Significant.

Legal Authority: 15 U.S.C. 695 *et seq.*

CFR Citation: 13 CFR part 120.

Legal Deadline: None.

Abstract: The 7(a) Loan Program and 504 Loan Program are SBA's two primary business loan programs authorized under the Small Business Act and the Small Business Investment Act of 1958, respectively. The 7(a) Loan Program's main purpose is to help eligible small businesses obtain credit when they cannot obtain ''credit elsewhere.'' This program is also an important engine for job creation. On the other hand, the core mission of the 504 Loan Program is to provide long-term fixed asset financing to small businesses to facilitate the creation of jobs and local economic development. The purpose of this proposed rulemaking is to reinvigorate these programs as vital tools for creating and preserving American jobs. SBA proposes to strip away regulatory restrictions that detract from the 504 Loan Program's core job creation mission as well as the 7(a) Loan Program's positive job creation impact on the American economy. The proposed changes would enhance job creation through increasing eligibility for loans under SBA's business loan programs, including its Microloan Program, and by modifying certain program participant requirements applicable to these two programs. The major changes that SBA is proposing include changes relating to affiliation principles, the personal resources test, the 9-month rule for the 504 Loan Program, and CDC operational and organizational requirements.

Statement of Need: The U.S. Small Business Administration (''SBA'') has determined that changing conditions in the American economy and persistent high levels of unemployment compel the agency to seek ways to improve access to its two flagship business lending programs: the 504 Loan Program and the 7(a) Loan Program. The purpose of this proposed rulemaking is to reinvigorate and improve delivery of these programs to create and preserve American jobs.

Summary of Legal Basis: The 504 Loan Program and 7(a) Loan Program are SBA's two primary business loan programs authorized under the Small Business Investment Act of 1958 and the Small Business Act, respectively. Under these Acts, SBA's Administrator has the authority and responsibility for establishing guidelines for optimum delivery of these two Programs.

Alternatives: With respect to the proposed changes to CDC Board of Director requirements, the Agency considered allowing CDC directors to operate with virtually no oversight or standards, relying on state non-profit corporation laws and state oversight to ensure proper Board performance. This idea was rejected after SBA's review of state oversight of non-profit directors and the applicable state law requirements indicated that they would not provide the parameters and oversight necessary for a Federal loan program that puts billions of taxpayer dollars at risk each year. Another ''alternative'' would be to eliminate even more regulatory burdens and the Agency enthusiastically encourages public comment and suggestions on how that can be done responsibly protecting the integrity of the programs and the taxpayer investment without increased waste, fraud and/or abuse.

Anticipated Cost and Benefits: The benefits of the proposed rule will include program enhancements to increase small business and lender participation in the program, and cost reduction of the 504 and 7(a) loan program to the federal government, participant lenders, and to the small business borrower. The goal of the proposed rule is to reinvigorate the business loan programs by eliminating unnecessary compliance burdens and loan eligibility restrictions. SBA estimates that the proposed rule will streamline the 504 and 7(a) loan applications resulting in an estimated 10% cost reduction to small business borrowers to participate in the 504 and 7(a) loan programs. Based on estimates using FY 12 loan approvals as a base, the annual savings to borrowers for both programs combined is estimated at

$700,000—$750,000 annually. SBA also estimates that the proposed rule changes will reduce agency loan review burden hours by 5%. Based on estimates using FY 12 loan approvals as a base, this burden reduction in loan review time combined for both the 504 and 7(a) loan programs is estimated at between $80,000 to $100,000 annually.

Risks: SBA does not anticipate increased risk to the 504 and 7(a) loan programs due to this proposed rule. SBA is confident that the rules will improve portfolio integrity and reach a more robust borrower that will reduce portfolio risk to SBA.

SBA also proposes more stringent corporate governance standards and higher insurance requirements for Certified Development Companies (CDC) to reduce risk to the SBA and the CDC. These corporate governance proposed rules place more emphasis on board oversight and responsibility on CDC boards and increase insurance requirements on CDC boards as well as requiring errors and omissions insurance.

Timetable:

Action	Date	FR Cite
NPRM	12/00/12	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

Additional Information: Included in SBA's Retrospective Review under Executive Orders 13563 and 13610.

Agency Contact: John P. Kelley, Senior Advisor to the Associate Administrator, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202 205–0067, *Fax:* 202 292–3844, *Email: patrick.kelley@sba.gov.*

RIN: 3245–AG04

SBA

2. Small Business Jobs Act: Small Business Mentor-Protégé Programs

Priority: Other Significant.

Legal Authority: Pub. L. 111–240; sec 1347

CFR Citation: 13 CFR part 124; 13 CFR part 125; 13 CFR part 126; 13 CFR part 127.

Legal Deadline: None.

Abstract: SBA currently has a mentor-protégé program for the 8(a) Business Development Program that is intended to enhance the capabilities of the protégé and to improve its ability to successfully compete for Federal contracts. The Small Business Jobs Act authorized SBA to use this model to establish similar mentor-protégé programs for the Service Disabled Veteran-Owned, HUBZone, and Women-Owned Small Federal Contract Business Programs. This authority is consistent with recommendations issued by an interagency task force created by President Obama on Federal Contracting Opportunities for Small Businesses. During the next 12 months, SBA will make it a priority to issue regulations establishing the three newly authorized mentor-protégé programs and set out the standards for participating as a mentor or protégé in each. As is the case with the current mentor-protégé program, the various forms of assistance that a mentor will be expected to provide to a protégé include technical and/or management assistance; financial assistance in the form of equity investment and/or loans; subcontracts; and/or assistance in performing prime contracts with the Government in the form of joint venture arrangements.

Statement of Need: The Small Business Jobs Act determined that the SBA-administered mentor-protégé program currently available to 8(a) BD participants is a valuable tool for all small business concerns and authorized SBA to establish mentor protégé programs for the HUBZone SBC, Service Disabled Veteran-Owned SBCs, and Women-Owned Small Business programs. This authority is consistent with recommendations issued by an interagency task force created by President Obama on Federal Contracting Opportunities for Small Businesses. Among other things, the task force recommended that mentor-protégé programs should be promoted through a new Government-wide framework to give small businesses the opportunity to develop under the wing of experienced large businesses in an expanded Federal procurement arena.

Summary of Legal Basis: The Small Business Jobs Act of 2010, Public Law No 111–240, section 1347(b)(3), authorizes SBA to establish mentor-protégé programs for HUBZone SBC, Service Disabled Veteran-Owned SBCs, and Women-Owned Small Business programs SBCs.

Alternatives: At this point, SBA believes that the best option for implementing the authority is to create a regulatory scheme that is similar to the existing mentor-protégé program.

Anticipated Cost and Benefits: SBA has not yet quantified the costs associated with this rule. However, program participants, particularly the protégés, would be able to leverage the mentoring opportunities as a form of business development assistance that could enhance their capabilities to successfully compete for contracts in and out of the Federal contracting arena. This assistance may include technical and/or management assistance; financial assistance in the form of equity investments and/or loans; subcontracts; and/or assistance in performing prime contracts with the Government in the form of joint venture arrangements.

Risks: None identified.

Timetable:

Action	Date	FR Cite
NPRM	03/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

Agency Contact: Dean R. Koppel, Assistant Director, Office of Policy and Research, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202 205–7322, *Fax:* 202 481–1540, *Email: dean.koppel@sba.gov.*

RIN: 3245–AG24

SBA

Final Rule Stage

3. Small Business Technology Transfer (STTR) Policy Directive

Priority: Other Significant.

Legal Authority: 15 U.S.C. 638 (p); Pub. L. 112–81, sec. 5001, *et seq.*

CFR Citation: None.

Legal Deadline: Final, Statutory, June 30, 2012, Sec. 5151 of the SBIR/STTR Reauthorization Act of 2011 (Reauthorization Act) requires SBA to issue amendments to conform the SBIR Policy Directive to the Reauthorization Act amendments.

Statutory requirement that proposed rule be published within 180 days of enactment.

Abstract: The amendments to the Small Business Technology Transfer (STTR) Policy Directive cover, in general: extension of the program through 2017; increase in percentage of extramural research and development budget reserved for program; annual adjustment of award guidelines for inflation; authority for SBIR awardees to receive STTR awards and vice versa; prevention of duplicate awards; requirements for agencies to allow business concerns owned by multiple venture capital operating companies, hedge funds or private equity firms to participate in the program; authority for small businesses to contract with

Federal laboratory and restrictions on advanced payment to laboratories; technical assistance amendments; commercialization readiness and commercialization readiness pilot for civilian agencies; additional annual report and data collection requirements; and funding for administration and oversight of programs.

Statement of Need: Updating the STTR Program Policy Directive is required by recent legislation (The National Defense Reauthorization Act of 2012—Pub. L. 112–81, sec. 5001, *et seq.*), which made many changes to the STTR program.

Summary of Legal Basis: The National Defense Reauthorization Act of 2012 (Pub. L. 112–81, sec. 5001, *et seq.*).

Alternatives: There are no alternatives. Updating the STTR Program Policy Directive is a statutory mandate outlined in the Reauthorization legislation.

Anticipated Cost and Benefits: Updating the STTR Program Policy Directive is essential to the implementation of the SBIR/STTR Reauthorization legislation. There have been a number of changes to the framework of the STTR program and the updated Policy Directive will provide guidance and uniformity to agencies overseeing STTR research activities, as well as to small businesses/research institutions looking to meet agency research needs.

There will be costs involved in implementing the SBIR/STTR Reauthorization through the Policy Directive. First, since there are numerous new or expanded responsibilities on both agency personnel and small businesses, there will be additional costs associated with the program. SBA is of the opinion that the additional costs are not burdensome and that the amendments to the program through the SBIR/STTR Reauthorization legislation will help generate expanded economic benefits to both agencies and small businesses/research institutions.

Risks: Not applicable.

Timetable:

Action	Date	FR Cite
Notice	08/06/12	77 FR 46855
Notice Effective ...	08/06/12	77 FR 46855
Comment Period End.	10/05/12	
Final Action	08/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: Federal.

Additional Information: Included in SBA's Retrospective Review under Executive Orders 13563 and 13610.

URL for Public Comments: *www.regulations.gov*.

Agency Contact: Edsel M. Brown Jr., Assistant Director, Office of Innovation, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202 205–6450, *Email:* *edsel.brown@sba.gov*.

Related RIN: Related to 3245–AF84, Related to 3245–AG46.

RIN: 3245–AF45

SBA

4. Small Business Innovation Research (SBIR) Program Policy Directive

Priority: Other Significant.

Legal Authority: 15 U.S.C. 638(j); Pub. L. 112–81, sec 5001, *et seq.*

CFR Citation: None.

Legal Deadline: Final, Statutory, June 30, 2012, Sec. 5151 of the SBIR/STTR Reauthorization Act of 2011 (Reauthorization Act) requires SBA issue amendments to conform the SBIR Policy Directive to the Reauthorization Act amendments.

Statutory requirement that proposed rule be published within 180 days of enactment.

Abstract: The amendments to the Small Business Innovation Research Policy Directive cover, in general: extension of the program through 2017; increase in percentage of extramural research and development budget reserved for program; annual adjustment of award guidelines for inflation; authority for SBIR awardees to receive STTR awards and vice versa; prevention of duplicate awards; requirements for agencies to allow business concerns owned by multiple venture capital operating companies, hedge funds or private equity firms to participate in the program; authority for small businesses to contract with Federal laboratory and restrictions on advanced payment to laboratories; technical assistance amendments; commercialization readiness and commercialization readiness pilot for civilian agencies; additional annual report and data collection requirements; and funding for administration and oversight of programs.

Statement of Need: Updating the SBIR Program Policy Directive is required by recent legislation (The National Defense Reauthorization Act of 2012—Pub. L. 112–81, sec. 5001, *et seq.*), which made many changes to the SBIR program.

Summary of Legal Basis: The National Defense Reauthorization Act of 2012 (Pub. L. 112–81, sec. 5001, *et seq.*).

Alternatives: There are no alternatives. Updating the SBIR Program Policy Directive is a statutory mandate outlined in the Reauthorization legislation.

Anticipated Cost and Benefits: Updating the SBIR Program Policy Directive is essential to the implementation of the SBIR/STTR Reauthorization legislation. There have been a number of changes to the framework of the SBIR program and the updated Policy Directive will provide guidance and uniformity to agencies overseeing SBIR research activities, as well as to small businesses looking to meet agency research needs.

There will be costs involved in implementing the SBIR/STTR Reauthorization through the Policy Directive. First of all since there are numerous new or expanded responsibilities on both agency personnel and small businesses (e.g. reporting), there will be additional costs associated with the program. SBA is of the opinion that the additional costs are not burdensome and that the amendments to the program through the SBIR/STTR Reauthorization legislation will help generate expanded economic benefits to both agencies and small businesses.

Risks: Not applicable.

Timetable:

Action	Date	FR Cite
Notice	08/06/12	77 FR 46806
Notice Effective ...	08/06/12	77 FR 46806
Comment Period End.	10/05/12	
Final Action	08/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: Federal.

Additional Information: Included in SBA's Retrospective Review under Executive Orders 13563 and 13610.

Agency Contact: Edsel M. Brown Jr., Assistant Director, Office of Innovation, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202 205–6450, *Email:* *edsel.brown@sba.gov*.

Related RIN: Related to 3245–AF45, Related to 3245–AG46

RIN: 3245–AF84

SBA

5. Acquisition Process: Task and Delivery Order Contracts, Bundling, Consolidation

Priority: Other Significant.

Legal Authority: Pub. L. 111–240, sec 1311, 1312, 1313, 1331

CFR Citation: 13 CFR parts 121, 124 to 127, 134.

Legal Deadline: Final, Statutory, September 27, 2011, The Small Business

Jobs Act of 2010, Pub. L. No. 111–240, Sec. 1331, requires SBA to issue regulation implementing this provision within one year from date of enactment.

Abstract: The U.S. Small Business Administration (SBA) is issuing regulations that will establish guidance under which Federal agencies may set aside part of a multiple award contract for small business concerns, set aside orders placed against multiple award contracts for small business concerns, and reserve one or more awards for small business concerns under full and open competition for a multiple award contract. These regulations will apply to small businesses, including those small businesses eligible for SBA's socioeconomic programs. The regulations will also set forth a Governmentwide policy on bundling, which will address teams and joint ventures of small businesses and the requirement that each Federal agency must publish on its Web site the rationale for any bundled contract. In addition, the regulations will address contract consolidation and the limitations on the use of such consolidation in Federal procurement to include ensuring that the head of a Federal agency may not carry out a consolidated contract over $2 million unless the Senior Procurement Executive or Chief Acquisition Officer ensures that market research has been conducted and determines that the consolidation is necessary and justified.

Statement of Need: As agencies increasingly use multiple award contracts to acquire a wide range of products and services, many small businesses have lost federal contract opportunities. This rule will provide clear direction to contracting officers by authorizing small business set-asides in multiple-award contracts. Such action will in turn increase opportunities for small business to participate in the acquisition process.

Summary of Legal Basis: The Small Business Jobs Act of 2010, Public Law No. 111–240, section 1331, requires the SBA to issue regulations implementing this provision within one year from the date of enactment.

Alternatives: None—implements statute.

Anticipated Cost and Benefits: One of the primary goals of this rule is to increase small business participation in Federal prime contracting by providing agencies with the discretion to set aside orders under multiple award contracts for small business concerns and other socioeconomic categories. The 348,000 small businesses currently registered to conduct business with the federal government and those seeking to enter the federal contracting arena would benefit from, rather than be burdened by, this rule.

Risks: Not applicable.

Timetable:

Action	Date	FR Cite
NPRM	05/16/12	77 FR 29130
NPRM Comment Period End.	07/16/12	
Final Rule	02/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: Federal.

Agency Contact: Dean R. Koppel, Assistant Director, Office of Policy and Research, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202 205–7322, *Fax:* 202 481–1540, *Email: dean.koppel@sba.gov*.

RIN: 3245–AG20

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION (SSA)

Statement of Regulatory Priorities

We administer the Retirement, Survivors, and Disability Insurance programs under title II of the Social Security Act (Act), the Supplemental Security Income (SSI) program under title XVI of the Act, and the Special Veterans Benefits program under title VIII of the Act. As directed by Congress, we also assist in administering portions of the Medicare program under title XVIII of the Act. Our regulations codify the requirements for eligibility and entitlement to benefits and our procedures for administering these programs. Generally, our regulations do not impose burdens on the private sector or on State or local governments, except for the States' disability determination services. We fully fund the disability determination services in advance or by way of reimbursement for necessary costs in making disability determinations.

The ten entries in our regulatory plan (plan) represent issues of major importance to the Agency. We describe the individual initiatives more fully in the attached plan.

Improving the Disability Process

Since the continued improvement of the disability program is of vital concern to us, we have initiatives in the plan addressing disability-related issues. They include:

Three proposed rules and four final rules updating the medical listings used to determine disability—evaluating neurological impairments, respiratory system disorders, hematological disorders, genitourinary disorders, mental disorders, visual disorders, and congenital disorders that affect multiple body systems. The revisions reflect our adjudicative experience and advances in medical knowledge, diagnosis, and treatment.

Enhance Public Service

We will revise our rules to establish a 12-month time limit for the withdrawal of an old-age benefits application. The final rules will permit only one withdrawal per lifetime.

We propose to revise our rules to maximize our capability to conduct hearings by video teleconferencing.

We will finalize portions of the rules we proposed in October 2007 that relate to appearing by telephone and the timeframe requirement for objecting to the time or place of a hearing. We expect that these rules will make the hearings process more efficient and continue to reduce our backlog.

Retrospective Review of Existing Regulations

Pursuant to section 6 of Executive Order 13563 ''Improving Regulation and Regulatory Review'' (Jan. 18, 2011), the following Regulatory Identifier Numbers (RINs) have been identified as associated with retrospective review and analysis in our final retrospective review of regulations plan. Some of these entries on this list may be completed actions, which do not appear in *The Regulatory Plan.* However, you can find more information about these completed rulemakings in past publications of the Unified Agenda on Reginfo.gov in the Completed Actions section for that agency. You can also find these rulemakings on Regulations.gov. The final agency plans can be found at: *http://www.socialsecurity.gov/open/regsreview/EO–13563-Final-Plan.html*.

RIN	Title	Expected to Significantly Reduce Burdens on Small Businesses
0960–AF35	Revised Medical Criteria for Evaluating Neurological Impairments	No.
0960–AF58	Revised Medical Criteria for Evaluating Respiratory System Disorders	No.
0960–AF69	Revised Medical Criteria for Evaluating Mental Disorders	No.
0960–AF88	Revised Medical Criteria for Evaluating Hematological Disorders	No.
0960–AG21	New Medical Criteria for Evaluating Language and Speech Disorders	No.
0960–AG28	Revised Medical Criteria for Evaluating Growth Impairments	No.
0960–AG38	Revised Medical Criteria for Evaluating Musculoskeletal Disorders	No.
0960–AG65	Revised Medical Criteria for Evaluating Digestive Disorders	No.
0960–AG71	Revised Medical Criteria for Evaluating Immune (HIV) System Disorders	No.
0960–AG74	Revised Medical Criteria for Evaluating Cardiovascular Disorders	No.
0960–AG91	Revised Medical Criteria for Evaluating Skin Disorders	No.
0960–AH03	Revised Medical Criteria for Evaluating Genitourinary Disorders	No.
0960–AH04	Revised Medical Criteria for Evaluating Congenital Disorders That Affect Multiple Body Systems	No.
0960–AH28	Revised Medical Criteria for Evaluating Visual Disorders	No.

SSA

Proposed Rule Stage

103. Revised Medical Criteria for Evaluating Neurological Impairments (806P)

Priority: Other Significant.

Legal Authority: 42 U.S.C. 402; 42 U.S.C. 405(a); 42 U.S.C. 405(b); 42 U.S.C. 405(d) to 405(h); 42 U.S.C. 416(i); 42 U.S.C. 421(a); 42 U.S.C. 421(i); 42 U.S.C. 423; 42 U.S.C. 902(a)(5); 42 U.S.C. 1381a; 42 U.S.C. 1382c; 42 U.S.C. 1383; 42 U.S.C. 1383b

CFR Citation: 20 CFR 404.1500, app 1.

Legal Deadline: None.

Abstract: Sections 11.00 and 111.00, Neurological Impairments, of appendix 1 to subpart P of part 404 of our regulations describe neurological impairments that we consider severe enough to prevent a person from doing any gainful activity, or that cause marked and severe functional limitations for a child claiming Supplemental Security Income payments under title XVI. We are proposing to revise these sections to ensure that the medical evaluation criteria are up to date and consistent with the latest advances in medical knowledge and treatment.

Statement of Need: These proposed regulations are necessary to update the listings for evaluating neurological impairments to reflect advances in medical knowledge, treatment, and methods of evaluating these impairments. The changes would ensure that determinations of disability have a sound medical basis, that claimants receive equal treatment through the use of specific criteria, and that people who are disabled can be readily identified and awarded benefits if all other factors of entitlement or eligibility are met.

Summary of Legal Basis: Administrative—not required by statute or court order.

Alternatives: We considered not revising the listings and continuing to use our current criteria. However, we believe that proposing these revisions is preferable because of the medical advances that have been made in treating and evaluating these types of impairments.

Anticipated Cost and Benefits: Estimated Savings—low.

Risks: None.

Timetable:

Action	Date	FR Cite
ANPRM	04/13/05	70 FR 19356.
ANPRM Comment Period End.	06/13/05	
NPRM	12/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Additional Information: Includes Retrospective Review under E.O. 13563.

URL for Public Comments: www.regulations.gov.

Agency Contact: Cheryl A. Williams, Director, Social Security Administration, Office of Medical Listings Improvement, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 965–1020.

Joshua B. Silverman, Social Insurance Specialist, Regulations Writer, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 594–2128,

RIN: 0960–AF35

SSA

104. Revised Medical Criteria for Evaluating Respiratory System Disorders (859P)

Priority: Other Significant. Major under 5 U.S.C. 801.

Legal Authority: 42 U.S.C. 402; 42 U.S.C. 405(a); 42 U.S.C. 405(b); 42 U.S.C. 405(d) to 405(h); 42 U.S.C. 416(i); 42 U.S.C. 421(a); 42 U.S.C. 421(i); 42 U.S.C. 423; 42 U.S.C. 902(a)(5); 42 U.S.C. 1381a; 42 U.S.C. 1382c; 42 U.S.C. 1383; 42 U.S.C. 1383b

CFR Citation: 20 CFR 404.1500, app 1.

Legal Deadline: None.

Abstract: Sections 3.00 and 103.00, Respiratory System, of appendix 1 to subpart P of part 404 of our regulations describe respiratory system disorders that we consider severe enough to prevent an individual from doing any gainful activity or that cause marked and severe functional limitations for a child claiming SSI payments under title XVI. We are proposing to revise these sections to ensure that the medical evaluation criteria are up to date and consistent with the latest advances in medical knowledge and treatment.

Statement of Need: These proposed regulations are necessary to update the Respiratory System listings to reflect advances in medical knowledge, treatment, and methods of evaluating respiratory disorders. The changes would ensure that determinations of disability have a sound medical basis, that claimants receive equal treatment through the use of specific criteria, and that people who are disabled can be readily identified and awarded benefits if all other factors of entitlement or eligibility are met.

Summary of Legal Basis: Administrative—not required by statute or court order.

Alternatives: We considered not revising the listings and continuing to use our current criteria. However, we

believe that proposing these revisions is preferable because of the medical advances that have been made in treating and evaluating respiratory diseases and because of our adjudicative experience.

Anticipated Cost and Benefits: Estimated costs—low.

Risks: None.

Timetable:

Action	Date	FR Cite
ANPRM	04/13/05	70 FR 19358.
ANPRM Comment Period End.	06/13/05	
NPRM	12/00/12	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Additional Information: Includes Retrospective Review under E.O. 13563.

URL for Public Comments: *www.regulations.gov.*

Agency Contact: Cheryl A. Williams, Director, Social Security Administration, Office of Medical Listings Improvement, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 965–1020.

Joshua B. Silverman, Social Insurance Specialist, Regulations Writer, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 594–2128.

RIN: 0960–AF58

SSA

105. Revised Medical Criteria for Evaluating Hematological Disorders (974P)

Priority: Other Significant.

Legal Authority: 42 U.S.C. 402; 42 U.S.C. 405(a); 42 U.S.C. 405(b); 42 U.S.C. 405(d) to 405(h); 42 U.S.C. 416(i); 42 U.S.C. 421(a); 42 U.S.C. 421(i); 42 U.S.C. 423; 42 U.S.C. 902(a)(5); 42 U.S.C. 1381a; 42 U.S.C. 1382c; 42 U.S.C. 1383; 42 U.S.C. 1383b

CFR Citation: 20 CFR 404.1500, app 1.

Legal Deadline: None.

Abstract: Sections 7.00 and 107.00, Hematological Disorders, of appendix 1 to subpart P of part 404 of our regulations, describe hematological disorders that we consider severe enough to prevent a person from performing any gainful activity or that cause marked and severe functional limitation for a child claiming Supplemental Security Income payments under title XVI. We are proposing to revise the criteria in these sections to ensure that the medical evaluation criteria are up to date and consistent with the latest advances in medical knowledge and treatment.

Statement of Need: These proposed regulations are necessary to update the hematological listings to reflect advances in medical knowledge, treatment, and methods of evaluating hematological disorders. The changes ensure that determinations of disability have a sound medical basis, that claimants receive equal treatment through the use of specific criteria, and that people who are disabled can be readily identified and awarded benefits if all other factors of entitlement or eligibility are met.

Summary of Legal Basis: Administrative—not required by statute or court order.

Alternatives: We considered not revising the listings or making only minor technical changes and continuing to use our current criteria. However, we believe that proposing these revisions is preferable because of the medical advances that have been made in treating and evaluating these types of impairments.

Anticipated Cost and Benefits: Estimated savings—low.

Risks: None.

Timetable:

Action	Date	FR Cite
NPRM	05/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Additional Information: Includes Retrospective Review under E.O. 13563.

URL for Public Comments: www.regulations.gov.

Agency Contact: Cheryl A. Williams, Director, Social Security Administration, Office of Medical Listings Improvement, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 965–1020.

Helen Droddy, Social Insurance Specialist, Regulations Writer, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 965–1483.

RIN: 0960–AF88

SSA

106. Revised Medical Criteria for Evaluating Genitourinary Disorders (3565P)

Priority: Other Significant.

Legal Authority: 42 U.S.C. 402; 42 U.S.C. 405(a); 42 U.S.C. 405(b); 42 U.S.C. 405(d) to 405(h); 42 U.S.C. 416(i); 42 U.S.C. 421(a); 42 U.S.C. 421(i); 42 U.S.C. 423; 42 U.S.C. 902(a)(5); 42 U.S.C. 1381a; 42 U.S.C. 1382c; 42 U.S.C. 1383; 42 U.S.C. 1383b

CFR Citation: 20 CFR 404.1500, app 1.

Legal Deadline: None.

Abstract: Sections 6.00 and 106.00, of appendix 1 to subpart P of part 404 of our regulations describe genitourinary disorders that we consider severe enough to prevent a person from doing any gainful activity, or that cause marked and severe functional limitations for a child claiming Supplemental Security Income payments under title XVI. We are proposing to revise the criteria in these sections to ensure that the medical evaluation criteria are up to date and consistent with the latest advances in medical knowledge and treatment.

Statement of Need: These proposed regulations are necessary to update the listings for evaluating neurological genitourinary disorders to reflect advances in medical knowledge, treatment, and methods of evaluating these impairments. The changes would ensure that determinations of disability have sound medical basis, that claimants receive equal treatment through the use of specific criteria, and that people who are disabled can be readily identified and awarded benefits if all other factors of entitlement or eligibility are met.

Summary of Legal Basis: Administrative—not required by statute or court order.

Alternatives: We considered not revising the listings and continuing to use our current criteria. However, we believe that proposing these revisions is preferable because of the medical advances that have been made in treating and evaluating genitourinary disorders and because of our adjudicative experience.

Anticipated Cost and Benefits: Estimated Savings—low.

Risks: None.

Timetable:

Action	Date	FR Cite
ANPRM	11/10/09	74 FR 57970
ANPRM Comment Period End.	01/11/10	
NPRM	12/00/12	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Additional Information: Includes Retrospective Review under E.O. 13563.

URL for Public Comments: www.regulations.gov.

Agency Contact: Cheryl A. Williams, Director, Social Security Administration, Office of Medical Listings Improvement, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 965–1020.

Joshua B. Silverman, Social Insurance Specialist, Regulations Writer, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 594–2128.

RIN: 0960–AH03

SSA

107. Hearings by Video Teleconferencing (VTC) (3728P)

Priority: Other Significant.

Legal Authority: Not Yet Determined

CFR Citation: 20 CFR part 404; 20 CFR part 416.

Legal Deadline: None.

Abstract: We propose to revise our rules to protect the integrity of our programs and to address public concerns regarding the removal of an administrative law judge's name from the Notice of Hearing and other prehearing notices. To accomplish both objectives, these proposed rules state that we will provide an individual with notice that his or her hearing may be held by video teleconferencing and that he or she has an opportunity to object to appearing by video teleconferencing within 30 days of the notice. We have also made changes that allow us to determine that claimant will appear via video teleconferencing if a claimant changes residences while his or her request for hearing is pending. We anticipate these changes will increase the integrity of our programs with minimal impact on the public and result in more efficient administration of our program.

Statement of Need: These proposed rules would protect the integrity of our programs and address public concerns regarding the removal of an administrative law judge's name from the Notice of hearing and other prehearing notices.

Summary of Legal Basis: Administrative not required by statute or court order.

Alternatives: We believe that based on our current evidence there are no alternatives at this time.

Anticipated Cost and Benefits: Viewed in the context of the current business process, this regulation will not result in a change in the numbers of appeals or their distribution by type of hearing. The regulation, if it becomes final, should have no effect on program costs for OASDI or SSI in this current business context.

Risks: None.

Timetable:

Action	Date	FR Cite
NPRM	04/00/13	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: None.

URL for Public Comments: *www.regulations.gov.*

Agency Contact: Brian Rudick, Social Insurance Specialist, Regulations Writer, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 965–7102.

RIN: 0960–AH37

SSA

Final Rule Stage

108. Revised Medical Criteria for Evaluating Mental Disorders (886F)

Priority: Other Significant.

Legal Authority: 42 U.S.C. 402; 42 U.S.C. 405(a); 42 U.S.C. 405(b); 42 U.S.C. 405(d) to 42 U.S.C. 405(h); 42 U.S.C. 416(i); 42 U.S.C. 421(a); 42 U.S.C. 421(h); 42 U.S.C. 421(i); 42 U.S.C. 423; 42 U.S.C. 902(a)(5); 42 U.S.C. 1381a; 42 U.S.C. 1382c; 42 U.S.C. 1383; 42 U.S.C. 1383b

CFR Citation: 20 CFR 404.1500, app 1; 20 CFR 404.1520a; 20 CFR 416.920a; 20 CFR 416.934.

Legal Deadline: None.

Abstract: Sections 12.00 and 112.00, Mental Disorders, of appendix 1 to subpart P of part 404 of our regulations describe those mental impairments that we consider severe enough to prevent a person from doing any gainful activity, or that cause marked and severe functional limitations for a child claiming Supplemental Security Income payments under title XVI. We will revise the criteria in these sections to ensure that the medical evaluation criteria are up to date and consistent with the latest advances in medical knowledge and treatment.

Statement of Need: These regulations are necessary to update the listings for evaluating mental disorders to reflect advances in medical knowledge, treatment, and methods of evaluating these disorders. The changes will ensure that determinations of disability have a sound medical basis, that claimants receive equal treatment through the use of specific criteria, and that people who are disabled can be readily identified and awarded benefits if all other factors of entitlement or eligibility are met.

Summary of Legal Basis: Administrative—not required by statute or court order.

Alternatives: We considered not revising the listings or making only minor technical changes. However, we believe that these revisions are preferable because of the medical advances that have been made in treating and evaluating these types of disorders. We have not comprehensively revised the current listings in over 15 years. Medical advances in disability evaluation and treatment and our program experience make clear that the current listings do not reflect state-of-the-art medical knowledge and technology.

Anticipated Cost and Benefits: Savings estimates for fiscal years 2010 to 2018: (in millions of dollars) OASDI–315, SSI–370.

Risks: None.

Timetable:

Action	Date	FR Cite
ANPRM	03/17/03	68 FR 12639
ANPRM Comment Period End.	06/16/03	
NPRM	08/19/10	75 FR 51336
NPRM Comment Period End.	11/17/10	
NPRM	11/24/10	75 FR 71632
NPRM Comment Period End.	12/09/10	
Final Action	07/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Additional Information: Includes Retrospective Review under E.O. 13563.

URL for Public Comments: *www.regulations.gov.*

Agency Contact: Cheryl A. Williams, Director, Social Security Administration, Office of Medical Listings Improvement, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 965–1020.

Fran O. Thomas, Social Insurance Specialist, Regulations Writer, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 966–9822.

RIN: 0960–AF69

SSA

109. Revised Medical Criteria for Evaluating Congenital Disorders That Affect Multiple Body Systems (3566F)

Priority: Other Significant.

Legal Authority: 42 U.S.C. 402; 42 U.S.C. 405(a); 42 U.S.C. 405(b); 42 U.S.C. 405(d) to 405(h); 42 U.S.C. 416(i);

42 U.S.C. 421(a); 42 U.S.C. 421(i); 42 U.S.C. 423; 42 U.S.C. 902(a)(5); 42 U.S.C. 1381a; 42 U.S.C. 1382c; 42 U.S.C. 1383; 42 U.S.C. 1383b

CFR Citation: 20 CFR 404.1500, app 1.

Legal Deadline: None.

Abstract: Sections 10.00 and 110.00, of appendix 1 to subpart P of part 404 of our regulations describe impairments that affect multiple body systems that we consider severe enough to prevent a person from doing any gainful activity, or that cause marked and severe functional limitations for a child claiming Supplemental Security Income payments under title XVI. We are proposing to revise the criteria in these sections to ensure that the medical evaluation criteria are up to date and consistent with the latest advances in medical knowledge and treatment.

Statement of Need: These final regulations are necessary to update the multiple body systems listings to reflect advances in medical knowledge, treatment, and methods of evaluating these disorders. The changes will ensure that determinations of disability have a sound medical basis, that claimants receive equal treatment through the use of specific criteria, and that people who are disabled can be readily identified and awarded benefits if all other factors of entitlement or eligibility are met.

Summary of Legal Basis: Administrative—not required by statute or court order.

Alternatives: We considered not revising the listings and continuing to use our current criteria. However, we believe that proposing these revisions is preferable because of the medical advances that have been made in treating and evaluating these types of disorders and because of our adjudicative experience.

Anticipated Cost and Benefits: Estimated Savings—low.

Risks: None.

Timetable:

Action	Date	FR Cite
ANPRM	11/10/09	74 FR 57971
ANPRM Comment Period End.	01/11/10	
NPRM	10/25/11	76 FR 66006
NPRM Comment Period End.	12/27/11	
Final Action	12/00/12	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Additional Information: Includes Retrospective Review under E.O. 13563.

Agency Contact: Cheryl A. Williams, Director, Social Security Administration, Office of Medical Listings Improvement, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 965–1020.

Joshua B. Silverman, Social Insurance Specialist, Regulations Writer, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 594–2128.

RIN: 0960–AH04

SSA

110. Amendments to Regulations Regarding Withdrawals of Applications and Voluntary Suspension of Benefits (3573F)

Priority: Other Significant.

Legal Authority: 42 U.S.C. 402; 42 U.S.C. 402(i); 42 U.S.C. 402(j); 42 U.S.C. 402(o); 42 U.S.C. 402(p); 42 U.S.C. 402(r); 42 U.S.C. 403(a); 42 U.S.C. 403(b); 42 U.S.C. 405(a); 42 U.S.C. 416; 42 U.S.C. 416(i)(2); 42 U.S.C. 423; 42 U.S.C. 423(b); 42 U.S.C. 425; 42 U.S.C. 428(a) to 428(e); 42 U.S.C. 902(a)(5)

CFR Citation: 20 CFR 404.313; 20 CFR 404.640.

Legal Deadline: None.

Abstract: We will modify our regulations to establish a 12-month time limit for the withdrawal of an old age benefits application. We will also permit only one withdrawal per lifetime. These changes will limit the voluntary suspension of benefits only to those benefits disbursed in future months.

Statement of Need: We are under a clear congressional mandate to protect the Trust Funds. It is crucial that we change our current policies that have the effect of allowing beneficiaries to withdraw applications or suspend benefits and use benefits from the Trust Funds as something akin to an interest-free loan.

Summary of Legal Basis: Discretionary.

Alternatives: We believe that based on our current evidence there are no alternatives at this time.

Anticipated Cost and Benefits: The administrative effect of this final rule is negligible.

Risks: None.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/08/10	75 FR 76256
Interim Final Rule Effective.	12/08/10	
Interim Final Rule Comment Period End.	02/07/11	
Final Action	05/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Undetermined.

Agency Contact: Deidre Bemister, Social Insurance Specialist, Social Security Administration, Office of Income Security Programs, Baltimore, MD 21235–6401, *Phone:* 410 966–6223.

Helen Droddy, Social Insurance Specialist, Regulations Writer, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 965–1483.

RIN: 0960–AH07

SSA

111. Revised Medical Criteria for Evaluating Visual Disorders (3696F)

Priority: Other Significant.

Legal Authority: 42 U.S.C. 402; 42 U.S.C. 405(a); 42 U.S.C. 405(b); 42 U.S.C. 405(d) to 405(h); 42 U.S.C. 416(i); 42 U.S.C. 421(a); 42 U.S.C. 421(i); 42 U.S.C. 423; 42 U.S.C. 902(a)(5); 42 U.S.C. 1381a; 42 U.S.C. 1382c; 42 U.S.C. 1383; 42 U.S.C. 1383b

CFR Citation: 20 CFR 404.1500, app 1.

Legal Deadline: None.

Abstract: Sections 2.00 and 102.00, Special Senses and Speech, of appendix 1 to subpart P of our regulations describe visual, hearing, and speech disorders that we consider severe enough to prevent a person from doing any gainful activity, or that cause marked and severe functional limitations for a child claiming Supplemental Security Income payments under title XVI. We are proposing to revise the criteria in the sections we use to evaluate visual disorders to ensure that medical evaluation criteria are up-to-date and consistent with the latest advances in medical knowledge and treatment.

Statement of Need: These final regulations are necessary to update the visual disorders listings to reflect advances in medical knowledge, treatment, and methods of evaluating visual disorders. The changes will ensure that determinations of disability have a sound medical basis, that claimants receive equal treatment through the use of specific criteria, and that people who are disabled can be readily identified and awarded benefits if all other factors of entitlement or eligibility are met.

Summary of Legal Basis: Administrative—not required by statute or court order.

Alternatives: We considered not revising the listings and continuing to

use our current criteria. However, we believe that these revisions are preferable because of the medical advances that have been made in treating and evaluating visual disorders and because of our adjudicative experience.

Anticipated Cost and Benefits: Estimated Savings—low.

Risks: None.

Timetable:

Action	Date	FR Cite
NPRM	02/13/12	77 FR 7549
NPRM Comment Period End.	04/13/12	
Final Action	12/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Additional Information: Includes Retrospective Review under E.O. 13563.

URL for Public Comments: www.regulations.gov.

Agency Contact: Cheryl A. Williams, Director, Social Security Administration, Office of Medical Listings Improvement, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 965–1020.

Tiya Marshall, Social Insurance Specialist, Social Security Administration, Office of Medical Listings Improvement, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 965–9291.

Brian Rudick, Social Insurance Specialist, Regulations Writer, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 965–7102.

RIN: 0960–AH28

SSA

112. Amendments to the Rules on Determining Hearing Appearances and to the Rules on Objecting to the Time and Place of the Hearing (3401F)

Priority: Other Significant.

Legal Authority: 42 U.S.C. 401(j); 42 U.S.C. 404(f); 42 U.S.C. 405(a); 42 U.S.C. 405(b); 42 U.S.C. 405(d) to 405(h); 42 U.S.C. 405(j); 42 U.S.C. 405(s); 42 U.S.C. 405 note; 42 U.S.C. 421; 42 U.S.C. 421 note; 42 U.S.C. 423(a) to 423(b); 42 U.S.C. 423(i); 42 U.S.C. 425; 42 U.S.C. 902(a)(5); 42 U.S.C. 902 note; 42 U.S.C. 1381; 42 U.S.C. 1381a; 42 U.S.C. 1383; 42 U.S.C. 1383b

CFR Citation: 20 CFR 404.929; 20 CFR 404.936; 20 CFR 404.938; 20 CFR 404.950; 20 CFR 405.315; 20 CFR 416.1429; 20 CFR 416.1436; 20 CFR 416.1438; 20 CFR 416.1450.

Legal Deadline: None.

Abstract: These final rules are another step in our continuous efforts to handle workloads more effectively and efficiently. We are publishing final rules for portions of the rules we proposed in October 2007 that relate to appearing by telephone and the timeframe requirement for objecting to the time or place of the hearing. We expect these final rules will make the hearings process more efficient and help us continue to reduce the hearings backlog. In addition, we made some editorial changes to our regulations that do not alter the substance of the regulations or have any effect on the rights of the claimants or any other parties.

Statement of Need: This final rule is another step in our continual efforts to handle workloads more effectively and efficiently. We are publishing final rules for portions of the rules we proposed in October 2007 that relate to appearing by telephone and the time period provided for objecting to the time or place of the hearing. In addition, we made some editorial changes to our regulation that do not alter the substance of the regulations or have any effect on the rights of claimants or any other parties.

Summary of Legal Basis: Administrative not required by statute or court order.

Alternatives: We believe that based on our current evidence there are no alternatives at this time.

Anticipated Cost and Benefits: The remaining item regarding enabling Administrative Law Judges (ALJs) to specify telephone as the mode for conducting a hearing in extraordinary circumstances and the small modification in the time period for objecting to the time and place specified for the hearing should not have any significant effect on the timing or nature of ALJ decisions. Consequently, we do not expect the publication of this final rule to result in any negligible changes to OASDI or SSI benefit outlays. The administrative effect of this regulation is negligible (i.e., less than 25 workyears or $2 million annually).

Risks: None.

Timetable:

Action	Date	FR Cite
NPRM	10/29/07	72 FR 61218
NPRM Comment Period End.	12/28/07	
Final Action	06/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

URL for Public Comments: www.regulations.gov.

Agency Contact: Brent Hillman, Social Insurance Specialist, Social Security Administration, Office of Disability Adjudication and Review, 5107 Leesburg Pike, Falls Church, VA 22041–3260, *Phone:* 703 605–8280.

Brian Rudick, Social Insurance Specialist, Regulations Writer, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 965–7102.

Related RIN: Previously reported as 0960–AG52.

RIN: 0960–AH40

BILLING CODE 4191–02–P

FALL 2012 STATEMENT OF REGULATORY PRIORITIES

CFPB Purposes and Functions

The Bureau of Consumer Financial Protection (CFPB) was established as an independent bureau of the Federal Reserve System by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111–203, 124 Stat. 1376) (Dodd-Frank Act). Pursuant to the Dodd-Frank Act, the CFPB has rulemaking, supervisory, enforcement, and other authorities relating to consumer financial products and services. Among these are the consumer financial protection authorities that transferred to the CPFB from seven Federal agencies on the designated transfer date, July 21, 2011. These authorities include the ability to issue regulations under more than a dozen Federal consumer financial laws.

As provided in section 1021 of the Dodd-Frank Act, the purpose of the CFPB is to implement and enforce Federal consumer financial laws consistently for the purpose of ensuring that all consumers have access to markets for consumer financial products and services and that such markets are fair, transparent, and competitive. The CFPB is authorized to exercise its authorities for the purpose of ensuring that:

(1) Consumers are provided with timely and understandable information to make responsible decisions about transactions involving consumer financial products and services;

(2) Consumers are protected from unfair, deceptive, or abusive acts and practices and from discrimination;

(3) Outdated, unnecessary, or unduly burdensome regulations concerning consumer financial products and

services are regularly identified and addressed in order to reduce unwarranted regulatory burdens;

(4) Federal consumer financial law is enforced consistently, without regard to status as a depository institution, in order to promote fair competition; and

(5) Markets for consumer financial products and services operate transparently and efficiently to facilitate access and innovation.

Immediate Regulatory Priorities

The CFPB is working on a wide range of initiatives to address issues in markets for consumer financial products and services that are not reflected in this notice because the Unified Agenda is limited to rulemaking activities. With regard to the exercise of its rulemaking authorities, as reflected in the CFPB's semiannual regulatory agenda, the CFPB's immediate focus continues to be on completing various mortgage-related rulemakings that are mandated by the Dodd-Frank Act. In addition, the CFPB is working on a number of procedural rules relating to the stand-up of the CFPB as an independent regulatory agency.

The semiannual regulatory agenda provides more detailed descriptions of individual rulemaking projects. The CFPB remains particularly focused on meeting the rulemaking deadlines set forth in Title XIV of the Dodd-Frank Act, in order to provide certainty to consumers, financial services providers, and the broader economy. Among the rules the CFPB is working to complete action on in 2013 are the following:

Mortgage Rules Implementing Title XIV Provisions of the Dodd-Frank Act:

• Finalizing a Board of Governors of the Federal Reserve System (Board) proposal, published in May, 2011, to implement Dodd-Frank Act requirements that creditors make a reasonable, good-faith determination at the time the loan is consummated that consumers have the ability to repay a loan. The Board's proposal amends Regulation Z to implement amendments to the Truth in Lending Act (TILA) made by the Dodd-Frank Act. Regulation Z currently prohibits a creditor from making a higher-priced mortgage loan without regard to the consumer's ability to repay the loan. The Board's proposal would implement statutory changes made by the Dodd-Frank Act that expand the scope of the ability to repay requirement to cover any consumer credit transaction secured by a dwelling (excluding an open-end credit plan, timeshare plan, reverse mortgage, or temporary loan). In addition, the proposal would establish standards for complying with the ability to repay requirement, including by making a ''qualified mortgage.'' The proposal also implements the Dodd-Frank Act's limits on prepayment penalties. Finally, the proposal would require creditors to retain evidence of compliance with this rule for three years after a loan is consummated.

• Finalizing a Board proposal published in March 2011, implementing certain amendments to TILA made by the Dodd-Frank Act that lengthen the time for which a mandatory escrow account established for a higher-priced mortgage loan must be maintained. In addition, the Board's proposal would implement the Dodd Frank Act's disclosure requirements regarding escrow accounts. The Board's proposal also would exempt certain loans from the statute's escrow requirement, pursuant to authority in the Dodd-Frank Act. The primary exemption would apply to mortgage loans extended by creditors that operate predominantly in rural or underserved areas and meet certain other prerequisites.

• Finalizing CFPB proposals published in September 2012 to amend Regulation Z (TILA), and Regulation X (Real Estate Settlement Procedures Act (RESPA)), to implement Dodd-Frank Act provisions regarding mortgage loan servicing and other revisions. The CFPB's Regulation Z proposal would implement Dodd Frank Act sections addressing initial rate adjustment notices for adjustable-rate mortgages (ARMs), periodic statements for residential mortgage loans, and prompt crediting of mortgage payments and response to requests for payoff amounts. The proposed provisions would also amend current rules governing the scope, timing, content, and format of current disclosures to consumers occasioned by the interest rate adjustments of their variable-rate transactions. The CFPB's Regulation X proposal requests comment regarding proposed additions to Regulation X to address servicer obligations: (1) to correct errors asserted, and provide information requested, by mortgage loan borrowers; (2) to alert consumers to possible servicer imposition of force-placed insurance and ensure that a reasonable basis exists to charge for it; (3) to establish reasonable information management policies and procedures; (4) to provide information about mortgage loss mitigation options to delinquent borrowers; (5) to provide delinquent borrowers access to servicer personnel with continuity of contact about the borrower's mortgage loan account; and (6) to evaluate borrowers' complete applications for available loss mitigation options. The Regulation X proposal would also modify and streamline certain existing general and servicing-related provisions of Regulation X.

• Finalizing a CFPB proposal, published in September 2012, amending Regulation Z (TILA) to implement Dodd-Frank Act amendments to TILA on loan originator compensation, including a new additional restriction on the imposition of any upfront discount points, origination points, or fees on consumers under certain circumstances. In addition, the proposal implements additional requirements imposed by the Dodd-Frank Act concerning proper qualification and registration or licensing for loan originators. The proposal also implements Dodd-Frank Act restrictions on mandatory arbitration and the financing of certain credit insurance premiums. Finally, the proposal provides additional guidance and clarification under the existing regulation's provisions restricting loan originator compensation practices, including guidance on the application of those provisions to certain profit-sharing plans and the appropriate analysis of payments to loan originators based on factors that are not terms but that may act as proxies for a transaction's terms.

• Finalizing an interagency proposal on appraisal requirements for higher-risk mortgages. The CFPB is participating in interagency rulemaking processes with the Board, the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), and the Federal Housing Finance Agency (FHFA) to develop proposed regulations to implement amendments made by the Dodd-Frank Act to TILA and the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) concerning appraisals. In September 2012, the Board, CFPB, FDIC, FHFA, NCUA, and OCC published a proposed rule amending Regulation Z (TILA), to provide that, for mortgages with an annual percentage rate that exceeds the average prime offer rate by a specified percentage, creditors must obtain an appraisal or appraisals meeting certain specified standards, provide applicants with a notification regarding the use of the appraisals, and give applicants a copy of the written appraisals used.

• Finalizing a CFPB proposal, published in September 2012, to implement a Dodd-Frank amendment to the Equal Credit Opportunity Act (ECOA), concerning appraisals. In general, the CFPB's proposal revises Regulation B, which implements ECOA,

to require creditors to provide free copies of all written appraisals and valuations developed in connection with an application for a loan to be secured by a first lien on a dwelling. The proposal also would require creditors to notify applicants in writing of the right to receive a copy of each written appraisal or valuation at no additional cost.

• Finalizing a CFPB proposal published in August 2012 that would implement Dodd-Frank Act amendments to TILA that expand the types of mortgage loans that are subject to the protections of the Home Ownership and Equity Protection Act of 1994 (HOEPA), that revise and expand the triggers for coverage under HOEPA, and that impose additional restrictions on HOEPA mortgage loans, including a pre-loan counseling requirement. The CFPB's proposal would also implement other Dodd-Frank Act amendments to TILA and RESPA that impose certain other requirements related to homeownership counseling.

Completion of Other Pending Rulemakings:

Other priority rulemakings that the CFPB is working to complete in 2013 include the following:

• Finalizing CFPB proposed rules and forms that combine certain disclosures that consumers receive in connection with applying for and closing on a mortgage loan under TILA and RESPA. In August 2012, the CFPB published a proposal to amend Regulation X (RESPA) and Regulation Z (TILA) to establish new disclosure requirements and forms in Regulation Z for most closed-end consumer credit transactions secured by real property. In addition to combining the existing disclosure requirements and implementing new requirements in the Dodd-Frank Act, the CFPB's proposed rule provides extensive guidance regarding compliance with those requirements.

• A CFPB rulemaking to amend the ability to pay (ATP) provisions of Regulation Z (TILA) to address concerns that the current rule unduly limits the ability of spouses and partners not working outside the home to obtain credit cards based on spousal/partner income. In May 2011, the Board published a final rule that, among other things, amended the provisions of Regulation Z that implement the requirement in the Credit Card Accountability Responsibility and Disclosure Act of 2009 (Credit Card Act) that card issuers consider a consumer's ability to pay before opening a new credit card account or increasing the credit limit on an existing account. These amendments expanded the pre-existing independence standard applicable to consumers under the age of 21 to all consumers, regardless of age. The proposal eliminates the independent ability to pay requirement for consumers and applicants age 21 or older and instead permits card issuers to consider income and assets to which the consumer or applicant has a reasonable expectation of access. The CFPB initiated this rulemaking through the issuance of a proposed rule in October 2012.

• Additional regulations governing international money transfers (remittances) under the Electronic Fund Transfer Act (EFTA), as amended by the Dodd-Frank Act. These regulations concern disclosures, error resolution procedures, and other topics. The Board published a proposal concerning these rules in May 2011, and in February 2012, and August, 2012 the CFPB published final rules implementing these EFTA provisions.

Additional Rulemakings

As the CFPB completes work on a number of pending rulemakings, it is in the process of analyzing and prioritizing additional projects. For instance, the CFPB expects to accelerate work on other rulemakings that are mandated under the Dodd-Frank Act, such as amendments to the Home Mortgage Disclosure Act (HMDA) to require creditors to collect and report certain additional lending data. The CFPB also expects to continue working on an interagency basis to complete rulemakings related to appraisals and implementation of the Expedited Funds Availability Act.

In addition, the CFPB anticipates further rulemaking with regard to its nonbank supervision program and ''larger participants.'' In addition to its supervisory authority over nonbanks participating in certain markets enumerated in the Dodd-Frank Act, the CFPB may supervise ''larger participants'' in other markets for consumer financial products or services, as the CFPB defines by rule. The CFPB published its first ''larger participant'' rule, relating to consumer reporting, in July 2012. In October 2012, the CFPB published its second rule of this type, defining larger participants of a market for consumer debt collection. The CFPB anticipates publishing a notice of proposed rulemaking and a final rule in 2013, for the third in a series of larger participant rulemakings.

The CFPB is also assessing ways to fulfill its mission to reduce unwarranted regulatory burdens on industry. In December 2011, the CFPB issued a request for information on this topic seeking broad stakeholder input on potential projects to streamline, modernize, and harmonize regulations that it had inherited from other federal agencies. The notice suggested several possible projects, ranging from current requirements involving automated teller machine (ATM) physical disclosures, to paper annual privacy notices provided by financial institutions to consumers, to the provision of electronic disclosures to consumers. More broadly, the notice sought comment on ways to identify/prioritize projects, ways the CFPB could help facilitate implementation and compliance efforts, data on burdens, and ways to identify practical measures the CFPB could take to promote or remove obstacles to responsible innovation in consumer financial services markets. The CFPB received approximately 166 comments over a several month period, and has already begun to consider some of the suggestions received in the development of its rules.

For instance, streamlining, as discussed in the CFPB's December 2011 notice, was one consideration, among others, in the CFPB's rulemaking referenced above on the changes to the ability to pay provisions of Regulation Z with regard to the Credit Card Act. In addition, in the TILA–RESPA integrated disclosure proposed rule, referenced above, the CFPB solicited feedback on several items discussed in the CFPB's December 2011 streamlining request for information to determine the most effective method of addressing certain issues. For example, the CFPB solicited feedback on modifying the thresholds applicable to the definition of ''creditor'' in Regulation Z. The CFPB also believes that the HMDA rulemaking provides an opportunity to identify ways to reduce implementation burdens and will increase overall efficiency if it is synchronized with industry data standards and other regulatory initiatives. The CFPB is considering additional streamlining initiatives in 2013.

Finally, the CFPB is also in the process of assessing information gathered in the past year concerning a variety of consumer financial products and services besides mortgage loans to determine whether rulemakings are warranted to address other markets. In particular, the CFPB has issued a number of requests for information, an advance notice of proposed rulemaking, and congressionally mandated and other reports in the past year concerning a wide variety of markets and consumer financial issues. Other topics have come to the CFPB's attention in connection with enforcement actions by the CFPB

or other regulators. A sample of these issues and markets include:

Requests for Information

Request for Information on Consumer Financial Products and Services Offered to Servicemembers, 76 FR 54998 (September 6, 2011)
Requests for Information Regarding Private Education Loans and Private Educational Lenders, 76 FR 71329 (November 17, 2011)
Impacts of Overdraft Programs on Consumers, 77 FR12031 (February 28, 2012)
Request for Comment on Payday Lending Hearing Transcript, 77 FR 16817 (March 22, 2012)
Request for Information Regarding Scope, Methods, and Data Sources for Conducting Study of Pre-Dispute Arbitration Agreements, 77 FR 25148 (April 27, 2012)
Requests for Information Regarding Complaints From Private Education Loan Borrowers, 77 FR 35659 (June 14, 2012)
Requests for Information Regarding Senior Financial Exploitation, 77 FR 36491 (June 19, 2012)
Consumer Use of Reverse Mortgages, 77 FR 39222 (July 2, 2012)

Advance Notice of Proposed Rulemakings

Electronic Funds Transfer (Regulation E) (general purpose reloadable prepaid cards), 77 FR 30923, May 24, 2012

Reports

Fair Debt Collection Practices Act—CFPB Annual Report 2012 (March 20, 2012)
Reverse Mortgages, Report to Congress, June 28, 2012
Private Student Loans, August 29, 2012
Analysis of Differences between Consumer- and Creditor-Purchased Credit Scores, September 2012

In some cases, the CFPB expects to follow up on these earlier efforts through conducting additional research in 2013. For example, the CFPB's request for information relating to mandatory arbitration was designed to assist the CFPB in preparing to conduct a congressionally mandated study on the topic, which in turn may provide a basis under the Dodd-Frank Act for certain rulemaking activity. The CFPB also expects to publish studies and other reports to describe what it has learned on particular topics. In other cases, the CFPB may conclude that rulemaking activity is warranted based on the research and input that have been received to date. For example, the CFPB expects to publish a Notice of Proposed Rulemaking concerning general purpose reloadable prepaid cards, in follow up to its earlier Advanced Notice of Proposed Rulemaking. However, the CFPB is still determining the scope and timing of the proposal.

The CFPB expects to intensify its work in analyzing and prioritizing other potential rulemaking projects as it completes work on the January 2013 mortgage regulations and other pending projects described above and in the regulatory agenda. The CFPB anticipates updating its spring 2013 agenda to reflect the results of this process.

This Statement of Regulatory Priorities (Statement) supplements the semiannual regulatory agenda that is being published contemporaneously. The CFPB is submitting this Statement on a voluntary basis. It is also available from RegInfo.gov.

BILLING CODE 4810–AM–P

CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

Statement of Regulatory Priorities

The U.S. Consumer Product Safety Commission (the Commission) is charged with protecting the public from unreasonable risks of death and injury associated with consumer products. To achieve this goal, the Commission:

- Develops mandatory product safety standards or bans rules when other, less restrictive, efforts are inadequate to address a safety hazard, or where required by statute;
- Obtains repair, replacement, or refund of the purchase price for defective products that present a substantial product hazard;
- Develops information and education campaigns about the safety of consumer products;
- Directs staff to participate in the development or revision of voluntary product safety standards; and
- Follows congressional mandates to enact specific regulations.

Unless directed otherwise by congressional mandate, when deciding which of these approaches to take in any specific case, the Commission gathers and analyzes the best available data about the nature and extent of the risk presented by the product. The Commission's rules require the Commission to consider, among other factors, the following criteria when deciding the level of priority for any particular project:

- Frequency and severity of injury;
- Causality of injury;
- Chronic illness and future injuries;
- Costs and benefits of Commission action;
- Unforeseen nature of the risk;
- Vulnerability of the population at risk; and
- Probability of exposure to the hazard.

Significant Regulatory Actions

Currently, the Commission is considering one rule that would constitute a ''significant regulatory action'' under the definition of that term in Executive Order 12866:

1. Flammability Standard for Upholstered Furniture

Under section 4 of the Flammable Fabrics Act (FFA), the Commission may issue a flammability standard or other regulation for a product of interior furnishing if the Commission determines that such a standard is needed to adequately protect the public against unreasonable risk of the occurrence of fire leading to death or personal injury, or significant property damage. The Commission's regulatory proceeding could result in several actions, one of which could be the development of a mandatory standard requiring that upholstered furniture meet mandatory labeling requirements, resist ignition, or meet other performance criteria under test conditions specified in the standard.

BILLING CODE 6355–01–P

FEDERAL TRADE COMMISSION (FTC)

Statement of Regulatory and Deregulatory Priorities

I. Regulatory and Deregulatory Priorities

Background

The Federal Trade Commission (''FTC'' or ''Commission'') is an independent agency charged by its enabling statute, the Federal Trade Commission Act, with protecting American consumers from ''unfair methods of competition'' and ''unfair or deceptive acts or practices'' in the marketplace. The Commission strives to ensure that consumers benefit from a vigorously competitive marketplace. The Commission's work is rooted in a belief that competition, based on truthful and non-misleading information about products and services, provides consumers the best choice of products and services at the lowest prices.

The Commission pursues its goal of promoting competition in the marketplace through two different, but complementary, approaches. Unfair or

deceptive acts or practices injure both consumers and honest competitors alike and undermine competitive markets. Through its consumer protection activities, the Commission seeks to ensure that consumers receive accurate, truthful, and non-misleading information in the marketplace. At the same time, for consumers to have a choice of products and services at competitive prices and quality, the marketplace must be free from anticompetitive business practices. Thus, the second part of the Commission's basic mission—antitrust enforcement—is to prohibit anticompetitive mergers or other anticompetitive business practices without unduly interfering with the legitimate activities of businesses. These two complementary missions make the Commission unique insofar as it is the Nation's only Federal agency to be given this combination of statutory authority to protect consumers.

The Commission is, first and foremost, a law enforcement agency. It pursues its mandate primarily through case-by-case enforcement of the Federal Trade Commission Act and other statutes. In addition, the Commission is also charged with the responsibility of issuing and enforcing regulations under a number of statutes. Pursuant to the FTC Act, the Commission currently has in place 16 trade regulation rules. Other examples include the regulations enforced pursuant to credit and financial statutes [1] and to energy laws.[2] The Commission also has adopted a number of voluntary industry guides. Most of the regulations and guides pertain to consumer protection matters and are intended to ensure that consumers receive the information necessary to evaluate competing products and make informed purchasing decisions.

Commission Initiatives

The Commission protects consumers through a variety of tools, including both regulatory and non-regulatory approaches. It has encouraged industry self-regulation, developed a corporate leniency policy for certain rule violations, and established compliance partnerships where appropriate.

As detailed below, protecting consumer privacy, helping consumers in financial distress, promoting competition in health care and containing costs of prescription drugs, and using appropriate measures of enforcement, education, and public engagement to address evolving technology and innovation continue to be at the forefront of the Commission's consumer protection and competition programs. By subject area, the FTC discusses the major workshops, reports,[3] and initiatives it has pursued since the 2011 Regulatory Plan was published.

(a) *Protecting Consumer Privacy.* The Commission continues to raise the profile of privacy practices—online and off—through law enforcement, consumer education, and policy initiatives. FTC settlement orders against Facebook and Google resolved charges that these companies violated their privacy promises to consumers.[4] These two settlements showed that all companies big or small must abide by FTC orders against them and keep their privacy promises to consumers.

During 2011–2012, the Commission hosted a series of workshops to explore the privacy issues and challenges associated with 21st century technology and business practices to determine how best to protect consumer privacy while supporting beneficial uses of information and technological innovation. The facial recognition technologies workshop (December 2011) examined the benefits to consumers, as well as privacy and security concerns regarding current and possible future commercial uses of facial recognition technologies, and staff will make recommendations by the end of 2012 on best practices for companies that use these new technologies. Also, on May 30, 2012, the Commission held a workshop to consider the need for new guidance concerning advertising and privacy disclosures in today's online and mobile environments.

Additionally, the FTC's final report [5] (March 2012) on privacy adopted three principles proposed in the draft report (December 2010)—privacy by design, greater transparency, and more consumer choice—to help ensure consumer privacy and business innovation. The report continued to encourage businesses to improve their privacy practices through self-regulation, including a Do Not Track system, and noted some industry progress in this area. The report also identified areas such as large platforms, mobile, and data brokers for further attention in the coming year, and recommended that Congress consider legislation implementing basic privacy protections.

(b) *Help for Consumers in Financial Distress.* The FTC is vigilantly investigating and prosecuting ''Last Dollar'' Fraud from scammers who take advantage of the Nation's most financially fragile consumers through deceptive mortgage servicing practices, abusive debt collection tactics, bogus credit repair services, mortgage, tax and debt relief offers, and fraudulent job and business opportunity schemes. Historic levels of consumer debt, continued unemployment, and an unprecedented downturn in the housing and mortgage markets contributed to high rates of consumer bankruptcies and mortgage loan delinquency and foreclosure. Debt relief services proliferated after the financial crisis and a significant number of consumers hold debts they cannot pay.

The national mortgage crisis launched an industry of companies purporting, for a fee, to obtain mortgage loan modifications or other relief for consumers facing foreclosure. The Commission and other law enforcement have also taken action against mortgage companies that harm consumers through their advertising and servicing practices.

In recent years, debt buyers have become a significant part of the debt collection system. The Commission issued the compulsory process following its February 2009 report, based on an agency debt collection workshop, in which it found major problems in the flow of information among creditors, debt buyers, and collection agencies. In December 2009, the Commission issued compulsory information requests to nine of the Nation's largest debt buying [6] companies, requiring them to produce information about their practices in buying and selling consumer debt. These nine companies collectively purchased about 75 percent of the debt sold in the United States in 2008. The Commission issued the compulsory information requests to determine whether the practice of debt buying is

[1] For example, the Fair Credit Reporting Act (15 U.S.C. sections 1681 to 1681(u), as amended) and the Gramm-Leach-Bliley Act (Pub. L.106–102, 113 Stat. 1338, codified in relevant part at 15 U.S.C. sections 6801 to 6809 and sections 6821 to 6827, as amended).

[2] For example, the Energy Policy Act of 1992 (106 Stat. 2776, codified in scattered sections of the U.S. Code, particularly 42 U.S.C. section 6201 et seq. and the Energy Independence and Security Act of 2007 (EISA)).

[3] The FTC also prepares a number of annual and periodic reports on the statutes it administers. These are not discussed in this plan.

[4] See press releases at *http://ftc.gov/opa/2012/08/google.shtm* and *http://ftc.gov/opa/2012/08/facebook.shtm.*

[5] The report on ''Protecting Consumer Privacy in an Era of Rapid Change: Recommendations for Businesses and Policymakers,'' (Mar. 2012) can be found at *http://ftc.gov/os/2012/03/120326privacyreport.pdf.*

[6] A debt buyer is any third-party company that purchases unpaid consumer debts from another creditor.

contributing to the information flow problems and, more generally, to obtain a better understanding of the role of debt buyers in the debt collection system. The Commission is using the information for a study of the debt buying industry and plans to report its findings by the end of 2012.

On April 28, 2011, the Commission held a workshop, ''Debt Collection 2.0: Protecting Consumers as Technologies Change.'' The workshop addressed the impact of technological advances on the debt collection system, the resulting consumer protection concerns, and the need for responsive policy changes. Technologies discussed included the tools collectors use to locate consumers and their assets; changing modes of collector-consumer communications, such as mobile phones, auto-dialers, and electronic mail; the software that collectors use to manage information about consumers and debts; and collector use of social media applications. Commission staff is drafting a document highlighting the workshop's key findings and their policy implications.

(c) *Promoting Competition in Health Care.* The FTC continues to work to restrict anticompetitive settlements featuring payments by branded drug firms to a generic competitor to keep generic drugs off the market (so called, ''pay for delay'' agreements). It's a practice where the pharmaceutical industry wins, but consumers lose. The brand company protects its drug franchise, the generic competitor makes more money from the sweetheart deal than if it had entered the market and competed, and Consumers end up paying an estimated additional $3.5 billion annually because of these deals.[7] The Commission has a two-pronged approach to restricting pay-for-delay agreements: Active support for legislation to ban these harmful agreements—including proposed legislation that the Senate Judiciary Committee recently approved [8]—and Federal court challenges to invalidate individual agreements. The FTC is actively litigating to restrict pay-for-delay agreements,[9] including participating as an amicus in a landmark decision during July 2012 by an appellate court in the Third Circuit,[10] with jurisdiction over a significant number of U.S. pharmaceutical firms, which agreed with the Commission's position on pay-for-delay. However, solving this problem through the courts will take considerable time during which American consumers and governments will continue to pay high prices for prescription drugs. Therefore, even as the Commission fights against anticompetitive pay-for-delay settlements in the courts, the Commission continues to support a legislative solution to the problem.

Also in the health care arena, the FTC worked with the Department of Justice and other agencies, most notably the Centers for Medicare and Medicaid Services, to develop a Joint Statement of Antitrust Enforcement Policy for Accountable Care Organizations (ACOs).[11] Broadly speaking, the policy statement explains how the Agencies will enforce the antitrust laws with respect to ACOs. It creates a safety zone for certain ACOs that are highly unlikely to raise significant competitive concerns, and therefore will not be challenged by the Agencies under the antitrust laws, absent extraordinary circumstances. The statement also provides guidance for ACOs that do not fall within the safety zone.

We have sought where possible to be flexible in our approach. In response to feedback from providers and other stakeholders, we made some modifications to the proposed policy statement. For example, the entire final policy Statement (with the exception of voluntary review) applies to all collaborations among otherwise independent providers and provider groups that are eligible and intend, or have been approved, to participate in the Medicare Shared Savings Program. The policy statement no longer only applies to collaborations formed after March 23, 2010. We also expanded the rural exception, which allows rural ACOs to fall within the safety zone, under certain circumstances.

(d) *Food Marketing to Children.* After obtaining OMB approval, the Commission issued information requests on August 12, 2010, to 48 major food and beverage manufacturers, and quick-service restaurant companies about spending and marketing activities targeting children and adolescents, as well as nutritional information for food and beverage products that the companies market to these young consumers. The study will advance the Commission's understanding of how food industry promotional dollars targeted to children and adolescents are allocated, the types of activities and marketing techniques the food industry uses to market its products to children and adolescents, and the extent to which self-regulatory efforts are succeeding in improving the nutritional quality of foods advertised to children and adolescents. The Bureau of Consumer Protection is analyzing the data and preparing a report, which is expected to be released in late 2012.

(e) *Alcohol Advertising.* On February 1, 2012, OMB gave the Commission approval, under the Paperwork Reduction Act, to issue compulsory process orders to up to 14 alcohol companies. On April 16, 2012, the Commission issued the orders, seeking information on company brands, sales, and marketing expenses; compliance with advertising placement codes; and use of social media and other digital marketing.[12] The Commission staff estimates that the study will be completed, and a report issued, in spring 2013. The Commission also continues to promote the ''We Don't Serve Teens'' consumer education program, supporting the legal drinking age.[13]

(f) *Gasoline Prices.* Given the impact of energy prices on consumer budgets, the energy sector continues to be a major focus of FTC law enforcement and study. In November 2009, the FTC's Petroleum Market Manipulation Rule became final.[14] Our staff continues to examine all communications from the public about potential violations of this Rule, which prohibits manipulation in wholesale markets for crude oil, gasoline, and petroleum distillates. In June 2011, the FTC announced that it is using compulsory process to determine, among other things, whether firms at various stages of the oil industry are engaging in anticompetitive or manipulative conduct.[15] Other activities

[7] The report on ''Pay-for-Delay: How Drug Company Pay-Offs Cost Consumers Billions'' can be found at *http://www.ftc.gov/os/2010/01/100112payfordelayrpt.pdf.*

[8] S.27, ''Preserve Access to Affordable Generics Act.''

[9] *FTC v. Watson Pharm., Inc.,* No. 10–12729–DD (11th Cir. argued May 13, 2011); *FTC v. Cephalon, Inc.,* No. 2:08–CV–02141 (E.D. Pa. argued Oct. 21, 2009).

[10] *In re K-Dur Antitrust Litigation,* No. 10–2077, 2012 WL 2877662 (3d Cir. July 16, 2012).

[11] FTC & U.S. Department of Justice, *Statement of Antitrust Enforcement Policy Regarding Accountable Care Organizations Participating in the Medicare Shared Savings Program* (2011), available at *http://www.justice.gov/atr/public/health_care/276458.pdf.*

[12] A copy of the order, a list of the target companies, and the press release are available online at *http://www.ftc.gov/opa/2012/04/alcoholstudy.shtm.*

[13] More information can be found at *http://www.dontserveteens.gov/.*

[14] 16 CFR Part 317; See press release: ''New FTC Rule Prohibits Petroleum Market Manipulation'' (Aug. 6, 2009), available at *http://www.ftc.gov/opa/2009/08/mmr.shtm*; ''FTC Issues Compliance Guide for Its Petroleum Market Manipulation Regulations,'' News Release (Nov. 13, 2009), available at *http://www.ftc.gov/opa/2009/11/mmr.shtm.*

[15] See press release: ''Public Information Concerning the Federal Trade Commission

complement these efforts, including merger enforcement and an agreement with the Commodity Futures Trading Commission to share investigative information.

(g) *Financing of Motor Vehicles.* The Commission held a series of roundtable events [16] to gather information on possible consumer protection issues that may arise in the sale, lease, or financing of motor vehicles. For many consumers, buying or leasing a car is their most expensive financial transaction aside from owning a home. With prices averaging more than $28,000 for a new vehicle and $14,000 for a used vehicle from a dealer, most consumers seek to lease or finance the purchase of a new or used car. Financing obtained at a dealership may provide benefits for many consumers, such as convenience, special manufacturer-sponsored programs, access to a variety of banks and financial entities, or access to credit otherwise unavailable to a buyer. Dealer-arranged financing, however, can be a complicated, opaque process and could potentially involve unfair or deceptive practices.[17] One hundred comments were received and are being considered.

In spring 2011, the Commission issued final orders regarding five auto dealers (Billion Auto, Ramey Motors, Frank Myers AutoMaxx, Key Hyundai, and Hyundai of Milford). The orders settled charges that the dealers made deceptive claims that they would pay off the remaining balance on consumers' trade-ins, no matter what they owed. Instead, the dealers rolled the negative equity into the consumers' new vehicle loans or, regarding one dealer, required consumers to pay it out of pocket. The agency is continuing to monitor this industry and will identify other enforcement actions and initiatives, as appropriate, to protect consumers in the financing and leasing of motor vehicles.

(h) *Fraud Surveys.* The FTC's Bureau of Economics (BE) continues to conduct fraud surveys and related research on consumer susceptibility to fraud. For example, the FTC is conducting an exploratory study on consumer susceptibility to fraudulent and deceptive marketing. This research is intended to further the FTC's mission of protecting consumers from unfair and deceptive marketing. Data analysis has been completed and BE is drafting a staff report. BE is also surveying consumer experiences with consumer fraud. Data has been collected and is currently being analyzed. Neither study is intended to lead to enforcement actions; rather, study results may aid the FTC's efforts to better target its enforcement actions and consumer education initiatives, and improve future fraud surveys.

(i) *Protecting Consumers from Cross-Border Harm.* The FTC continues to protect American consumers from fraud by making greater use of the tools provided by the U.S. SAFE WEB Act. The FTC has used the Act to cooperate with its foreign law enforcement counterparts in investigations and enforcement actions involving Internet fraud and other technological abuses and deceptive schemes that victimize U.S. consumers. Given the success of the U.S. SAFE WEB Act, the Commission continues to recommend that Congress repeal the Act's 7-year sunset provision before it expires in 2013.

The FTC strives to promote sound approaches to common problems by building relationships with sister agencies around the world. The FTC and DOJ recently signed a landmark Memorandum of Understanding with China's competition agencies, and reaffirmed a set of best practices for use in U.S./European Union merger reviews. These efforts foster consistent outcomes in antitrust investigations, especially international mergers. For example, the FTC cooperated with 10 foreign jurisdictions to review Western Digital's proposed acquisition of Hitachi Global Storage Technologies and design remedies to resolve allegations that the deal would likely harm competition in the personal computer hard disk drive market.

The agency also continued its outreach to aid effective international cooperation by creating an online virtual university for competition authorities worldwide as part of the International Competition Network's Curriculum Project. In the last year, the FTC's technical assistance to foreign agencies included intensive training for the Competition Commission of India and for consumer protection agencies in Latin America.

In December 2011, the Commission urged the Internet Corporation for Assigned Names and Numbers (ICANN) to implement consumer protection safeguards before it dramatically expands the Internet domain name system.[18] The FTC warned that without additional protections, the rapid expansion in the number of generic top-level domain names will increase opportunities for consumer fraud.

(j) *Journalism and the Internet.* In 2009–2010, the FTC began a project to examine how the Internet has transformed the competitive dynamics of the news media industry. The Agency first held a series of exploratory workshops, seeking expert views and public comments on various aspects of the challenges and new opportunities facing the news industry. The Agency continues to analyze the issues discussed at those workshops and elsewhere, including the economics of journalism in a digital world, new business and non-profit models for journalism, and whether any changes to Government policies might be warranted. The Agency plans to release a report in late fall 2012.

(k) *Self-Regulatory and Compliance Initiatives with Industry.* The Commission continues to engage industry in compliance partnerships in the funeral and franchise industries. Specifically, the Commission's Funeral Rule Offender Program, conducted in partnership with the National Funeral Directors Association, is designed to educate funeral home operators found in violation of the requirements of the Funeral Rule, 16 CFR 453, so that they can meet the rule's disclosure requirements. Some 400 funeral homes have participated in the program since its inception in 1996. In addition, the Commission established the Franchise Rule Alternative Law Enforcement Program in partnership with the International Franchise Association (IFA), a nonprofit organization that represents both franchisors and franchisees. This program is designed to assist franchisors found to have a minor or technical violation of the Franchise Rule, 16 CFR 436, in complying with the rule. Violations involving fraud or other section 5 violations are not candidates for referral to the program. The IFA teaches the franchisor how to comply with the rule and monitors its business for a period of years. Where appropriate, the program offers franchisees the opportunity to mediate claims arising from the law violations. Since December 1998, 21 companies

Petroleum Industry Practices and Pricing Investigation'' (June 20, 2011), available at *http://www.ftc.gov/opa/2011/09/gasprices.shtm.*

[16] The first event took place in Detroit, Michigan, on April 12, 2011. The FTC's second motor vehicle roundtable took place in San Antonio, Texas, on August 2–3, 2011. The FTC's third motor vehicle roundtable took place in Washington, DC, on November 17, 2011. Dates for future additional roundtables will be posted on the FTC Web site at *http://www.ftc.gov.*

[17] Participants in the FTC motor vehicle roundtable identified some examples of unfair and deceptive practices, including deceptive advertising by motor vehicle dealers regarding purchase, loan, or lease terms or costs, as well as add-on products and deceptive claims by auto warranty robocallers.

[18] See press release on ''FTC Warns That Rapid Expansion of Internet Domain Name System Could Leave Consumers More Vulnerable to Online Fraud'' (December 16, 2011), available at *http://www.ftc.gov/opa/2011/12/icann.shtm.*

have agreed to participate in the program.

Rulemakings and Studies Required by Statute

Congress has enacted laws requiring the Commission to undertake rulemakings and studies. This section discusses required rules and studies. The final actions section below describes actions taken on the required rulemakings and studies since the 2011 Regulatory Plan was published.

FACTA Rules. The Commission has already issued nearly all of the rules required by FACTA (Fair and Accurate Credit Transactions Act). These rules are codified in several parts of 16 CFR 600 *et seq.,* amending or supplementing regulations relating to the Fair Credit Reporting Act. The enforcement of the Red Flags Rule (or Identity Theft Rule), 16 CFR 681, was delayed by the Commission from its initial effective date of November 1, 2008, until January 1, 2011, pending clarification by Congress. The ''Red Flag Program Clarification Act of 2010'' (or the Act), Public Law No. 111–319, was signed into law on December 18, 2010. The Commission and the banking agencies expect to revise the Red Flags Rule to implement the Act by the end of 2012.

FACTA Studies. On March 27, 2009, the Commission issued compulsory information requests to the nine largest private providers of homeowner insurance in the Nation. The purpose was to help the FTC collect data for its study on the effects of credit-based scores in the homeowner insurance market, a study mandated by section 215 of the FACTA. During the summer of 2009, these nine insurers submitted responses to the Commission's requests. FTC staff has reviewed the large policy-level data files included in these submissions and has identified a sample set of data to be used for the study. The insurance companies then entered protracted negotiations with their vendor to ensure the security of delivering the data set to the FTC's own and separate vendor and then on to the Social Security Administration before returning the data to the FTC. Staff expects to prepare and submit the report to Congress during the summer of 2013. The data collection phase of the study should be completed by the end of fall, 2012. This study is not affected by the Consumer Financial Protection Act.

The FTC is also conducting a national study of the accuracy of consumer reports in connection as required under section 319 of the FACTA. This study is a follow-up to the Commission's two previous pilot studies that were undertaken to evaluate a potential design for a national study. Section 319 requires the FTC to study the accuracy and completeness of information in consumers' credit reports and to consider methods for improving the accuracy and completeness of such information. Section 319 of the Act also requires the Commission to issue a series of biennial reports to Congress over a period of 11 years.[19] A major report on the study is due by December 2012. This study is also not affected by the Consumer Financial Protection Act.

Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act (Appliance Labeling Rule), 16 CFR 305. Under direction from Congress to examine the effectiveness of light bulb labels, the FTC introduced a new ''Lighting Facts'' label in July 2010 for medium screw-base light bulbs. 75 FR 41696. On July 22, 2011, the Commission announced an NPRM seeking comment on expanding the ''Lighting Facts'' label coverage to additional bulb types and a specific test procedure for light-emitting diode (LED) bulbs. Staff anticipates sending a recommendation to the Commission by early 2013.

Regional Efficiency Standards—Section 306 of the EISA (Energy Independence and Security Act of 2007) directs that within 90 days of the Department of Energy (DOE) publishing a final rule establishing regional efficiency standards for furnaces, central air conditioners, and heat pumps, the FTC must undertake a rulemaking to determine the appropriate disclosures regarding conformance with such regional standards. The DOE's final rule became effective on October 25, 2011. The statutory deadline for the Commission to issue requirements for disclosures on residential heating and cooling equipment is 15 months after DOE issued their final efficiency standards. 76 FR 37408. Accordingly, on November 28, 2011, the Commission published an ANPRM seeking comment on disclosures to help consumers, distributors, contractors, and installers easily determine whether a specific furnace, central air conditioner, or heat pump meets the applicable new DOE efficiency standard for the region where it will be installed. 76 FR 72872. On June 6, 2012, the Commission published an NPRM seeking public comment on proposed changes to the EnergyGuide labels which would provide a U.S. map showing where the product can be installed legally, a simple format for efficiency ratings, and a link to an online energy cost calculator. The FTC also proposed requiring the label on manufacturers' Web sites, product packaging, and, as currently required, on the products themselves. The comment period closed on August 6, 2012, and the Commission expects to issue a final rule by January 2013.

Fur Rules. The Fur Products Labeling Act (Fur Act) requires covered furs and fur products to be labeled, invoiced, and advertised to show: (1) The name(s) of the animal that produced the fur(s); (2) where such is the case, that the fur is used fur or contains used fur; (3) where such is the case, that the fur is bleached, dyed, or otherwise artificially colored; and (4) the name of the country of origin of any imported furs used in the fur product. The implementing Fur Act rules (Fur Rules) are set forth at 16 CFR 301. In December 2010, Congress passed the Truth in Fur Labeling Act (the TFLA), which amends the Fur Act, by: (1) eliminating the Commission's discretion to exempt fur products of ''relatively small quantity or value'' from disclosure requirements; and (2) providing that the Fur Act will not apply to certain fur products ''obtained * * * through trapping or hunting'' and sold in ''face to face transaction[s].'' Public Law No. 111–113. The TFLA also directs the Commission to review and allow comment on the Fur Products Name Guide, 16 CFR 301.0 (Name Guide). On September 17, 2012, the Commission published a proposed amendment to the Fur Rules to update its Fur Products Name Guide, provide more labeling flexibility, incorporate recently enacted Truth in Fur Labeling Act provisions, and eliminate unnecessary requirements. The comment period closes on November 16, 2012. 77FR 57043. Staff anticipates the Commission will issue a final rule by April 2013.

Retrospective Review of Existing Regulations

In 1992, the Commission implemented a program to review its rules and guides regularly. The Commission's review program is patterned after provisions in the Regulatory Flexibility Act, 5 U.S.C. 601–612. Under the Commission's program, rules have been reviewed on a 10-year schedule. For many rules, this has resulted in more frequent reviews than

[19] See Federal Trade Commission Reports to Congress under sections 318 and 319 of the Fair and Accurate Credit Transactions Act of 2003; available at *http://www.ftc.gov/reports/FACTACT/FACTAct_Report_2006.pdf* (Dec. 2006 Report), *http://www.ftc.gov/opa/2008/12/factareport.shtm* (December 2008 Report) and *http://www.ftc.gov/os/2011/01/1101factareport.pdf* (December 2010 Report).

is generally required by section 610 of the Regulatory Flexibility Act. This program is also broader than the review contemplated under the Regulatory Flexibility Act, in that it provides the Commission with an ongoing systematic approach for seeking information about the costs and benefits of its rules and guides and whether there are changes that could minimize any adverse economic effects, not just a ''significant economic impact upon a substantial number of small entities.'' 5 U.S.C. 610.

As part of its continuing 10-year review plan, the Commission examines the effect of rules and guides on small businesses and on the marketplace in general. These reviews may lead to the revision or rescission of rules and guides to ensure that the Commission's consumer protection and competition goals are achieved efficiently and at the least cost to business. In a number of instances, the Commission has determined that existing rules and guides were no longer necessary nor in the public interest. Most of the matters currently under review pertain to consumer protection and are intended to ensure that consumers receive the information necessary to evaluate competing products and make informed purchasing decisions. Pursuant to this program, the Commission has rescinded 37 rules and guides promulgated under the FTC's general authority and updated dozens of others since the early 1990s.

In light of Executive Orders 13563 and 13579, the FTC continues to take a fresh look at its longstanding regulatory review process. The Commission is taking a number of steps to ease burdens on business and promote transparency in its regulatory review program:

- The Commission recently issued a revised 10-year review schedule (see next paragraph below) and is accelerating the review of a number of rules and guides in response to recent changes in technology and the marketplace. More than a third of the Commission's 66 rules and guides will be under review, or will have just been reviewed, by the end of 2012.
- The Commission continues to request and review public comments on the effectiveness of its regulatory review program and suggestions for its improvement.
- The FTC has launched a Web page at *http://www.ftc.gov/regreview* that serves as a one-stop shop for the public to obtain information and provide comments on individual rules and guides under review as well as the Commission's regulatory review program generally.

Pursuant to section 2 of Executive Order 13579 ''Regulation and Independent Regulatory Agencies'' (July 11, 2011), the following Regulatory Identifier Numbers (RINs) have been identified as associated with retrospective review and analysis in the FTC's regulatory review plan. The table includes rulemakings that the Agency expects to issue in proposed or final form during the upcoming year. Each entry includes the title of the rulemaking subject to the Agency's retrospective analysis, the RIN and whether it is expected to reduce burdens on small businesses. The regulatory review plan can be found at: *www.ftc.gov*.

Rule	Regulatory Identifier Nos. (RIN)	Expected to Reduce Burdens on Small Business (Yes/No)
Trade Regulation Rule Concerning Cooling Off Period for Sales Made at Homes or at Certain Other Locations, 16 CFR 429.	3084–AB10	Yes.
Children's Online Privacy Protection Rule, 16 CFR 312	3084–AB20	No.

In addition, the Commission's 10-year periodic review schedule includes the following rules and guides (77 FR 22234, Apr. 13, 2012) for 2013:

(1) Telemarketing Sales Rule, 16 CFR 310,

(2) Preservation of Consumers' Claims and Defenses [Holder in Due Course Rule], 16 CFR 433,

(3) Regulations Under Section 4 of the Fair Packaging and Labeling Act (FPLA), 16 CFR 500 (part 500 Packaging and Labeling Regulation), and

(4) Exemptions From part 500 Packaging and Labeling Regulation Requirements (officially Exemptions From Requirements and Prohibitions under part 500), 16 CFR 501,

(5) Regulations Under Section 5(c) of the Fair Packaging and Labeling Act, 16 CFR part 502, and

(6) Statements of General Policy or Interpretation [under the Fair Packaging and Labeling Act], 16 CFR 503.

Furthermore, consistent with the goal of reducing unnecessary burdens under section 6 of Executive Order 13563, the Commission proposes to amend:

- The Appliance Labeling Rule, 16 CFR 305, to streamline Department of Energy and FTC reporting requirements for Regional Efficiency Standards; and
- The Alternative Fuel Rule, 16 CFR 309, to harmonize FTC and Environmental Protection Agency fuel economy labeling requirements for alternative fuel vehicles.

In particular, the Alternative Fuel Rule proposal is estimated to save industry approximately 35,000 hours in compliance time.[20] Please see the relevant sections under *Rulemakings and Studies Required by Statute* above (for Appliance Labeling Rule) and *Ongoing Rule and Guide Reviews* below (for Alternative Fuel Rule) for further information.

Ongoing Rule and Guide Reviews

The Commission is continuing review of a number of rules and guides, which are discussed below.

(a) Rules

Children's Online Privacy Protection Rule (''COPPA Rule''), 16 CFR 312. The COPPA Rule requires operators of Web sites and online service providers directed at children under 13 (operators), with certain exceptions, to obtain verifiable parental consent before collecting, using, or disclosing personal information from or about children under the age of 13. An operator must make reasonable efforts, in light of available technology, to ensure that the person providing consent is the child's parent. The Commission issued an ANPRM requesting comments on the Rule as part of the systematic regulatory review process. 75 FR 17089 (Apr. 5, 2010). The Commission held a public roundtable on the Rule on June 2, 2010, and the comment period, as extended, ended on July 12, 2010. On September 15, 2011, the Commission announced it was proposing modifications to the Rule in five areas to respond to changes in online technology, including in the mobile marketplace, and, where appropriate, to streamline the Rule: definitions, including the definitions of ''personal information'' and ''collection,'' parental notice, parental consent mechanisms, confidentiality and security of children's personal information, and the role of self-

[20] *See* 77 FR 36423 and 36426.

regulatory ''safe harbor'' programs. 76 FR 59804. In addition, the Commission also proposed adding a new provision addressing data retention and deletion. The Commission received 350 comments.

In response to the comments and informed by its experience in enforcing and administering the COPPA Rule, the Commission issued a supplemental NPRM on August 6, 2012, to modernize the Rule to ensure that children's online privacy continues to be protected, as directed by Congress, as new online technologies evolve, and to clarify existing obligations for operators under the Rule. 77 FR 46643. The comment period, as extended, closed on September 24, 2012. Staff anticipates that the Commission will issue a final rule by the end of 2012.

Premerger Notification Rules and Report Form, 16 CFR Parts 801–803. On August 20, 2012, the Commission, in conjunction with the DOJ's Antitrust Division, announced they were seeking public comments on proposed changes to the premerger notification rules that could require companies in the pharmaceutical industry to report proposed acquisitions of exclusive patent rights to the FTC and the DOJ for antitrust review. 77 FR 50057 (Aug. 20, 2012). The proposed rulemaking clarifies when a transfer of exclusive rights to a patent in the pharmaceutical industry results in a potentially reportable asset acquisition under the Hart Scott Rodino (HSR) Act. The comment period closed on October 25, 2012. Staff anticipates that a final rule will be issued in late 2012 or early 2013.

Labeling Requirements for Alternative Fuels and Alternative Fueled Vehicles Rule (''Alternative Fuel Rule''), 16 CFR Part 309. The Alternative Fuel Rule, which became effective on November 20, 1995, and was last reviewed in 2004, requires disclosure of appropriate cost and benefit information to enable consumers to make reasonable purchasing choices and comparisons between non-liquid alternative fuels, as well as alternative-fueled vehicles. On June 19, 2012, following a review of the rule, [21] the Commission proposed to amend the rule to: (1) Consolidate the FTC's alternative fueled vehicle (''AFV'') labels with new fuel economy labels required by the Environmental Protection Agency and the National Highway Traffic Safety Administration; and (2) eliminate the requirement for a separate AFV label for used vehicles. 77 FR 36423. The public comment period on these proposed amendments closed on August 17, 2012. Staff anticipates Commission action by December 2012.

Negative Option Rule, 16 CFR Part 425. The Negative Option Rule governs the operation of prenotification subscription plans. Under these plans, sellers ship merchandise automatically to their subscribers and bill them for the merchandise within a prescribed time. The rule protects consumers by requiring the disclosure of the terms of membership clearly and conspicuously and establishes procedures for administering the subscription plans. An ANPRM was published on May 14, 2009, 74 FR 22720, and the comment period closed on July 27, 2009. On August 7, 2009, the Commission reopened and extended the comment period until October 13, 2009. 74 FR 40121. Staff anticipates that the Commission will announce further action by October 2012.

Telemarketing Sales Rule (TSR), 16 CFR Part 308. TSR/Caller ID—The Commission issued an advance notice of proposed rulemaking on December 15, 2010, requesting public comment on provisions of the Telemarketing Sales Rule concerning caller identification services and disclosure of the identity of the seller or telemarketer responsible for telemarketing calls. 75 FR 78179. The Commission solicited comments on whether changes should be made to the TSR to reflect the current use and capabilities of Caller ID technologies. In particular, the Commission is interested in whether the TSR should be amended to better achieve the objectives of the Caller ID provisions—including enabling consumers and law enforcement to use Caller ID information to identify entities responsible for illegal telemarketing practices. The comment period closed on January 28, 2011. Staff is reviewing the comments and anticipates making a recommendation to the Commission by the end of 2012.

TSR/Anti-fraud Provisions—The Commission staff are also considering possible amendments to the TSR that would provide new or strengthen existing anti-fraud provisions, as well as make explicit certain other requirements in the TSR. Staff anticipates that the Commission will issue an NPRM by the end of 2012.

Mail or Telephone Order Merchandise Rule. The Mail Order Rule, 16 CFR 435, requires that, when sellers advertise merchandise, they must have a reasonable basis for stating or implying that they can ship within a certain time. On September 30, 2011, the Commission published a NPRM proposing to: Clarify that the Rule covers all orders placed over the Internet; revise the Rule to allow sellers to provide refunds and refund notices by any means at least as fast and reliable as first class mail; clarify sellers' obligations when buyers use payment systems not enumerated in the Rule; and require that refunds be made within seven working days for purchases made using third-party credit cards. 76 FR 60765. The comment period closed on December 14, 2011. Staff has reviewed the comments and anticipates Commission action by early 2013.

Used Car Rule. The Used Motor Vehicle Trade Regulation Rule (''Used Car Rule''), 16 CFR 455, sets out the general duties of a used vehicle dealer; requires that a completed Buyers Guide be posted at all times on the side window of each used car a dealer offers for sale; and mandates disclosure of whether the vehicle is covered by a dealer warranty and, if so, the type and duration of the warranty coverage, or whether the vehicle is being sold ''as is—no warranty.'' The Commission published a notice seeking public comments on the effectiveness and impact of the rule. 73 FR 42285 (July 21, 2008). The notice sought comments on a range of issues including, among others, whether a bilingual Buyers Guide would be useful or practicable, as well as what form such a Buyers Guide should take. The notice also sought comments on possible changes to the Buyers Guide that reflect new warranty products, such as certified used car warranties, that have become increasingly popular since the rule was last reviewed. The comment period, as extended and then reopened, ended on June 15, 2009. Staff anticipates that the Commission's next **Federal Register** notice will be issued by the end of October 2012.

Consumer Warranty Rules, 16 CFR Parts 701–703. The Rule Governing the Disclosure of Written Consumer Product Warranty Terms and Conditions (Rule 701) establishes requirements for warrantors for disclosing the terms and conditions of written warranties on consumer products actually costing the consumer more than $15.00. The Rule Governing the Pre-Sale Availability of Written Warranty Terms, 16 CFR part 702 (Rule 702) requires sellers and warrantors to make the terms of a written warranty available to the consumer prior to sale. The Rule Governing Informal Dispute Settlement

[21] See Advance Notice of Proposed Rulemaking, 76 FR 31513 (June 1, 2011). Also, on June 1, 2011, the Commission postponed any amendments to its Guide Concerning Fuel Economy Advertising for New Automobiles upon completion of ongoing review by the Environmental Protection Agency and the National Highway Traffic Safety Administration of current fuel economy labeling requirements and the Commission's accelerated regulatory review of its own Alternative Fuel Rule. 76 FR 31467.

Procedures (IDSM) (Rule 703) establishes minimum requirements for those informal dispute settlement mechanisms that are incorporated by the warrantor into its consumer product warranty. By incorporating the IDSM into the warranty, the warrantor requires the consumer to use the IDSM before pursuing any legal remedies in court. On August 23, 2011, as part of its ongoing systematic review of all Federal Trade Commission rules and guides, the Commission requested comments on, among other things, the economic impact and benefits of these Rules, Guides, and Interpretations;[22] possible conflict between the Rules, Guides, and Interpretations and State, local, or other Federal laws or regulations; and the effect on the Rules, Guides, and Interpretations of any technological, economic, or other industry changes. 76 FR 52596. The comment period closed on October 24, 2011. Staff anticipates sending a recommendation to the Commission by December 2012.

Cooling-Off Rule. The Cooling-Off Rule requires that a consumer be given a 3-day right to cancel certain sales greater than $25.00 that occur at a place other than a seller's place of business. The rule also requires a seller to notify buyers orally of the right to cancel, to provide buyers with a dated receipt or copy of the contract containing the name and address of the seller and notice of cancellation rights, and to provide buyers with forms which buyers may use to cancel the contract. An ANPRM seeking comment was published on April 21, 2009. 74 FR 18170. The comment period, as extended, ended on September 25, 2009. 74 FR 36972 (Jul. 27, 2009). Staff prepared a recommendation for the Commission and anticipates publication of an NPRM by November 2012.

Unavailability Rule. The Unavailability Rule,16 CFR 424, states that it is a violation of section 5 of the Federal Trade Commission Act for retail stores of food, groceries, or other merchandise to advertise products for sale at a stated price if those stores do not have the advertised products in stock and readily available to customers during the effective period of the advertisement, unless the advertisement clearly discloses that supplies of the advertised products are limited or are available only at some outlets. This Rule is intended to benefit consumers by ensuring that advertised items are available, that advertising-induced purchasing trips are not fruitless, and that store prices accurately reflect the prices appearing in the ads. On August 12, 2011, the Commission announced an ANPRM and a request for comment on the Rule as part of its systematic periodic review of current rules. The comment period closed on October 19, 2011. Staff has reviewed the comments and expects to submit a recommendation to the Commission by the end of 2012.

(b) Guides

Guides for the Use of Environmental Marketing Claims (Green Guides), 16 CFR Part 260. After holding three public workshops, analyzing public comments, and studying consumer perceptions of certain environmental claims, the Commission announced on October 6, 2010, proposed revisions to the Green Guides to help marketers avoid making misleading environmental claims. The proposed changes are designed to update the Guides and make them easier for companies to understand and use. The changes to the Green Guides include new guidance on marketers' use of product certifications and seals of approval, ''renewable energy'' claims, ''renewable materials'' claims, and ''carbon offset'' claims. The comment period closed on December 10, 2010. On October 1, 2012, the Commission announced it was retaining the Guides with some revisions to help marketers avoid making misleading environmental claims. The changes update the Guides and make them easier for companies to understand and use, and include new guidance on marketers' use of product certifications and seals of approval, ''renewable energy'' claims, ''renewable materials'' claims, and ''carbon offset'' claims.

Vocational Schools Guides, 16 CFR 254. The Commission sought public comments on its Private Vocational and Distance Education Schools Guides, commonly known as the Vocational Schools Guides. 74 FR 37973 (July 30, 2009). Issued in 1972 and most recently amended in 1998 to add a provision addressing misrepresentations related to post-graduation employment, the guides advise businesses offering vocational training courses—either on the school's premises or through distance education, such as correspondence courses or the Internet—how to avoid unfair and deceptive practices in the advertising, marketing, or sale of their courses. The comment period closed on October 16, 2009. Staff is reviewing comments and anticipates sending a recommendation to the Commission by the end of 2012 proposing that the Guides be retained with some revisions.

Jewelry Guides, 16 CFR Part 23. The Commission sought public comments on its Guides for the Jewelry, Precious Metals, and Pewter Industries, commonly known as the Jewelry Guides. 77 FR 39202 (July 2, 2012). Since completing its last review of the Jewelry Guides in 1996, the Commission revised sections of the Guides and addressed other issues raised in petitions from jewelry trade associations. The Guides explain to businesses how to avoid making deceptive claims about precious metal, pewter, diamond, gemstone, and pearl products, and when they should make disclosures to avoid unfair or deceptive trade practices. The comment period initially set to close on August 27, 2012, was subsequently extended until September 28, 2012. Staff is currently reviewing comments and anticipates announcing a workshop by the end of 2012.

Used Auto Parts Guides, 16 CFR Part 20. The Commission sought public comments on its Guides for the Rebuilt, Reconditioned, and Other Used Automobile Parts Industry, commonly known as the Used Auto Parts Guides, which are designed to prevent the unfair or deceptive marketing of used motor vehicle parts and assemblies, such as engines and transmissions, containing used parts. 77 FR 29922 (May 21, 2012).

The Guides prohibit misrepresentations that a part is new or about the condition, extent of previous use, reconstruction, or repair of a part. Previously used parts must be clearly and conspicuously identified as such in advertising and packaging, and, if the part appears new, on the part itself. The comment period closed on August 3, 2012. Staff is evaluating comments and meeting with commenters, and anticipates making a recommendation to the Commission in early 2013.

Fred Meyer Guides, 16 CFR Part 240. As part of the periodic review process, staff anticipates that by the end of 2012 the Commission will seek public comment relating to whether there is a continuing need for or a need to amend its Guides for Advertising Allowances and Other Merchandising Payments and Services, commonly known as the Fred Meyer Guides, by the end of 2012. The Guides assist businesses in complying with sections 2(d) and 2(e) of the Robinson-Patman Act, which proscribe certain discriminations in the provision of promotional allowances and services to customers. Broadly put, the Guides provide that unlawful discrimination may be avoided by providing promotional allowances and services to customers on ''proportionally equal terms.''

[22] The **Federal Register** Notice also announced the review of the related Guides for the Advertising of Warranties and Guarantees, 16 CFR 239, and the Interpretations of Magnuson-Moss Warranty Act, 16 CFR 700.

Final Actions [23]

Since the publication of the 2011 Regulatory Plan, the Commission has issued the following final rules or taken other actions to terminate rulemaking proceedings.

Business Opportunity Rule, 16 CFR Part 437. The Commission published a final rule amending the Business Opportunity Rule on December 8, 2011. 76 FR 76816. The Rule was amended to broaden its scope to cover business opportunity sellers not covered by the interim Business Opportunity Rule, such as sellers of work-at-home opportunities, and to streamline and simplify the disclosures that sellers must provide to prospective purchasers. The final rule became effective on March 1, 2012. The final rule was based upon the comments received in response to an Advance Notice of Proposed Rulemaking (62 FR 9115, Feb. 28, 1997), an Initial Notice of Proposed Rulemaking (71 FR 19054, Apr. 12, 2006), a Revised Notice of Proposed Rulemaking (73 FR 16110, Mar. 26, 2008), a public workshop, a Staff Report (75 FR 68559, Nov. 8, 2010), and other information discussed in the **Federal Register** notice for the final rule.

Dodd-Frank Rule Rescissions. On July 21, 2010, President Obama signed into law the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), Public Law No. 111–203. Title X of the Dodd-Frank Act transferred rulemaking authority under several provisions of the consumer financial protection laws to the Consumer Financial Protection Bureau (CFPB). These rules were republished by the CFPB and became effective on an interim final basis on December 30, 2011. As a result, the Federal Trade Commission rescinded the following rules on April 13, 2012 (77 FR 22200): Disclosure Requirements for Depository Institutions Lacking Federal Deposit Insurance (16 CFR 320); Mortgage Acts and Practices—Advertising Rule (16 CFR 321); Mortgage Assistance Relief Services Rule (16 CFR 322); [Identity Theft] Definitions (16 CFR 603); Free Annual File Disclosures Rule (16 CFR 610); Prohibition Against Circumventing Treatment as a Nationwide Consumer Reporting Agency (16 CFR 611); Duration of Active Duty Alerts (16 CFR 613); Appropriate Proof of Identity (16 CFR 614); and Procedures for State Application for Exemption from the Provisions of the [Federal Debt Collection Practices] Act (16 CFR 901).

[23] Other final actions can be found under *Rulemakings and Studies Required by Statute, supra.*

Summary

In both content and process, the FTC's ongoing and proposed regulatory actions are consistent with the President's priorities. The actions under consideration inform and protect consumers, while minimizing the regulatory burdens on businesses. The Commission will continue working toward these goals. The Commission's 10-year review program is patterned after provisions in the Regulatory Flexibility Act and complies with the Small Business Regulatory Enforcement Fairness Act of 1996. The Commission's 10-year program also is consistent with section 5(a) of Executive Order 12866, which directs executive branch agencies to develop a plan to reevaluate periodically all of their significant existing regulations. 58 FR 51735 (Sept. 30, 1993). In addition, the final rules issued by the Commission continue to be consistent with the President's Statement of Regulatory Philosophy and Principles, Executive Order 12866, section 1(a), which directs agencies to promulgate only such regulations as are, *inter alia,* required by law or are made necessary by compelling public need, such as material failures of private markets to protect or improve the health and safety of the public.

The Commission continues to identify and weigh the costs and benefits of proposed actions and possible alternative actions, and to receive the broadest practicable array of comment from affected consumers, businesses, and the public at large. In sum, the Commission's regulatory actions are aimed at efficiently and fairly promoting the ability of ''private markets to protect or improve the health and safety of the public, the environment, or the well-being of the American people.'' Executive Order 12866, section 1.

II. Regulatory and Deregulatory Actions

The Commission has no proposed rules that would be a ''significant regulatory action'' under the definition in Executive Order 12866.[24] The Commission has no proposed rules that would have significant international impacts under the definition in Executive Order 13609. Also, there are no international regulatory cooperation activities that are reasonably anticipated to lead to significant regulations under Executive Order 13609. Even though it will not be reportable under Executive Order 13609, the announcement on July 25, 2012, that the United States will participate in the Asia-Pacific Economic Cooperation's (APEC) Cross Border Privacy Rules (CBPR) system, with the FTC as the system's first privacy enforcement authority, is expected to enhance electronic commerce, facilitate trade and economic growth, and strengthen consumer privacy protections across the Asia Pacific region. The APEC privacy system is a self-regulatory initiative to enhance the protection of consumer data that moves between the United States and other APEC members through a voluntary but enforceable code of conduct implemented by participating businesses. This system is expected to enable participating companies in the United States and other APEC member economies to more efficiently exchange data in a secure manner and will enhance consumer data privacy by establishing a consistent level of protection and accountability in the APEC region. The CBPR system directly supports the President's National Export Initiative goal of doubling U.S. exports by the end of 2014 by decreasing regulatory barriers to trade and commerce, and creating more export opportunities for American companies, and more American jobs.

The United States plans to work with APEC to launch the system in late 2012 or early 2013.

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[24] Section 3(f) of Executive Order 12866 defines a regulatory action to be ''significant'' if it 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 this Executive order.

NATIONAL INDIAN GAMING COMMISSION (NIGC)

Statement of Regulatory Priorities

In 1988, Congress adopted the Indian Gaming Regulatory Act (IGRA) (Pub. L. 100–497, 102 Stat. 2475) with a primary purpose of providing ''a statutory basis for the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments.'' IGRA established the National Indian Gaming Commission (NIGC or the Commission) to protect such gaming, amongst other things, as a means of generating tribal revenue.

At its core, Indian gaming is a function of sovereignty exercised by

tribal governments. In addition, the federal government maintains a government-to-government relationship with the tribes—a responsibility of the NIGC. Thus, while the agency is committed to strong regulation of Indian gaming, the Commission is equally committed to strengthening government-to-government relations by engaging in meaningful consultation with tribes to fulfill IGRA's intent. The NIGC's vision is to adhere to principles of good government, including transparency to promote agency accountability and fiscal responsibility, to operate consistently to ensure fairness and clarity in the administration of IGRA, and to respect the responsibilities of each sovereign in order to fully promote tribal economic development, self-sufficiency, and strong tribal governments. The NIGC is fully committed to working with tribes to ensure the integrity of the industry by exercising its regulatory responsibilities through technical assistance, compliance, and enforcement activities.

Retrospective Review of Existing Regulations

As an independent regulatory agency, the NIGC has been performing a retrospective review of its existing regulations well before Executive Order 13579 was issued on July 11, 2011. The NIGC, however, recognizes the importance of E.O. 13579 and its regulatory review is being conducted in the spirit of E.O. 13579, to identify those regulations that may be outmoded, ineffective, insufficient, or excessively burdensome and to modify, streamline, expand, or repeal them in accordance with input from the public. In addition, as required by Executive Order 13175, the Commission has been conducting government-to-government consultations with tribes regarding each regulation's relevancy, consistency in application, and limitations or barriers to implementation, based on the tribes' experiences. The consultation process is also intended to result in the identification of areas for improvement and needed amendments, if any, new regulations, and the possible repeal of outdated regulations.

The following Regulatory Identifier Numbers (RINs) have been identified as associated with the review:

RIN	Title
3141–AA15	Tribal Background Investigations and Licensing.
3141–AA27	Class II Minimum Internal Control Standards and Class II Minimum Technical Standards.
3141–AA32	Definition of Sole Propietary Interest.
3141–AA44	Self Regulation of Class II Gaming.
3141–AA47	Appeal Proceedings Before the Commission.
3141–AA48	Facility License Notifications, Renewals, and Submissions.
3141–AA49	Inspection and Access.
3141–AA50	Enforcement Regulations.
3141–AA53	Buy Indian Act Rule.
3141–AA54	Management Contracts.
3141–AA55	Class III Minimum Internal Control Standards.

More specifically, the NIGC recently issued final rules in the following areas: (i) Minimum internal control standards (MICS) and minimum technical standards for gaming equipment used in the play of Class II games, in order to respond to changing technologies in the industry and to ensure that the MICS and technical standards remain relevant and appropriate; (ii) appeals of the Chair's actions on ordinances, management contracts, notices of violations (NOV), civil fine assessments, and closure orders, in order to clarify the appeals process for the regulated community; (iii) facility licensing notifications, renewals, and submissions; (iv) monitoring and investigations; (v) enforcement, in order to provide for pre-enforcement procedures; and (vi) management contract regulations that reduce the scope of background investigations to be conducted on certain types of entities. The NIGC is also planning to issue final rules in the following areas: (i) Tribal background investigations and licensing, in order to streamline the process for submitting information to the NIGC; and (ii) requirements for obtaining a self-regulation certification for Class II gaming.

Finally, the NIGC is currently considering promulgating new regulations in the following areas: (i) Definition of the term ''sole proprietary interest'' with regard to the conduct of gaming on Indian lands, in order to reduce uncertainty surrounding the types of development, consulting, financing, and lease agreements tribes may enter into with regard to their gaming activities; (ii) granting Indian preference to qualified Indian-owned business when purchasing goods or services needed to carry out the Commission's duties; and (iii) Class III minimum internal control standards (MICS) to provide guidance to Tribes and states that may wish to refer to them. The NIGC anticipates that the ongoing consultations with regulated tribes will continue to play an important role in the development of the NIGC's rulemaking efforts.

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U.S. Nuclear Regulatory Commission's Fiscal Year 2012 Regulatory Plan

A. Statement of Regulatory Priorities

Under the authority of the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, as amended, the U.S. Nuclear Regulatory Commission (NRC or the Commission) regulates the possession and use of source, byproduct, and special nuclear material. The NRC's regulatory mission is to license and regulate the Nation's civilian use of byproduct, source, and special nuclear materials, to ensure adequate protection of public health and safety, promote the common defense and security, and protect the environment. The NRC regulates the operation of nuclear power plants and fuel-cycle plants; the safeguarding of nuclear materials from theft and sabotage; the safe transport, storage, and disposal of radioactive materials and wastes; the decommissioning and safe release for other uses of licensed facilities that are no longer in operation; and the medical, industrial, and research applications of nuclear material. In addition, the NRC licenses the import and export of radioactive materials.

As part of its regulatory process, the NRC routinely conducts comprehensive regulatory analyses that examine the costs and benefits of contemplated regulations. The NRC has developed internal procedures and programs to ensure that it imposes only necessary requirements on its licensees and to

review existing regulations to determine whether the requirements imposed are still necessary.

B. Major Rules

The NRC's fiscal year (FY) 2012 Regulatory Plan includes the most significant rulemakings in FY 2012. The NRC anticipates publication of two major rules in FY 2012.

Revision of Fee Schedules and Fee Recovery, Fiscal Year 2012 (RIN 3150–AJ03)

The NRC will collect fees from its licensees and applicants to fulfill the statutory requirement to recover approximately 90 percent of its budget authority in FY 2012. This recovery does not include amounts appropriated for Waste Incidental to Reprocessing, and for generic homeland security activities (non-fee items). The NRC receives 10 percent of its budget authority from the general fund controlled by the U.S. Treasury each year to pay for the cost of agency activities that do not provide a direct benefit to NRC licensees, such as international assistance and Agreement State activities (as defined under Section 274 of the Atomic Energy Act of 1954, as amended).

Physical Protection of Byproduct Material (RIN 3150–AI12)

Through this rule, the NRC will amend the Commission's regulations to codify security requirements for the use of Category 1 and Category 2 quantities of radioactive material. The objective of this action is to ensure that effective security measures are in place to prevent the use of radioactive materials for malevolent purposes. The rule also addresses background investigations and access controls, enhanced security for use of, and transportation security for, Category 1 and Category 2 quantities of radioactive material. This rulemaking subsumes Regulation Identifier Number (RIN) 3150–AI56, ''Requirements for Fingerprinting and Criminal History Record Checks for Unescorted Access to Radioactive Material and Other Property ([Title 10 of the *Code of Federal Regulations* (10 CFR)] Part 37).'' Most of these requirements were previously imposed by the NRC and Agreement States in 2003–2007 using orders and other regulatory mechanisms.

C. Other Significant Rulemakings

The NRC's other significant rulemakings for FY 2013 and beyond are listed below. Some of these regulatory priorities are a result of recommendations from the Near-Term Task Force established by the NRC in 2011 to examine regulatory requirements, programs, processes, and implementation based on information from the Fukushima Dai-ichi site in Japan, following the March 11, 2011, earthquake and tsunami (*see* ''Recommendations for Enhancing Reactor Safety in the 21st Century: The Near-Term Task Force Review of Insights from the Fukushima Dai-ichi Accident'' (NRC's Agencywide Documents Access and Management System Accession No. ML111861807, dated July 12, 2011)).

- Environmental Effect of Renewing the Operating License of a Nuclear Power Plant (RIN 3150–AI42)—The rule amends the Commission's regulations that provide the environmental protection requirements for renewing nuclear power plant operating licenses.
- Station Blackout (RIN 3150–AJ08)—(addresses Fukushima Dai-ichi Near-Term Task Force Recommendation 4). The advance notice of proposed rulemaking published on March 20, 2012 (77 FR 16175), solicits stakeholder feedback on proposed rulemaking activities to enhance the capability of nuclear power plants to maintain safety through a prolonged station blackout.
- Performance-Based Emergency Core Cooling System Acceptance Criteria (RIN 3150–AH42)—The proposed rule would replace prescriptive requirements with performance-based requirements, incorporate recent research findings, and expand applicability to all fuel designs and cladding materials.
- Strengthening and Integrating Onsite Emergency Response Capabilities (RIN 3150–AJ11)—(addresses Fukushima Dai-ichi Near-Term Task Force Recommendation 8). This advance notice of proposed rulemaking (77 FR 23161; April 18, 2012) solicits stakeholder feedback on regulations governing the integration and enhancement of requirements for onsite emergency response capabilities, and development of both new requirements and the supporting regulatory basis.
- Amendments and Medical Event Definitions (RIN 3150–AI26)—This proposed rule would amend the Commission's regulations that govern medical use of byproduct material related to reporting and notifications of medical events to clarify requirements for permanent implant brachytherapy.
- 10 CFR Part 26 Drug and Alcohol Testing (RIN 3150–AJ15)—This rule amends the drug testing requirements of 10 CFR Part 26, ''Fitness-for-Duty Programs,'' to incorporate lessons learned from implementing the 2008 final rule, enhance the identification of new testing subversion methods, and require the evaluation and testing of semi-synthetic opiates, synthetic drugs and urine, and use of chemicals or multiple prescriptions that could result in a person being unfit for duty.
- Enhanced Weapons, Firearms Background Checks, and Security Event Notifications (RIN 3150–AI49)—The rule would implement the NRC's authority under the new section 161a of the Atomic Energy Act of 1954, as amended, and revise existing regulations governing security event notifications.
- Site-Specific Analysis (Disposal of Unique Waste Streams) (RIN 3150–AI92)—The proposed rule would amend the Commission's regulations to require operating and future low-level radioactive waste disposal facilities to conduct a performance assessment and an intruder assessment to demonstrate compliance with performance objectives in 10 CFR Part 61, ''Licensing Requirements for Land Disposal of Radioactive Waste,'' to enhance safe disposal of low-level radioactive waste.
- 10 CFR Part 26 Drug Testing—U.S. Department of Health and Human Services (HHS) Guidelines (RIN 3150–AI67)—The rule amends the Commission's regulations to selectively align drug testing requirements in 10 CFR Part 26 with Federal drug testing guidelines issued by HHS.
- Domestic Licensing of Source Material—Amendments and Integrated Safety Analysis (RIN 3150–AI50)—The rule would amend the Commission's regulations by adding additional requirements for licensees that possess significant quantities of uranium hexafluoride. The proposed amendment would require these licensees to conduct integrated safety analyses.
- Five Certificate of Compliance Rulemakings (RIN 3150–AJ10; RIN 3150–AJ12)—These rulemakings would allow a power reactor licensee to store spent fuel in approved cask designs under a general license.
- Waste Confidence Rule Update—The rule would update 10 CFR 51.23, ''Temporary Storage of Spent Fuel after Cessation of Reactor Operation—Generic Determination of No Significant Environmental Impact,'' and the Commission's Waste Confidence Decision if the Commission determines that spent nuclear fuel and high-level waste could be safely stored onsite at nuclear power plants beyond 120 years.
- Spent Fuel Pool Make-Up (addresses Fukushima Dai-ichi Near-Term Task Force Recommendation 7)—The rule would modify regulations to enhance the reliability of spent fuel pool systems and equipment during a prolonged station blackout event. The rule would affect the regulations related

to instrumentation that provides information about the condition of the spent fuel pool and the capability for cooling and managing the inventory of water in the pool.

• Revision of Fee Schedules and Fee Recovery for FY 2013—The NRC will update its requirement to recover approximately 90 percent of its budget authority in FY 2013.

NRC

Proposed Rule Stage

1. Medical Use of Byproduct Material—Amendments/Medical Event Definition [NRC–2008–0071]

Priority: Other Significant. Major status under 5 U.S.C. 801 is undetermined.

Legal Authority: 42 U.S.C. 2201; 42 U.S.C. 5841

CFR Citation: 10 CFR part 35.

Legal Deadline: None.

Abstract: The proposed rule would amend the Commission's regulations that govern medical use of byproduct material related to reporting and notifications of medical events to clarify requirements for permanent implant brachytherapy. The NRC is planning to merge this proposed rule with RIN 3150–AI63, Preceptor Attestation Requirements [NRC–2009–0175] as per Commission direction in the Staff Requirements Memorandum dated August 13, 2012, to SECY–12–0053.

Statement of Need: The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to change the criteria for defining a medical event (ME) for permanent implant brachytherapy.

Several medical use events involving therapeutic use of byproduct material in 2003, as well as advice from the Advisory Committee on the Medical Use of Isotopes (ACMUI), prompted the reconsideration of the appropriateness and adequacy of the regulations regarding MEs and written directives (WDs).

A proposed rule was published in the **Federal Register** on August 6, 2008 (73 FR 45635), for public comment. Most of the 57 comment letters received primarily opposed parts of the rulemaking. During the fall of 2008, a substantial number of MEs involving permanent implant brachytherapy were reported to the NRC. Based on its evaluation of this information, including an independent analysis by an NRC medical consultant, the staff developed a re-proposed rule in SECY–10–0062, ''Re-proposed Rule: Medical Use of Byproduct Material—Amendments/Medical Event Definitions,'' dated May 18, 2010, for Commission approval.

In SRM–SECY–10–0062, dated August 10, 2010, the Commission disapproved the staff's recommendation to publish the re-proposed rule. Instead, the Commission directed the staff to work closely with the ACMUI and the broader medical and stakeholder community to develop event definitions that will protect the interests of patients, allow physicians the flexibility to take actions that they deem medically necessary, while continuing to enable the agency to detect failures in process, procedure, and training, as well as any misapplication of byproduct materials by authorized users. Additionally, the staff was directed to hold a series of stakeholder workshops to discuss issues associated with the ME definition. The staff plans to expand this part 35 rulemaking to: modify preceptor attestation requirements, consider extending grandfathering to certain certified individuals (Ritenour petition PRM–35–20), and to consider other issues that have developed in implementation of the current regulations. The NRC intends to merge this proposed rule with RIN 3150–AI63, Preceptor Attestation Requirements (NRC–2009–0175).

Summary of Legal Basis: 42 U.S.C. 2201; 42 U.S.C. 5841.

Alternatives: As an alternative to the rulemaking, the NRC staff considered the ''no-action'' alternative. Under this option the NRC would not modify part 35, and the medical events would continue to be considered under dose-based criteria than the activity-based criteria for the permanent brachytherapy implants.

Anticipated Cost and Benefits: The NRC is in the process of preparing a regulatory analysis to support this rulemaking. The analysis examines the costs and benefits of the alternatives considered by the NRC. The analysis will be available as part of the rulemaking package.

Timetable:

Action	Date	FR Cite
ANPRM	02/15/08	73 FR 8830
ANPRM Comment Period End.	02/26/08	
NPRM	08/06/08	73 FR 45635
NPRM Comment Period End.	10/20/08	
NPRM Comment Period Extended.	10/06/08	73 FR 58063
NPRM Comment Period End.	11/07/08	
Second NPRM	09/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Federalism: Undetermined.

Agency Contact: Edward M. Lohr, Nuclear Regulatory Commission, Office of Federal and State Materials and Environmental Management Programs, Washington, DC 20555–0001, *Phone:* 301 415–0253, *Email:* *edward.lohr@nrc.gov.*

Related RIN: Merged with 3150–AI63.

RIN: 3150–AI26

NRC

2. Fitness-for-Duty (HHS Requirements) [NRC–2009–0225]

Priority: Other Significant.

Legal Authority: 42 U.S.C. 2201; 42 U.S.C. 5841

CFR Citation: 10 CFR part 26.

Legal Deadline: None.

Abstract: The proposed rule would amend the Commission's regulations to enhance technical provisions associated with 10 CFR part 26 drug testing requirements and improve the alignment of these requirements with the guidance issued by the Department of Health and Human Services (HHS). The rule would enhance consistency with technical advances implemented in similar rules issued by the U.S. Departments of Transportation, Energy, and Defense. This rulemaking will align the NRC's drug testing provisions in 10 CFR part 26 with those of other Federal agencies.

Statement of Need: The need for rulemaking is to update and harmonize part 26 drug testing requirements with the 2008 HHS Guidelines. The final rule for part 26 published on March 31, 2008, incorporated select provisions in the proposed rule published in 2004 to amend the HHS Guidelines to improve, in part, specimen collection, drug testing, privacy considerations, and due process. On November 25, 2008, HHS published the final rule amending the HHS Guidelines to, in part, incorporate state-of-the-art drug testing methodologies, enhance drug testing methodologies, and improve the detection of illicit drug use or abuse within the Federal workplace. NRC finalized its part 26 rulemaking prior to HHS publishing the final rule revision to the HHS Guidelines in 2008. As a result, state-of-the-art drug testing provisions in the 2008 HHS Guidelines were not incorporated into the March 31, 2008, amendment of part 26. This resulted in three potentially adverse outcomes: (1) The substance detection

provisions required by part 26 are not equivalent to those in the 2008 HHS Guidelines; (2) The evaluation of drug testing results required by part 26 has diminished the potential to effectively afford due process to individuals and identify persons subverting the testing process; and, (3) Certain administrative requirements in part 26 are not consistent with the 2008 HHS Guidelines and result in a burden on affected licensees and other entities.

Summary of Legal Basis: The legal basis for the proposed action is 42 U.S.C. 2201, 42 U.S.C. 5841, and 10 CFR part 2, ''Rules of Practice or Domestic Licensing Proceedings and Issuance of Orders,'' Subpart F, ''Rulemaking.''

Alternatives: As an alternative to the rulemaking, the NRC staff considered the ''non-action'' alternative. Without action the drug testing framework established by the NRC will not be as effective as can be in the identification of persons using the illegal drugs heroin, cocaine, or Ecstasy legal or misusing legal drugs such amphetamines who have access to NRC-licensed facilities; there will be a challenge to the NRC's regulatory Effectiveness Strategy because part 26 will be less effective than drug testing programs implemented by other Federal agencies; part 26 will be less effective at identifying persons desiring to subvert the drug testing process; and, due process afforded to individuals will be less effective for certain adulteration and validity test results.

Issuance of Regulatory Guidance—The NRC, with or without public and industry involvement, can issue regulatory guidance on an acceptable method to implement part 26 requirements. However, guidance in lieu of requirements would result in inconsistent implementation of drug testing, Medical Review Officer reviews, and due process afforded to individuals subject to part 26 drug testing, because guidance implementation by all affected entities is not mandatory. As a result, the issuance of guidance could result in disproportionate burden on affected entities and the effectiveness of the part 26 requirements could be more based on site-specific considerations such as finances and employer-labor negotiations rather than the safety- or security-significance of the activities being performed.

Anticipated Cost and Benefits: Anticipated costs are estimated to be minimal. FFD program (and site costs) will be the aggregate of licensee revision of FFD-program training, procedures, and policy; renegotiation of contracts already established with laboratories and reagent and blind sample suppliers; possible re-negotiation of collective bargaining agreements/provisions; and sundry other program changes. The estimated one-time cost per site is estimated at $20,000 and one-time cost of $1.5 million for the industry.

Anticipated benefits are substantial. The staff estimates that with effective implementation of the proposed amendment, affected entities will identify approximately 110–140 additional persons as being unfit for duty as a result of their misuse of legal substances or misuse of illegal substances. The removal of these individuals from the protected area of affected nuclear facilities and having access to special strategic nuclear material or sensitive information pending evaluation by a Medical Review Officer, Substance Abuse Expert, and licensee representative contributes directly to public health and safety. This contribution exists because when authorization is removed from these persons, these persons cannot challenge the defense-in-depth afforded by the NRC's regulations or cannot cause harm to themselves or others because they are impaired or exhibit diminished human performance.

Risks: The programmatic and litigative risks associated with implementation of the proposed action are minimal. The NRC staff has received substantial feedback from affected entities with no unresolved significant adverse comments. The general public has been invited to three public meetings and no substantial comments have been received. The HHS Guidelines are considered a National standard and implemented by about 118 Federal agencies and many private entities; therefore, the provisions have been vetted, implemented, and lessons learned have been dispositioned without generic issues being identified. The staff will evaluate all comments received on the proposed rule, solicit internal and external consensus, and incorporate changes to the proposed action as necessary. The establishment of drug testing provisions in safety sensitive work places/activities is well established and part 26 drug testing requirements are consistent with other Federal drug testing programs. The part 26 provisions have never been litigated. Litigation of the 2008 HHS Guidelines and guideline implementation by other Federal agencies has not adversely affected the Part 26 requirements. Provisions not covered by the Rule or proposed action would continue to be subject to employer-labor negotiation; however, resulting agreements would not be binding upon the NRC or adversely affect the effectiveness of the proposed action or current rule. A qualitative reduction in the defense-in-depth afforded at affected commercial nuclear power facilities would result if the proposed amendment is not implemented because the potential for individual impairment could result in challenges to safe and competent human performance.

Timetable:

Action	Date	FR Cite
NPRM	12/00/12	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Federalism: Undetermined.

Agency Contact: Scott C. Sloan, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555–0001, *Phone:* 301 415–1619. *Email: scott.sloan@nrc.gov.*

RIN: 3150–AI67

NRC

3. Disposal of Unique Waste Streams [NRC–2011–0012]

Priority: Other Significant.

Legal Authority: 42 U.S.C. 2201; 42 U.S.C. 5841

CFR Citation: 10 CFR part 61.

Legal Deadline: None.

Abstract: The proposed rule would amend the Commission's regulations in 10 CFR part 61 to require new and revised site-specific analyses to ensure that waste streams that are significantly different in terms of radiological characteristics (e.g., half-life) from those considered in the current technical basis can continue to be disposed of safely and still meet the performance objectives. These changes would revise the existing site-specific analysis for protection of the general population to include a 20,000-year compliance period (i.e., performance assessment); add a new site-specific analysis for the protection of inadvertent intruders that would also include a 20,000-year compliance period and a dose limit (i.e., intruder assessment); add a new long-term-post-20,000 years-analysis for long-lived waste (i.e., long-term analyses); and revise the pre-closure analyses to include updates to the performance assessment, intruder assessment, and long-term analyses. The proposed rule would also include changes to the regulations to reduce ambiguity, facilitate implementation, and better align the requirements with current health and safety standards. This rule

would affect low-level radioactive waste (LLRW) disposal facilities that are regulated by the U.S. Nuclear Regulatory Commission (NRC) and the Agreement States.

Statement of Need: The NRC is proposing to amend its regulations to require low-level radioactive waste (LLRW) disposal facilities to conduct site-specific analyses to demonstrate compliance with the performance objectives. Although the NRC believes that part 61 is adequate to protect public health and safety, requiring a site-specific analysis to demonstrate compliance with the performance objectives would enhance the safe disposal of LLRW and would provide added assurance that waste streams not considered in the part 61 technical basis comply with the part 61 performance objectives. Further, these analyses would identify any additional measures that would be prudent to implement, and these amendments would improve the efficiency of the regulations by making changes to reduce ambiguity, facilitate implementation, and better align the requirements with the current and more modern health and safety regulations. This rulemaking would correct ambiguities and provide added assurance that LLRW disposal continues to meet the performance objectives in part 61.

Summary of Legal Basis: 42 U.S.C. 2201; 42 U.S.C. 5841.

Alternatives: As an alternative to the rulemaking, the NRC staff considered the ''no-action'' alternative. Under this option the NRC would not modify part 61, no long-term analyses would be required, no period of performance would be specified, and no intruder assessment would be required.

Anticipated Cost and Benefits: The NRC is in the process of preparing a regulatory analysis to support this rulemaking. The analysis examines the costs and benefits of the alternatives considered by the NRC. The analysis will be available as part of the rulemaking package.

Risks: Not conducting this rulemaking would allow the ambiguities in the part 61 regulations to continue and would not provide the added assurance that disposal of the waste streams not considered in the part 61 technical basis comply with the part 61 performance objectives.

Timetable:

Action	Date	FR Cite
Preliminary Proposed Rule Language.	05/03/11	76 FR 24831
Comment Period End.	06/18/11	
NPRM	09/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Federalism: Undetermined.

Agency Contact: Andrew G. Carrera, Nuclear Regulatory Commission, Office of Federal and State Materials and Environmental Management Programs, Washington, DC 20555–0001, *Phone:* 301 415–1078, *Email:* *andrew.carrera@nrc.gov.*

RIN: 3150–AI92

NRC

4. Station Blackout Mitigation [NRC–2011–0299]

Priority: Other Significant.

Legal Authority: 42 U.S.C. 2201; 42 U.S.C. 5841

CFR Citation: 10 CFR part 50.

Legal Deadline: None.

Abstract: The NRC published an Advance Notice of Proposed Rulemaking (ANPR) on March 20, 2012 (77 FR 16175), to seek public comments on potential changes to the Commission's regulations that address a condition known as station blackout (SBO). SBO involves the loss of all onsite and offsite alternating current (ac) power at a nuclear power plant. A central objective of this rulemaking would be to make generically applicable requirements previously imposed on licensees by EA–12–049 ''Order Modifying Licenses with regard to Requirements for Mitigating Strategies for Beyond-Design-Basis External Events.'' This regulatory action is one of the near-term actions based on lessons-learned stemming from the March 2011, Fukushima Dai-ichi event in Japan.

Statement of Need: This rulemaking is intended to make, generically-applicable (by amending the Code of Federal Regulations), the requirements in Order EA–12–049, ''Order Modifying Licenses with Regard to Requirements for Mitigation Strategies for Beyond-Design-Basis External Events'' that were issued on March 12, 2012. The Order was issued in response to the events that occurred at the Fukushima Dai-ichi Nuclear Power Station on March 11, 2011 involving an earthquake and tsunami.

Summary of Legal Basis: The Order requirements were imposed on current power reactor licensees under 10 CFR 50.109(a)(4)(ii) as being required for adequate protection of public health and safety. The rulemaking would be making those order requirements generically-applicable, and it is not anticipated that this action would be imposing substantial additional requirements beyond what has been already imposed on power reactor licensees by order.

Alternatives: As an alternative to the rulemaking, the NRC staff considered the ''non-action'' alternative. This alternative would mean that the NRC would be required to issue orders or impose license conditions on each new reactor licensed to ensure that the requirements continue to be imposed on all power reactor licensees. This is not the optimal regulatory approach and not consistent with the NRC's principles of good regulation. The NRC sees benefit in pursuing a rulemaking that enables lessons-learned from implementation of EA–12–049 and external stakeholder feedback (through the public comment process) to be considered within the rulemaking to inform the requirements that are placed into the Code of Federal Regulations, which would then remove the need to issue orders or impose license conditions on each future reactor licensee.

Anticipated Cost and Benefits: The rulemaking is not anticipated to impose significant additional costs beyond those that are already being incurred due to implementation of EA–12–049. The benefits of this regulatory action cannot be quantified due to large uncertainties associated with beyond design basis external events, which make it impractical to estimate (with any reasonable accuracy) a benefit to public health and safety through the use of a quantitative metrics such as reduced core damage frequency or reduced large early releases frequency. The benefits, associated with these requirements (which impose requirements for licensees to develop, implement, and maintain strategies to mitigate beyond-design-basis external events) have been subjectively determined by the NRC to significantly enhance safety through in increased defense-in-depth.

Risks: The risks associated with beyond design basis external events cannot be measured with sufficient certainty to enable a quantitative measure of risk.

Timetable:

Action	Date	FR Cite
ANPRM	03/20/12	77 FR 16175
ANPRM Comment Period End.	05/04/12	
NPRM	04/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Federalism: Undetermined.

Agency Contact: Timothy A. Reed, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555–0001, *Phone:* 301 415–1462, *Email: timothy.reed@nrc.gov.*

RIN: 3150–AJ08

NRC

5. • Revision of Fee Schedules: Fee Recovery for FY 2013 [NRC–2012–0211]

Priority: Economically Significant. Major under 5 U.S.C. 801.

Unfunded Mandates: Undetermined

Legal Authority: 42 U.S.C. 2201; 42 U.S.C. 5841

CFR Citation: 10 CFR part 170; 10 CFR part 171.

Legal Deadline: NPRM, Statutory, September 30, 2013.

The Omnibus Budget Reconciliation Act of 1990 (OBRA–90), as amended, requires that the NRC recover approximately 90 percent of its budget authority in fiscal year (FY) 2013, less the amounts appropriated from the Nuclear Waste Fund, amounts appropriated for Waste Incidental to Reprocessing, and amounts appropriated for generic homeland security activities (non-fee items). The OBRA–90 requires that the fees for FY 2013 must be collected by September 30, 2013.

Abstract: The proposed rule would amend the Commission's licensing, inspection, and annual fees charged to its applicants and licensees. Based on the FY 2013 NRC budget sent to Congress, the NRC's required fee recovery amount for the FY 2013 budget is approximately $914.8 million. After accounting for carryover and billing adjustments, the total amount to be recovered through fees is approximately $906.2 million.

Statement of Need: This rulemaking will amend the licensing, inspection, and annual fees charged to NRC licensees and applicants for an NRC license. The amendments are necessary to recover approximately 90 percent of the NRC budget authority for FY 2013, less the amounts appropriated for non-fee items. The OBRA–90, as amended, requires that the NRC accomplish the 90 percent recovery through the assessment of fees. The NRC assesses two types of fees to recover its budget authority. License and inspection fees are assessed under the authority of the Independent Offices Appropriation Act of 1952 (IOAA) to recover the costs of providing individually identifiable services to specific applicants and licensees (10 CFR part 170). IOAA requires that the NRC recover the full cost to the NRC of all identifiable regulatory services that each applicant or licensee receives. The NRC recovers generic and other regulatory costs not recovered from fees imposed under 10 CFR part 170 through the assessment of annual fees under the authority of OBRA–90 (10 CFR part 171). Annual fee charges are consistent with the guidance in the Conference Committee Report on OBRA–90 that the NRC assess the annual charge under the principle that licensees who require the greatest expenditure of the Agency's resources should pay the greatest annual fee.

Summary of Legal Basis: The OBRA–90 requires that the fees for FY 2013 must be collected by September 30, 2013.

Alternatives: Because this action is mandated by statute and the fees must be assessed through rulemaking, the NRC did not consider alternatives to this action.

Anticipated Cost and Benefits: The cost to NRC licensees is approximately 90 percent of the NRC FY 2013 budget authority less the amounts appropriated for non-fee items. The dollar amount to be billed as fees to NRC applicants and licensees for FY 2013 is approximately $914.8 million.

Risks: Not applicable.

Timetable:

Action	Date	FR Cite
NPRM	03/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations.

Government Levels Affected: Local, State.

Federalism: Undetermined.

Agency Contact: Arlette P. Howard, Nuclear Regulatory Commission, Office of the Chief Financial Officer, Washington, DC 20555–0001, *Phone:* 301 415–1481, *Email: arlette.howard@nrc.gov.*

RIN: 3150–AJ19

NRC

Final Rule Stage

6. Physical Protection of Byproduct Material [NRC–2008–0120]

Priority: Economically Significant. Major under 5 U.S.C. 801.

Legal Authority: 42 U.S.C. 2201; 42 U.S.C. 5841

CFR Citation: 10 CFR part 30; 10 CFR part 32; 10 CFR part 33; 10 CFR part 34; 10 CFR part 35; 10 CFR part 37; 10 CFR part 39; 10 CFR part 51; 10 CFR part 71; 10 CFR part 73.

Legal Deadline: None.

Abstract: The proposed rule would amend the Commission's regulations to put in place security requirements for the use of Category 1 and Category 2 quantities of radioactive material. The objective is to ensure that effective security measures are in place to prevent the dispersion of radioactive material for malevolent purposes. The proposed amendment would also address background investigations and access controls, enhanced security for use, and transportation security for Category 1 and Category 2 quantities of radioactive material. This rulemaking subsumes RIN 3150–AI56, ''Requirements for Fingerprinting and Criminal History Record Checks for Unescorted Access to Radioactive Material and Other Property (part 37).''

Statement of Need: The objective of this rule is to provide reasonable assurance of preventing the theft or diversion of Category 1 and Category 2 quantities of radioactive material by establishing generally applicable security requirements similar to those previously imposed on certain licensees by the NRC orders. Although a security order is legally binding on the licensee receiving the order, a rule makes requirements generally applicable to all licensees. In addition, notice and comment rulemaking allows for public participation and is an open process. This rulemaking places the security requirements for use of Category 1 and Category 2 quantities of radioactive material into the regulations.

Summary of Legal Basis: Atomic Energy Act of 1954, as amended.

Alternatives: NRC could continue to regulate the security aspects for these facilities by Commission order. This alternative would not significantly reduce the burden as the majority of the cost is associated with the order requirements.

Anticipated Cost and Benefits: This final rule will result in maximum annual impact to the economy of approximately $17.9 million (using a 7 percent discount rate, annualizing the one-time costs over 20 years, and adding these ''annualized'' one-time costs to the annual costs) or $24.4 million (using a 3 percent discount rate). The Office of Management and Budget has indicated that the annual cost of the orders should be included in the annual impact to the economy calculation. The estimated

annual cost to the industry using the pre-order was $111.6 million. Therefore, this final rule is considered a major rule as defined by the Congressional Review Act.

The qualitative values of the rule are associated with safeguard and security considerations of the decreased risk of a security-related event, such as theft or diversion of radioactive material and subsequent use for unauthorized purposes. Increasing the security of high-risk radioactive material decreases this risk and increases the common defense and security of the Nation. Other qualitative values that are positively affected by the decreased risk of a security-related event include public and occupational health due to an accident or event and the risk of damage to on-site and off-site property. In addition, regulatory efficiency is enhanced by the rule.

Timetable:

Action	Date	FR Cite
NPRM	06/15/10	75 FR 33901
NPRM Comment Period End.	10/13/10	
NPRM Comment Period Extended.	10/08/10	75 FR 62330
NPRM Comment Period Extended End.	01/18/11	
Final Rule	01/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations.

Government Levels Affected: Local, State.

Federalism: Undetermined.

Agency Contact: Merri L. Horn, Nuclear Regulatory Commission, Office of Federal and State Materials and Environmental Management Programs, Washington, DC 20555–0001, *Phone:* 301 415–8126, *Email:* *merri.horn@nrc.gov.*

RIN: 3150–AI12

NRC

7. Environmental Effect of Renewing the Operating License of a Nuclear Power Plant [NRC–2008–0608]

Priority: Other Significant.

Legal Authority: 42 U.S.C. 2201; 42 U.S.C. 5841

CFR Citation: 10 CFR part 51.

Legal Deadline: None.

Abstract: The proposed rule would amend the Commission's regulations that provide the environmental protection requirements for renewing nuclear power plant operating licenses. The regulations require that licensees consider the impact that the licensing action could have on the human environment.

Statement of Need: The Nuclear Regulatory Commission (NRC) is amending its environmental protection regulations by updating the Commission's 1996 findings on the environmental effect of renewing the operating license of a nuclear power plant. The rule redefines the number and scope of the environmental impact issues which must be addressed by the NRC during license renewal environmental reviews. The rule also incorporates lessons learned and knowledge gained from license renewal environmental reviews conducted by the NRC since 1996.

Summary of Legal Basis: NRC's environmental protection regulations are in 10 CFR part 51, and implement section 102(2) of the National Environmental Policy Act of 1969 (NEPA).

Alternatives: The alternative to this rulemaking is to do nothing. The NRC would not amend certain provisions of 10 CFR part 51 relating to the renewal of nuclear power plant licensees, including Table B–1, ''Summary of Findings on NEPA Issues for License Renewal of Nuclear Power Plants.'' The NRC would continue to rely on the findings set forth in the current Table B 1 when evaluating the scope and magnitude of environmental impacts of renewing the operating license for a nuclear power plant. This is not the optimal regulatory approach and not consistent with the NRC's principles of good regulation. The NRC sees benefit in pursuing a rulemaking that both updates and re-evaluates the potential environmental impacts arising from the renewal of an operating license for a nuclear power reactor for an additional twenty years. This rulemaking improves the efficiency of the license renewal process by identifying and assessing impacts that are expected to be generic (the same or similar) at all nuclear power plants (or plants with specific plant or site characteristics), and defining the number and scope of environmental impact issues that need to be addressed in plant-specific supplemental environmental impact statements. Lessons learned and knowledge gained during previous environmental reviews provided a significant source of new information for this rulemaking (including changes to Federal laws). For example, the rulemaking would now require applicants to evaluate the potential impact to groundwater quality from the discharge of radionuclides from plant systems, piping, and tanks.

Anticipated Cost and Benefits: A detailed regulatory analysis was published with the proposed rule, and can be accessed in ADAMS at ML090260568.

Risks: There are no safety risks associated with the environmental review for renewal of nuclear power plant operating licenses. The NRC has determined that the promulgation of this rulemaking is a procedural action as it pertains to the procedures for filing and reviewing applications for renewals of licenses.

Timetable:

Action	Date	FR Cite
NPRM	07/31/09	74 FR 38117
NPRM Comment Period End.	10/14/09	
NPRM Comment Period Extended.	10/07/09	74 FR 51522
NPRM Extended Comment Period End.	01/12/10	
Final Rule	02/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Federalism: Undetermined.

Agency Contact: Stewart Schneider, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555–0001, *Phone:* 301 415–4123, *Email:* *stewart.schneider@nrc.gov.*

RIN: 3150–AI42

NRC

8. Domestic Licensing of Source Material—Amendments/Integrated Safety Analysis [NRC–2009–0079]

Priority: Economically Significant. Major under 5 U.S.C. 801.

Legal Authority: 42 U.S.C. 2201; 42 U.S.C. 5841

CFR Citation: 10 CFR part 40; 10 CFR part 150.

Legal Deadline: None.

Abstract: The final rule will amend the Commission's regulations by adding additional requirements for licensees who possess significant quantities of uranium hexafluoride (UF6). The proposed amendments would require such licensees to conduct integrated safety analyses (ISAs) similar to the ISAs performed by 10 CFR part 70 licensees; set possession limits for UF6 for determining licensing authority NRC or Agreement States), and require the NRC to perform a backfit analysis under

specified circumstances. The proposed amendment would require applicants and licensees who possess or plan to possess significant amounts of UF6 to conduct an ISA and submit an ISA summary to the NRC. The ISA, which evaluates and categorizes the consequences of accidents at NRC licensed facilities, would address both the radiological and chemical hazards from licensed material and hazardous chemicals produced in the processing of licensed material. The NRC is also proposing new guidance on the implementation of the additional regulatory requirements for licensees that would be authorized under this rulemaking.

Statement of Need: Health and safety risks at fuel cycle facilities authorized to possess significant quantities of uranium hexafluoride are due to a combination of radiological and chemical hazards. These facilities not only handle radioactive source material, but also large volumes of hazardous chemicals that are involved in processing the nuclear material which has a significant potential for onsite and offsite consequences. Accidents at these facilities in the past have resulted in a death, serious harm to workers, and release of material offsite.

The rule would provide a risk-informed, performance-based regulatory structure that includes: (1) The identification of appropriate risk criteria and the level of protection needed to prevent or mitigate accidents that exceed such criteria; (2) the performance of a comprehensive, structured, integrated safety analysis, to identify potential accidents at the facility and the items relied on for safety; and (3) the implementation of measures to ensure that the items relied on for safety are available and reliable when needed. This will significantly reduce the risk of harm to workers, the public, and the environment.

Anticipated Cost and Benefits: The rule would result in an estimated of $2,120,000 implementation cost and estimated annual cost of $302,000 to industry. The benefit to workers and the public is an increase in the margin of safety at fuel cycle facilities authorized to possess significant quantities of uranium hexafluoride.

Timetable:

Action	Date	FR Cite
NPRM	05/17/11	76 FR 28336
NPRM Comment Period End.	08/01/11	
NPRM Comment Period Extended.	07/27/11	76 FR 44865
NPRM Extension Comment Period End.	09/09/11	
Final Rule	01/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Agency Contact: Edward M. Lohr, Nuclear Regulatory Commission, Office of Federal and State Materials and Environmental Management Programs, Washington, DC 20555–0001, *Phone:* 301 415–0253, *Email: edward.lohr@nrc.gov.*

RIN: 3150–AI50

NRC

9. List of Approved Spent Fuel Storage Casks—Transnuclear, Inc., Standardized Nuhoms® System, Revision 11 [NRC–2012–0020]

Priority: Other Significant.

Legal Authority: 42 U.S.C. 2201; 42 U.S.C. 5841

CFR Citation: 10 CFR part 72.

Legal Deadline: None.

Abstract: The direct final rule would amend the Commission's regulations by revising the Transnuclear, Inc., Standardized NUHOMS® System to include Amendment No. 11 to the Certificate of Compliance (CoC). The direct final rule allows holders of power reactor operating licensees to store spent fuel in this approved cask system under a general license.

Statement of Need: On April 10, 2007, and as supplemented on August 23 and December 21, 2007, and June 12, 2008, and August 14, 2009, and August 5 and August 15, 2010, and February 25, 2011, Transnuclear, Inc. Standardized NUHOMS®, the holder of CoC No. 1004, submitted to the NRC a request to amend CoC No. 1004. Specifically, Transnuclear, Inc. Standardized NUHOMS® requested changes to: 1) add a new TC, the OS197L for use with the 32PT and 61BT dry shielded canisters (DSC); and 2) convert the CoC No. 1004 TSs to the format in NUREG–1745, ''Standard Format and Content for Technical Specifications for 10 CFR Part 72 Cask Certificates of Compliance.'' The previously approved payloads and the corresponding TSs have been retained ''as-is'' in the new format of the proposed TSs, including tables and figures. In addition, this change removes the bases from the TSs and relocates the bases for the Limiting Conditions for Operation and Surveillance Requirements to UFSAR Chapter 10.

Summary of Legal Basis: This rule is limited to the changes contained in Amendment No. 11 to CoC No. 1004 and does not include other aspects of the NUHOMS System. The NRC is using the ''direct final rule procedure'' to issue this amendment because it represents a limited and routine change to an existing CoC that is expected to be noncontroversial. Adequate protection of public health and safety continues to be ensured.

Alternatives: The alternative to this action is to withhold approval of Amendment No. 11 and to require any 10 CFR Part 72 general licensee seeking to load spent nuclear fuel into Standardized NUHOMS® casks under the changes described in Amendment No. 11 to request an exemption from the requirements of 10 CFR 72.212 and 72.214. Under this alternative, licensees who want to use the cask would have to submit, and the NRC would have to review, separate exemption requests. Each licensee seeking an exemption would prepare a request, including an environmental report. The NRC review would include an environmental assessment and safety evaluation. This would increase the administrative burden upon the NRC and the costs to each licensee.

Anticipated Cost and Benefits: This direct final rule is consistent with previous NRC actions. Further, as documented in the SER and the environmental assessment, the direct final rule will have no adverse effect on public health and safety or the environment. This direct final rule has no significant identifiable impact or benefit on other Government agencies. Based on this regulatory analysis, the NRC concludes that the requirements of the direct final rule are commensurate with the NRC's responsibilities for public health and safety and the common defense and security. For these reasons, the Commission concludes that preparation of a regulatory analysis is neither required nor appropriate.

Timetable:

Action	Date	FR Cite
Direct Final Rule	12/00/12	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Federalism: Undetermined.

Agency Contact: Gregory Trussell, Nuclear Regulatory Commission, Office of Federal and State Materials and Environmental Management Programs, Washington, DC 20555–0001, *Phone:*

301 415–6445, *Email: gregory.trussell@nrc.gov.*

RIN: 3150–AJ10

NRC

10. List of Approved Spent Fuel Storage Casks—Holtec International, HI–Storm 100, Revision 9 [NRC–2012–0052]

Priority: Other Significant.

Legal Authority: 42 U.S.C. 2201; 42 U.S.C. 5841

CFR Citation: 10 CFR part 72.

Legal Deadline: None.

Abstract: The direct final rule would amend the Commission's regulations by revising the Holtec International HI–STORM 100, dry cask storage system for storage of spent fuel under the new conditions specified in the revised Certificate of Compliance (COC). The direct final rule allows the holders of power reactor operating licenses to store spent fuel in this approved cask system under a general license.

Statement of Need: On September 10, 2010 (ML102570739), and as supplemented on October 1, 2010 (ML102780596), February 18 (ML110620186), and August 11 (ML11223A036) and November 14, 2011 (ML11320A185), Holtec International, the holder of CoC No. 1014, submitted a request to the NRC to amend CoC No. 1014. Specifically, Holtec International requested changes to: 1) broaden the subgrade requirements for the HI–STORM 100U part of the HI–STORM 100 cask storage system; and 2) update the thermal model and methodology for the HI–TRAC transfer cask from a two dimensional thermal-hydraulic model to a more accurate three dimensional model. Additionally, the following editorial changes are being made: CoC; Conditions, first sentence, ''Conditioned'' is changed to ''Conditional''; Appendix A and Appendix A–100U; SR 3.1.1.3 is revised to be consistent with the changes made to Condition No. 3 in Amendment No. 8; Appendix A–100U; Table 3–1, ''< 30'' is corrected to ''less than or equal to 30'' to be consistent with Appendix A.

As documented in the SER, the NRC staff performed a detailed safety evaluation of the proposed CoC amendment request and found that an acceptable safety margin is maintained. In addition, the NRC staff has determined that there continues to be reasonable assurance that public health and safety will be adequately protected.

This direct final rule revises the HI–STORM 100 cask system listing in 10 CFR 72.214 by adding Amendment No. 9 to CoC No. 1014. The amendment consists of the changes previously described, as set forth in the revised CoC and TSs. The revised TSs are identified in the SER. The amended HI–STORM 100 cask design, when used under the conditions specified in the CoC, the TSs, and the NRC's regulations, will meet the requirements of 10 CFR Part 72; thus, adequate protection of public health and safety will continue to be ensured. When this direct final rule becomes effective, persons who hold a general license under 10 CFR 72.210 may load spent nuclear fuel into HI–STORM 100 casks that meet the criteria of Amendment No. 9 to CoC No. 1014 under 10 CFR 72.212.

Summary of Legal Basis: This rule is limited to the changes contained in Amendment No. 9 to CoC No. 1014 and does not include other aspects of the Holtec International System. The NRC is using the ''direct final rule procedure'' to issue this amendment because it represents a limited and routine change to an existing CoC that is expected to be noncontroversial. Adequate protection of public health and safety continues to be ensured.

Alternatives: The alternative to this action is to withhold approval of Amendment No. 9 and to require any 10 CFR Part 72 general licensee seeking to load spent nuclear fuel into Holtec International HI–STORM 100 casks under the changes described in Amendment No. 9 to request an exemption from the requirements of 10 CFR 72.212 and 72.214. Under this alternative, each interested 10 CFR Part 72 licensee would have to prepare, and the NRC would have to review, a separate exemption request, thereby increasing the administrative burden upon the NRC and the costs to each licensee.

Anticipated Cost and Benefits: This direct final rule is consistent with previous NRC actions. Further, as documented in the SER and the environmental assessment, the direct final rule will have no adverse effect on public health and safety or the environment. This direct final rule has no significant identifiable impact or benefit on other Government agencies. Based on this regulatory analysis, the NRC concludes that the requirements of the direct final rule are commensurate with the NRC's responsibilities for public health and safety and the common defense and security. For these reasons, the Commission concludes that preparation of a regulatory analysis is neither required nor appropriate.

Timetable:

Action	Date	FR Cite
Direct Final Rule	12/00/12	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Federalism: Undetermined.

Agency Contact: Gregory Trussell, Nuclear Regulatory Commission, Office of Federal and State Materials and Environmental Management Programs, Washington, DC 20555–0001, *Phone:* 301 415–6445, *Email: gregory.trussell@nrc.gov.*

RIN: 3150–AJ12

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