AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

FEDERAL REGISTER

Vol. 79 Tuesday,
No. 4 January 7, 2014

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 incorporated in Executive Order 13563, ''Improving Regulation and Regulatory Review'' issued on January 18, 2011 (76 FR 3821) establish guidelines and procedures 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.

The complete 2013 Unified Agenda and Regulatory Plan, which contains the regulatory agendas for 60 Federal agencies, is available to the public at *http://reginfo.gov*.

The 2013 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 (MVE), General Services Administration, 1800 F Street NW., 2219F, Washington, DC 20405.

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 (MVE), General Services Administration, 1800 F Street NW., 2219F, Washington, DC 20405, (202) 482–7340. You may also send comments to us by email at: *RISC@gsa.gov*.

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Introduction to the Fall 2013 Regulatory Plan

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Department of Agriculture
Department of Commerce
Department of Defense
Department of Education
Department of Energy
Department of Health and Human Services
Department of Homeland Security
Department of Housing and Urban Development
Department of the Interior
Department of Justice
Department of Labor
Department of Transportation
Department of the Treasury
Department of Veterans Affairs

Other Executive Agencies

Architectural and Transportation Barriers Compliance Board
Environmental Protection Agency
Equal Employment Opportunity Commission
General Services Administration
National Aeronautics and Space Administration
National Archives and Records Administration
Office of Personnel Management
Pension Benefit Guaranty Corporation
Small Business Administration
Social Security Administration

Independent Regulatory Agencies

Consumer Financial Protection Bureau
Consumer Product Safety Commission
Federal Trade Commission
National Indian Gaming Commission
Nuclear Regulatory Commission

Agency Agendas

Cabinet Departments

Department of Agriculture
Department of Commerce
Department of Defense
Department of Education
Department of Energy
Department of Health and Human Services
Department of Homeland Security
Department of the Interior
Department of Justice
Department of Labor
Department of Transportation
Department of the Treasury

Other Executive Agencies

Architectural and Transportation Barriers Compliance Board
Environmental Protection Agency
General Services Administration
National Aeronautics and Space Administration
Small Business Administration

Joint Authority

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

Independent Regulatory Agencies

Consumer Financial Protection Bureau
Federal Communications Commission
Federal Deposit Insurance Corporation
Federal Reserve System
Nuclear Regulatory Commission
Securities and Exchange Commission

Introduction to the Unified Agenda of Federal Regulatory and Deregulatory Actions

I. What is the Unified Agenda?

The Unified Agenda provides information about regulations that the Government is considering or reviewing. The Unified Agenda has appeared in the **Federal Register** 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 2013 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 (incorporated in Executive Order 13563), 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 State
Department of Veterans Affairs*
Agency for International Development
Commission on Civil Rights
Committee for Purchase From People Who Are Blind or Severely Disabled
Corporation for National and Community Service
Court Services and Offender Supervision Agency for the District of Columbia
Equal Employment Opportunity Commission *
Institute of Museum and Library Services
National Archives and Records Administration *
National Endowment for the Arts
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 *
Privacy and Civil Liberties Oversight Board
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
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 2013.

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 2013 edition of *The Regulatory Plan* have chosen to include the following information for those entries that appeared in the Plan:

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

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

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

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

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

V. Abbreviations

The following abbreviations appear throughout this publication:

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

CFR—The Code of Federal Regulations is an annual codification of the general and permanent regulations published in the **Federal Register** by the agencies of the Federal Government. The Code is divided into 50 titles, each title covering a broad area subject to Federal regulation. The CFR is keyed to and kept up to date by the daily issues of the **Federal Register**.

EO—An Executive order is a directive from the President to Executive agencies, issued under constitutional or statutory authority. Executive orders are published in the **Federal Register** and in title 3 of the Code of Federal Regulations.

FR—The **Federal Register** is a daily Federal Government publication that provides a uniform system for publishing Presidential documents, all proposed and final regulations, notices of meetings, and other official documents issued by Federal agencies.

FY—The Federal fiscal year runs from October 1 to September 30.

NPRM—A Notice of Proposed Rulemaking is the document an agency issues and publishes in the **Federal Register** that describes and solicits public comments on a proposed regulatory action. Under the Administrative Procedure Act (5 U.S.C. 553), an NPRM must include, at a minimum:

- A statement of the time, place, and nature of the public rulemaking proceeding;
- a reference to the legal authority under which the rule is proposed; and
- either the terms or substance of the proposed rule or a description of the subjects and issues involved.

PL (or Pub. L.)—A public law is a law passed by Congress and signed by the President or enacted over his veto. It has general applicability, unlike a private law that applies only to those persons or entities specifically designated. Public laws are numbered in sequence throughout the 2-year life of each Congress; for example, Pub. L. 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: November 26, 2013.

John C. Thomas,

Executive Director.

Introduction to the 2013 Unified Regulatory Agenda and 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, the Office of Information and Regulatory Affairs is providing the Unified Regulatory Agenda (Agenda) and the Regulatory Plan (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 includes ''active rulemakings'' that have at least some possibility of issuance over the next year, but, as in previous years, this list may include rules that are not issued in the coming year.

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

The 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 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.

A central purpose of the Agenda is to involve the public, including State, local, and tribal officials, in federal regulatory planning. We emphasize that rules listed on the Agenda must still undergo significant development and scrutiny, both within the agencies and externally, before they are issued. No regulatory action can become 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 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. For 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.

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 with rulemaking 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 agency regulatory decision making:

- *Public participation.* Agencies are directed to promote public participation, in part by making supporting documents available on Regulations.gov 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 new regulations that are under development and 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. The prospective analysis required by Executive Order 13563 may depend on a degree of prediction and speculation about likely impacts, 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.

In addition, circumstances may change in a way that requires reconsideration of regulatory requirements. As retrospective or ''look back'' analysis is 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. The regulatory look back is an ongoing exercise, and regular reporting about recent progress and coming initiatives is required.

In August 2011, over two dozen agencies developed plans to remove what the President called unjustified rules and ''absurd and unnecessary paperwork requirements that waste time and money.'' The plans include over 500 initiatives that will reduce costs, simplify the system, and eliminate redundancy and inconsistency—which means many billions of dollars in savings for American businesses. Already, the Administration is on track to save more than $10 billion dollars in the near term, with far more savings to come.

In July 2013, agencies submitted to OIRA their latest updates of their retrospective review plans, pursuant to Executive Orders 13563 and 13610. Many of the initiatives highlighted in the updated plans benefit small businesses. Federal agencies will update their retrospective review plans this winter.

We have asked agencies to emphasize regulatory look backs in their latest Regulatory Plans. 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 May 2012 President Obama issued Executive Order 13609, ''Promoting International Regulatory Cooperation,'' which 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 look back 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.''

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	Environmental Compliance and Related Concerns	0560–AH02	Proposed Rule Stage.
3	Agriculture Priorities and Allocations Systems	0560–AH68	Final Rule Stage.
4	Viruses, Serums, Toxins, and Analogous Products; Single Label Claim for Veterinary Biological Products.	0579–AD64	Proposed Rule Stage.
5	Brucellosis and Bovine Tuberculosis; Update of General Provisions	0579–AD65	Proposed Rule Stage.
6	Establishing a Performance Standard for Authorizing the Importation and Interstate Movement of Fruits and Vegetables.	0579–AD71	Proposed Rule Stage.
7	User Fees for Agricultural Quarantine and Inspection Services	0579–AD77	Proposed Rule Stage.
8	Civil Rights Compliance Requirements	0575–AA83	Proposed Rule Stage.
9	Loan Packager Certification	0575–AC88	Proposed Rule Stage.
10	Child Nutrition Program Integrity	0584–AE08	Proposed Rule Stage.
11	Child and Adult Care Food Program: Meal Pattern Revisions Related to the Healthy, Hunger-Free Kids Act of 2010.	0584–AE18	Proposed Rule Stage.
12	Enhancing Retailer Eligibility Standards in SNAP	0584–AE27	Proposed Rule Stage.
13	Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Revisions in the WIC Food Packages.	0584–AD77	Final Rule Stage.
14	Eligibility, Certification, and Employment and Training Provisions of the Food, Conservation, and Energy Act of 2008.	0584–AD87	Final Rule Stage.
15	Records to be Kept by Official Establishments and Retail Stores That Grind Raw Beef Products.	0583–AD46	Proposed Rule Stage.
16	Modernization of Poultry Slaughter Inspection	0583–AD32	Final Rule Stage.

DEPARTMENT OF AGRICULTURE—Continued

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
17	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.
18	Common or Usual Name for Raw Meat and Poultry Products Containing Added Solutions.	0583–AD43	Final Rule Stage.
19	Descriptive Designation for Needle- or Blade-Tenderized (Mechanically Tenderized) Beef Products.	0583–AD45	Final Rule Stage.
20	Forest Service Manual 2020—Ecological Restoration and Resilience Policy	0596–AC82	Proposed Rule Stage.
21	Land Management Planning Rule Policy	0596–AD06	Final Rule Stage.
22	Nondiscrimination in Programs or Activities Conducted by the United States Department of Agriculture.	0503–AA52	Proposed Rule Stage.
23	Business and Industry (B&I) Guaranteed Loan Program	0570–AA85	Proposed Rule Stage.
24	Rural Energy for America Program	0570–AA76	Final Rule Stage.
25	BioPreferred Program Guidelines Revisions	0599–AA18	Final Rule Stage.

DEPARTMENT OF DEFENSE

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
26	Defense Industrial Base (DIB) Cyber Security/Information Assurance (CS/IA) Activities; Amendment.	0790–AJ14	Proposed Rule Stage.
27	Service Academies	0790–AI19	Final Rule Stage.
28	Sexual Assault Prevention and Response Program Procedures	0790–AI36	Final Rule Stage.
29	Operational Contract Support	0790–AI48	Final Rule Stage.
30	Mission Compatibility Evaluation Process	0790–AI69	Final Rule Stage.
31	Child Development Programs (CDPs)	0790–AI81	Final Rule Stage.
32	Voluntary Education Programs	0790–AJ06	Final Rule Stage.
33	Safeguarding Unclassified Controlled Technical Information (DFARS Case 2011–D039).	0750–AG47	Final Rule Stage.
34	Requirements Relating to Supply Chain Risk (DFARS Case 2012–D050)	0750–AH96	Final Rule Stage.
35	Enhancement of Contractor Employee Whistleblower Protections (DFARS Case 2013–D010).	0750–AH97	Final Rule Stage.
36	Allowability of Legal Costs for Whistleblower Proceedings (DFARS Case 2013–D022).	0750–AI04	Final Rule Stage.
37	TRICARE; Reimbursement of Long Term Care Hospitals	0720–AB47	Proposed Rule Stage.
38	TRICARE: Certified Mental Health Counselors	0720–AB55	Final Rule Stage.
39	CHAMPUS/TRICARE: Pilot Program for Refills of Maintenance Medications for TRICARE For Life Beneficiaries Through the TRICARE Mail Order Program.	0720–AB60	Final Rule Stage.

DEPARTMENT OF EDUCATION

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
40	Gainful Employment	1840–AD15	Proposed Rule Stage.

DEPARTMENT OF ENERGY

Sequence No.	Title	Regulation identifier No.	Rulemaking stage
41	Energy Conservation Standards for Walk-In Coolers and Walk-In Freezers	1904–AB86	Proposed Rule Stage.
42	Energy Efficiency Standards for Metal Halide Lamp Fixtures	1904–AC00	Proposed Rule Stage.
43	Energy Efficiency Standards for Manufactured Housing	1904–AC11	Proposed Rule Stage.
44	Energy Conservation Standards for Commercial Refrigeration Equipment	1904–AC19	Proposed Rule Stage.
45	Energy Conservation Standards for Residential Furnace Fans	1904–AC22	Proposed Rule Stage.
46	Energy Efficiency Standards for Certain Commercial and Industrial Electric Motors.	1904–AC28	Proposed Rule Stage.
47	Energy Efficiency Standards for Battery Chargers and External Power Supplies	1904–AB57	Final Rule Stage.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
48	HIPAA Privacy Rule and the National Instant Criminal Background Check System (NICS).	0945–AA05	Proposed Rule Stage.

DEPARTMENT OF HEALTH AND HUMAN SERVICES—Continued

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
49	Food Labeling; Revision of the Nutrition and Supplement Facts Labels	0910–AF22	Proposed Rule Stage.
50	Food Labeling: Serving Sizes of Foods That Can Reasonably Be Consumed At One-Eating Occasion; Dual-Column Labeling; Updating, Modifying, and Establishing Certain RACCs.	0910–AF23	Proposed Rule Stage.
51	Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Food for Animals.	0910–AG10	Proposed Rule Stage.
52	''Tobacco Products'' Subject to the Federal Food, Drug, and Cosmetic Act, as Amended by the Family Smoking Prevention and Tobacco Control Act.	0910–AG38	Proposed Rule Stage.
53	Reports of Distribution and Sales Information for Antimicrobial Active Ingredients Used in Food-Producing Animals.	0910–AG45	Proposed Rule Stage.
54	Revision of Postmarketing Reporting Requirements Discontinuance or Interruption in Supply of Certain Products (Drug Shortages).	0910–AG88	Proposed Rule Stage.
55	Supplemental Applications Proposing Labeling Changes for Approved Drugs and Biological Products.	0910–AG94	Proposed Rule Stage.
56	Veterinary Feed Directive	0910–AG95	Proposed Rule Stage.
57	Food Labeling: Calorie Labeling of Articles of Food Sold in Vending Machines	0910–AG56	Final Rule Stage.
58	Food Labeling: Nutrition Labeling of Standard Menu Items in Restaurants and Similar Retail Food Establishments.	0910–AG57	Final Rule Stage.
59	Fire Safety Requirements for Certain Health Care Facilities (CMS–3277–P)	0938–AR72	Proposed Rule Stage.
60	Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS): Special Payment Rules (CMS–6012–P).	0938–AR84	Proposed Rule Stage.
61	Eligibility, Enrollment, and Appeals Updates (CMS–9949–P)	0938–AS02	Proposed Rule Stage.
62	Hospital Inpatient Prospective Payment System for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and Fiscal Year 2015 Rates (CMS–1607–P).	0938–AS11	Proposed Rule Stage.
63	CY 2015 Revisions to Payment Policies under the Physician Fee Schedule and Other Revisions to Medicare Part B (CMS–1612–P).	0938–AS12	Proposed Rule Stage.
64	CY 2015 Hospital Outpatient Prospective Payment System (PPS) Policy Changes and Payment Rates, and CY 2015 Ambulatory Surgical Center Payment System Policy Changes and Payment Rates (CMS–1613–P).	0938–AS15	Proposed Rule Stage.
65	CLIA Programs and HIPAA Privacy Rule; Patients' Access to Test Reports (CMS–2319–F).	0938–AQ38	Final Rule Stage.
66	Head Start Eligibility Determination	0970–AC46	Final Rule Stage.
67	Child Care and Development Fund Reforms to Support Child Development and Working Families.	0970–AC53	Final Rule Stage.

DEPARTMENT OF HOMELAND SECURITY

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
68	Ammonium Nitrate Security Program	1601–AA52	Final Rule Stage.
69	Asylum and Withholding Definitions	1615–AA41	Proposed Rule Stage.
70	Exception to the Persecution Bar for Asylum, Refugee, and Temporary Protected Status, and Withholding of Removal.	1615–AB89	Proposed Rule Stage.
71	Employment Authorization for Certain H–4 Dependent Spouses	1615–AB92	Proposed Rule Stage.
72	Application of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 to Unaccompanied Alien Children Seeking Asylum.	1615–AB96	Proposed Rule Stage.
73	Administrative Appeals Office: Procedural Reforms To Improve Efficiency	1615–AB98	Proposed Rule Stage.
74	Enhancing Opportunities for H–1B1, CW–1, and E–3 Nonimmigrants and EB–1 Immigrants.	1615–AC00	Proposed Rule Stage.
75	Classification for Victims of Severe Forms of Trafficking in Persons; Eligibility for T Nonimmigrant Status.	1615–AA59	Final Rule Stage.
76	New Classification for Victims of Criminal Activity; Eligibility for the U Nonimmigrant Status.	1615–AA67	Final Rule Stage.
77	Application of Immigration Regulations to the Commonwealth of the Northern Mariana Islands.	1615–AB77	Final Rule Stage.
78	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.
79	Vessel Requirements for Notices of Arrival and Departure, and Automatic Identification System.	1625–AA99	Final Rule Stage.
80	Transportation Worker Identification Credential (TWIC); Card Reader Requirements.	1625–AB21	Final Rule Stage.
81	Offshore Supply Vessels of at Least 6000 GT ITC	1625–AB62	Final Rule Stage.
82	Importer Security Filing and Additional Carrier Requirements	1651–AA70	Final Rule Stage.
83	Changes to the Visa Waiver Program To Implement the Electronic System for Travel Authorization (ESTA) Program.	1651–AA72	Final Rule Stage.
84	Implementation of the Guam-CNMI Visa Waiver Program	1651–AA77	Final Rule Stage.
85	Definition of Form I–94 to Include Electronic Format	1651–AA96	Final Rule Stage.

DEPARTMENT OF HOMELAND SECURITY—Continued

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
86	Security Training for Surface Mode Employees	1652–AA55	Proposed Rule Stage.
87	Standardized Vetting, Adjudication, and Redress Services	1652–AA61	Proposed Rule Stage.
88	Aircraft Repair Station Security	1652–AA38	Final Rule Stage.
89	Passenger Screening Using Advanced Imaging Technology	1652–AA67	Final Rule Stage.
90	Adjustments to Limitations on Designated School Official Assignment and Study By F–2 and M–2 Nonimmigrants.	1653–AA63	Proposed Rule Stage.
91	Standards To Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities.	1653–AA65	Final Rule Stage.
92	Rescinding Suspension of Enrollment for Certain F and M Nonimmigrant Students from Libya and Third Country Nationals Acting on Behalf of Libyan Entities.	1653–AA69	Final Rule Stage.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
93	Floodplain Management and Protection of Wetlands; Building Elevations (FR–5717).	2501–AD62	Proposed Rule Stage.
94	Affordability Determination-Energy Efficiency Standards (FR–5647–N–01)	2501–AD64	Proposed Rule Stage.
95	Public Housing Energy Audits and Physical Needs Assessments (FR–5507)	2577–AC84	Final Rule Stage.

DEPARTMENT OF JUSTICE

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
96	Implementation of the ADA Amendments Act of 2008 (Title II and Title III of the ADA).	1190–AA59	Proposed Rule Stage.
97	Implementation of the ADA Amendments Act of 2008 (Section 504 of the Rehabilitation Act of 1973).	1190–AA60	Proposed Rule Stage.
98	Nondiscrimination on the Basis of Disability; Accessibility of Web Information and Services of Public Accommodations.	1190–AA61	Proposed Rule Stage.
99	Nondiscrimination on the Basis of Disability; Movie Captioning and Audio Description.	1190–AA63	Proposed Rule Stage.
100	Nondiscrimination on the Basis of Disability: Accessibility of Web Information and Services of State and Local Governments.	1190–AA65	Proposed Rule Stage.
101	Machine Guns, Destructive Devices and Certain Other Firearms; Background Checks for Responsible Persons of a Corporation, Trust, or Other Legal Entity With Respect to Making or Transferring a Firearm.	1140–AA43	Proposed Rule Stage.

DEPARTMENT OF TRANSPORTATION

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
102	Slot Management and Transparency for LaGuardia Airport, John F. Kennedy International Airport, and Newark Liberty International Airport.	2120–AJ89	Proposed Rule Stage.
103	Air Ambulance and Commercial Helicopter Operations; Safety Initiatives and Miscellaneous Amendments.	2120–AJ53	Final Rule Stage.
104	Safety Management Systems for Part 121 Certificate Holders	2120–AJ86	Final Rule Stage.
105	National Goals and Performance Management Measures (MAP–21)	2125–AF49	Proposed Rule Stage.
106	National Goals and Performance Management Measures (MAP–21)	2125–AF53	Proposed Rule Stage.
107	National Goals and Performance Management Measures (MAP–21)	2125–AF54	Proposed Rule Stage.
108	Carrier Safety Fitness Determination	2126–AB11	Proposed Rule Stage.
109	Commercial Driver's License Drug and Alcohol Clearinghouse (MAP–21)	2126–AB18	Proposed Rule Stage.
110	Electronic Logging Devices and Hours of Service Supporting Documents (MAP–21).	2126–AB20	Proposed Rule Stage.
111	Motorcoach Rollover Structural Integrity (MAP–21)	2127–AK96	Proposed Rule Stage.
112	Require Installation of Seat Belts on Motorcoaches, FMVSS No. 208 (MAP–21)	2127–AK56	Final Rule Stage.
113	Electronic Stability Control Systems for Heavy Vehicles (MAP–21)	2127–AK97	Final Rule Stage.
114	National and Public Transportation Safety Plans (MAP–21) and Transit Asset Management.	2132–AB20	Prerule Stage.
115	New and Small Start Projects (MAP–21)	2132–AB18	Proposed Rule Stage.
116	State Safety Oversight (MAP–21)	2132–AB19	Proposed Rule Stage.
117	Hazardous Materials: Rail Petitions and Recommendations to Improve the Safety of Railroad Tank Car Transportation (RRR).	2137–AE91	Prerule Stage.
118	Pipeline Safety: Safety of On-Shore Liquid Hazardous Pipelines	2137–AE66	Proposed Rule Stage.

DEPARTMENT OF TRANSPORTATION—Continued

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
119	Pipeline Safety: Gas Transmission (RRR)	2137–AE72	Proposed Rule Stage.

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Sequence No.	Title	Regulation Identifier No.	Rulemaking Stage
120	Telecommunications Act Accessibility Guidelines; Electronic and Information Technology Accessibility Standards.	3014–AA37	Proposed Rule Stage.
121	Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way	3014–AA26	Final Rule Stage.
122	Accessibility Standards for Medical Diagnostic Equipment	3014–AA40	Final Rule Stage.

ENVIRONMENTAL PROTECTION AGENCY

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
123	Review of the National Ambient Air Quality Standards for Lead	2060–AQ44	Proposed Rule Stage.
124	Petroleum Refinery Sector Risk and Technology Review and NSPS	2060–AQ75	Proposed Rule Stage.
125	Standards of Performance for Greenhouse Gas Emissions from New Stationary Sources: Electric Utility Generating Units.	2060–AQ91	Proposed Rule Stage.
126	Standards of Performance for Greenhouse Gas Emissions from Existing Sources: Electric Utility Generating Units.	2060–AR33	Proposed Rule Stage.
127	Standards of Performance for Greenhouse Gas Emissions from Modified Sources: Electric Utility Generating Units.	2060–AR88	Proposed Rule Stage.
128	Pesticides; Agricultural Worker Protection Standard Revisions	2070–AJ22	Proposed Rule Stage.
129	Definition of ''Waters of the United States'' Under the Clean Water Act	2040–AF30	Proposed Rule Stage.
130	Control of Air Pollution From Motor Vehicles: Tier 3 Motor Vehicle Emission and Fuel Standards.	2060–AQ86	Final Rule Stage.
131	Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements.	2060–AR34	Final Rule Stage.
132	Formaldehyde; Third-Party Certification Framework for the Formaldehyde Standards for Composite Wood Products.	2070–AJ44	Final Rule Stage.
133	Formaldehyde Emissions Standards for Composite Wood Products	2070–AJ92	Final Rule Stage.
134	Hazardous Waste Manifest Revisions—Standards and Procedures for Electronic Manifests.	2050–AG20	Final Rule Stage.
135	Criteria and Standards for Cooling Water Intake Structures	2040–AE95	Final Rule Stage.
136	Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category.	2040–AF14	Final Rule Stage.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
137	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.
138	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.
139	Revisions to Procedures for Complaints of Employment Discrimination Filed Against Recipients of Federal Financial Assistance.	3046–AA93	Proposed Rule Stage.
140	Revisions to the Federal Sector's Affirmative Employment Obligations Regarding 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
141	Small Business Mentor-Protege Programs	3245–AG24	Proposed Rule Stage.
142	Small Business Technology Transfer (STTR) Policy Directive	3245–AF45	Final Rule Stage.
143	Small Business Innovation Research (SBIR) Program Policy Directive	3245–AF84	Final Rule Stage.
144	504 and 7(a) Loan Programs Updates	3245–AG04	Final Rule Stage.

SOCIAL SECURITY ADMINISTRATION

Sequence No.	Title	Regulation Identifier No.	Rulemaking Stage
145	Revised Medical Criteria for Evaluating Neurological Impairments (806P)	0960–AF35	Proposed Rule Stage.
146	Revised Medical Criteria for Evaluating Immune (HIV) System Disorders (3466P)	0960–AG71	Proposed Rule Stage.
147	Revised Medical Criteria for Evaluating Cancer (Malignant Neoplastic Diseases) (3757P).	0960–AH43	Proposed Rule Stage.
148	Submission of Evidence in Disability Claims (3802P)	0960–AH53	Proposed Rule Stage.
149	Amendments to Regulations Regarding Withdrawals of Applications and Voluntary Suspension of Benefits (3573F).	0960–AH07	Final Rule Stage.
150	Changes to Scheduling and Appearing at Hearings (3728F)	0960–AH37	Final Rule Stage.
151	Conforming Changes to Regulations Regarding Income-Related Monthly Adjustment Amounts to Medicare Part B Premiums (3734I).	0960–AH47	Final Rule Stage.

BILLING CODE 6820–27–P

DEPARTMENT OF AGRICULTURE (USDA)

Statement of Regulatory Priorities

In FY 2014, USDA's focus will continue to be on programs that create or 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. USDA anticipates implementing a comprehensive Food, Farm and Jobs Bill (Farm Bill) covering major farm, trade, conservation, rural development, nutrition assistance and other programs. It is anticipated that a number of high priority regulations will be developed during 2014 to implement this legislation should it be enacted. USDA's regulatory efforts in the coming year will achieve the following 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 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.

• *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.

Important regulatory activities supporting the accomplishment of these goals in 2014 will include the following:

• *Strengthening Food Safety Inspection.* USDA will continue to develop science-based regulations that improve the safety of meat, poultry, and 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 2014, the Food Safety and Inspection Service (FSIS) plans to finalize regulations to establish new systems for poultry slaughter inspection, which would improve food safety and save money for establishments and taxpayers. Among other actions, USDA will provide export certificates through the use of technology. 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.

• *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 2014, the Food and Nutrition Service (FNS) plans to publish the proposed rule regarding meal pattern revisions for the Child and Adult Care Food Program and finalize a rule updating the WIC food packages. FNS will continue to work to implement rules that minimize participant and vendor fraud in its nutrition assistance programs.

• *Collaborating with Partners to Conserve Natural Resources.* USDA will allow the Natural Resources Conservation Service's (NRCS) State Conservationists to remove undue burdens on producers that have acted in good faith on incorrect program information provided by NRCS. The Forest Service will finalize guidance for implementation of the 2012 Planning Rule. This guidance will provide the detailed monitoring, assessment, and documentation requirements that the

managers of our national forests and grasslands 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 Focused.* The Animal and Plant Health Inspection Service (APHIS) plans to amend its veterinary biologics regulations to provide for the use of a simpler, uniform label format to better meet the needs of veterinary biologics consumers. APHIS also plans to revise tuberculosis and brucellosis regulations to better reflect the distribution of these diseases and thereby minimizing the impacts on livestock producers while continuing to address these livestock diseases. In the area of plant health, APHIS proposes to expand the streamlined method of considering the importation and interstate movement of fruits and vegetables. The Agricultural Marketing Service (AMS) will support the organic sector by 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 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. 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 initiatives are identified in the Department's Final Plan for Retrospective Analysis. . . . The final agency plan, as well as periodic status updates for each initiative, are available online at: *http://www.whitehouse.gov/21stcenturygov/actions/21st-century-regulatory-system.*

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–AD32	Modernization of Poultry Slaughter Inspection	Yes.
0570–AA76	Rural Energy America Program	Yes.
0570–AA85	Business and Industry Loan Guaranteed Program	Yes.
0575–AC91	Community Facilities Loan and Grants	Yes.
0596–AD01	National Environmental Policy Act (NEPA) Efficiencies	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 cost 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 has identified the following burden reducing initiatives:

• *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 a discounted Agency cost savings of $3.3 million over 10 years (discounted at 7 percent).

• *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.

• *Streamline Forest Service National Environmental Policy Act (NEPA) Compliance.* The Forest Service, in cooperation with the Council on Environmental Quality, completed 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 Forest Service projects without reducing environmental protection.

• *Increase Accessibility to the 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 application process for grants, lessening the burden to the customer.

• *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 the Farm Service Agency (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 2014. When specific changes are identified, FSA and RMA will make any required conforming changes in their respective regulations.

Periodic status updates for these burden reducing initiatives can be found online at: *http://www.whitehouse.gov/21stcenturygov/actions/21st-century-regulatory-system.*

In additional to regulatory review initiatives identified under EO 13563 and the paper work burden reduction initiatives identified under the EO 13610, USDA has plans to initiate the following additional streamlining initiatives in 2014.

• *Simplify FSA NEPA Compliance.* FSA will revise its regulations that implement NEPA to update, improve, and clarify requirements. It will also add new categorical exclusions and 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.

• *Simplify Equipment Contracts for Rural Utilities Service (RUS) Loans.* RUS is proposing a rule that would result in a new standard Equipment Contract Form for use by Telecommunications Program borrowers. This new standardized contract would ensure that certain standards and specifications are met and this new form would replace the current process that requires each construction provider to use their own resources to develop a contract for each project.

• *Consolidate Community Facilities Programs Loan and Grant Requirements.* The Rural Housing Service (RHS) proposing to consolidate seven of the regulations used to service Community Facilities direct loans and grants into one streamlined regulation. This rule will reduce the time burden on RHS staff and provide the public with a single document that clearly outlines the requirements for servicing Community Facilities direct loans and grants.

• *Update Tuberculosis and Brucellosis Programs.* Given the success USDA has had in nearly eradicating tuberculosis and brucellosis in ruminants, APHIS will propose rulemaking to update and consolidate its regulations regarding these diseases to better reflect the current distribution of these diseases and the changes in which cattle, bison, and captive cervid are produced in the United States.

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.

USDA is diligently working to carry out the President's EO mandate with regard to regulatory cooperation as new regulations are developed. Several agencies within the Department are also actively engaged in interagency and Departmental regulatory cooperation initiatives being pursued as part of the U.S.-Mexico High Level Regulatory Cooperation Council (HLRCC) and the U.S.-Canada Regulatory Cooperation Council (RCC), as well as other fora. Specific projects are being pursued by USDA agencies such as AMS, APHIS, and FSIS and address a variety of regulatory oversight processes and requirements related to meat, poultry, animal and plant health. Projects related to electronic certification, equivalence, meat nomenclature, and the efficient and safe flow of plant, animal and food across our shared borders are all regulatory cooperation pursuits these agencies are undertaking in order to secure better alignment between our countries without compromising the high standards of safety we have in place in the U.S. relative to food safety and public health, as well as plant and animal health, so critical to American agriculture.

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 2014 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 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. FNS will also publish a final rule implementing the Healthy, Hunger-Free Kids Act of 2010's Community Eligibility Provision, which eliminates the burden of household applications and increases access to free school lunches and breakfasts for children in eligible high poverty schools. In addition, FNS plans to publish a proposed rule that would enhance the eligibility standards for SNAP retailers in order to improve the availability of more healthful foods.

• *Improve Program Integrity.* FNS also plans to publish a number of rules to increase efficiency, reduce the burden of program operations, and reduce improper payments. Program integrity provisions will continue to be strengthened in the SNAP and Child Nutrition programs to ensure Federal taxpayer dollars are spent effectively. To support this objective, FNS plans to publish a final rule from the 2008 Farm Bill that would provide FNS and OIG the authority to suspend payments to SNAP retailers suspected of being egregious violators. For Child Nutrition, FNS plans to publish a proposed rule to strengthen oversight requirements and institution disqualification procedures, allow the imposition of fines by USDA

or State agencies for egregious and/or repeated program violations, and address several deficiencies identified through program audits and reviews.

• *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* proposed rules updating the meal patterns for the Child and Adult Care Food Program to align them with the latest Dietary Guidelines for Americans, establishing professional standards for school food service and State child nutrition program directors. *FNS also plans to finalize a rule updating food packages in WIC.* FNS's 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 among WIC mothers.

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:

• *Implement 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 help prevent thousands of illnesses by allowing front-line inspectors to focus on public health threats such as Salmonella and Campylobacter. 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.

• *Streamline Export Application Processes through the Public Health Information System (PHIS).* To support its food safety inspection activities, FSIS is continuing to implement 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.

• *Ensure Accurate Labeling of Meat and Poultry Products that Contain Added Solutions.* FSIS is developing final regulations to establish a common or usual name for raw meat and poultry products that contain added solutions, and that do not meet a standard of identity. Without adequate labeling information, consumers likely cannot distinguish between raw meat and poultry products that contain added solutions and single-ingredient meat and poultry products. Added solutions are a characterizing component of a product likely to affect consumers' purchasing decisions. The rule will establish a common or usual name for such products that include an accurate description of the raw meat or poultry component, the percentage of added solution incorporated into the product, and the individual ingredients or multi-ingredient components in the solution.

• *Ensure Accurate Labeling of Mechanically Tenderized Beef.* 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. The Agency will propose that raw, needle or blade, mechanically tenderized beef products be labeled to indicate that they are ''mechanically tenderized.'' 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.

• *Improve the Efficiency of Product Recalls.* FSIS will propose to amend 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 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. Access to this information will improve FSIS's ability to conduct timely and effective consumer foodborne illness investigations and other public health activities throughout the stream of commerce.

• *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: A major part of the mission of APHIS is 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 Animal Welfare Act.

Priorities: APHIS continues to pursue initiatives to update our regulations to make them more flexible and performance-based. For example, in the area of animal health, APHIS has prepared a proposal to amend its veterinary biologics regulations to provide for the use of a simpler, uniform label format that would allow biologics licensees and permittees to more clearly communicate product performance information to the end user. In addition, the rule would simplify the evaluation of efficacy studies and reduce the amount of time required by APHIS to evaluate study data, thus allowing manufacturers to market their products sooner. APHIS is also preparing a proposed rule that would revise and consolidate its regulations regarding bovine tuberculosis and brucellosis to better reflect the distribution of these diseases and the current nature of cattle, bison, and captive cervid production in the United States. In the area of plant health, APHIS is preparing a proposed rule that would establish performance standards and a notice-based process for approving the interstate movement of fruits and vegetables from Hawaii and the U.S. Territories and the importation of those articles from other countries. In addition, APHIS will revise agricultural quarantine and inspection user fees so that fees collected are commensurate with the cost of providing the activity.

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 is committed to ensuring the integrity of USDA organic products in the U.S. and throughout the world. The agency is moving forward with the following rulemaking that affect the organic industry.

• *Transitioning Dairy Animals into Organic Production.* Members of the organic community, including dairy producers, organic interest groups, and the National Organic Standards Board have advocated for rulemaking on the allowance for transitioning dairy animals into organic production. Stakeholders have interpreted the current standard differently, creating inconsistencies across dairy producers. AMS is developing a proposed rule to address this issue by specifying that dairy farms have a one-time opportunity to transition animals into organic production. This proposed change to the organic standards will meet consumer expectations of organic dairy products and level the playing for organic dairy producers.

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 millions of 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. FSA is also strengthening its ability to help the Nation respond to national defense emergencies. FSA's priority initiatives are as follows:

• *Streamline Environmental Compliance (NEPA).* FSA will revise its regulations that implement NEPA. 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.

• *Establish Agriculture Priorities and Allocations Systems (APAS).* USDA is developing 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: The Forest Service is committed to developing and issuing science-based regulations intended to ensure public participation in the management of our Nation's national forests and grasslands, while also moving forward the Agency's ability to plan and conduct restoration projects on National Forest System lands. The Forest Service 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:

• *Implement Land Management Planning Framework.* The Forest

Service promulgated a new Land Management Planning rule at 36 CFR part 219 in April 2012 that sets out the requirements for developing, amending, and revising land management plans for units of the National Forest System. The planning directives, once finalized, will be used to implement the planning framework which fosters collaboration with the public during land management planning, and is science-based, responsive to change, and promotes social, economic, and ecological sustainability.

• *Strengthen Ecological Restoration Policies.* 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 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, a 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.

• *Streamline the 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.

• *Increase Accessibility to the 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 application process for grants, lessening the burden to the customer. The rulemaking is expected to reduce the information collection. REAP will also 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.

• *Modify review of Single Family Housing Direct Loans.* RD will finalize the certified loan packager regulation to streamline oversight of the agency's vast network of committed Agency-certified packagers. This action will assist low- and very low-income people become homeowners. It will also reduce burden on program staff enabling them to focus on implementation and delivery or other and will ensure specialized support is available to them to complete the application for assistance, and improving the quality of loan application packages.

• *Update Civil Rights Protections:* RD will propose a comprehensive civil rights rule to update and consolidate civil rights compliance regulations for Rural Housing Service, Rural Utilities Service and Rural Business Service. This regulation will provide detailed information on civil rights compliance and enforcement policies and procedures for all Rural Development programs.

Office of the Assistant Secretary for Civil Rights (OASCR)

Mission: OASCR's mission is to provide leadership and direction for the fair and equitable treatment of all USDA customers and employees while ensuring the delivery of quality programs and enforcement of civil rights. OASCR ensures compliance with applicable laws, regulations, and policies for USDA customers and employees regardless of race, color, national origin, sex (including gender identity and expression), religion, age, disability, sexual orientation, marital or familial status, political beliefs, parental status, protected genetic information, or because all or part of an individual's income is derived from any public assistance program. (Not all bases apply to all programs.)

Priorities

• *Strengthen Civil Rights Protections:* USDA has made significant strides towards realizing the Secretary's vision of a ''New Era for Civil Rights.'' In this effort, USDA plans to publish a proposed rule that will standardize the collection of race, ethnicity and gender data across USDA's conducted programs (those where USDA deals directly with the public; much of this data is already being collected). USDA will also expand the protected categories under which program participants may bring complaints of discrimination to the Department; these new protected bases will be gender identity and political beliefs.

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

• *Promote Biobased Products:* 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 2014, 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.

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USDA—AGRICULTURAL MARKETING SERVICE (AMS)

Proposed Rule Stage

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

Priority: Other Significant.
Legal Authority: 7 U.S.C. 6501
CFR Citation: 7 CFR 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. Preliminary analysis suggest that less than 5 percent of organic dairies would face higher costs to comply with this action. 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	04/00/14	

Regulatory Flexibility Analysis Required: Yes.
Small Entities Affected: Businesses, Organizations.
Government Levels Affected: None.
Agency Contact: Melissa R Bailey, Director, Standards Division, Department of Agriculture, Agricultural Marketing Service, 14th & Independence Avenue SW., Room 2646—South Building, Washington, DC 20250, *Phone:* 202 720–3252, *Fax:* 202 205–7808, *Email: melissa.bailey@usda.gov.*
RIN: 0581–AD08

USDA—FARM SERVICE AGENCY (FSA)

Proposed Rule Stage

2. Environmental Compliance and Related Concerns

Priority: Other Significant.
Legal Authority: 42 U.S.C. 4321 *et seq.*
CFR Citation: 7 CFR 799.
Legal Deadline: None.

Abstract: This proposed rule would provide the Farm Service Agency (FSA) with an environmental compliance regulation that updates, improves, and clarifies its requirements to comply with the National Environmental Policy Act; the National Historic Preservation Act; and numerous other environmental and cultural resource laws, regulations, and Executive orders. It would also make the regulation consistent for the Farm Loan Programs and Farm Programs. Also, it would remove outdated regulations used by FSA from chapter XVIII of the Code of Federal Regulations, formerly used by the predecessor to FSA, the Farmers Home Administration.

Statement of Need: This proposed rule is needed to consolidate and update the FSA regulations implementing the National Environmental Policy Act and related laws and guidance.

Summary of Legal Basis: The National Environmental Policy Act (42 U.S.C. 4321–4347) and the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508).

Alternatives: As an alternative to this proposed rule, we could have updated the two separate FSA NEPA regulations, but that would have made it harder for our stakeholders and employees, more difficult to update in the future, and resulted in redundant regulations.

Anticipated Cost and Benefits: A cost benefit analysis was prepared for this proposed rule and will be made available when the proposed rule is published.

Risks: None.

Timetable:

Action	Date	FR Cite
NPRM	03/00/14	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

URL For Public Comments: www.regulations.gov.

Agency Contact: Deirdre Holder, Director, Regulatory Review Group, Department of Agriculture, Farm Service Agency, 1400 Independence Avenue SW., Washington, DC 20250–0572, *Phone:* 202 205–5851, *Fax:* 202 720–5233, *Email: deirdre.holder@wdc.usda.gov.*

RIN: 0560–AH02

USDA—FSA

Final Rule Stage

3. Agriculture Priorities and Allocations Systems

Priority: Other Significant.

Legal Authority: 50 U.S.C. app 2061 *et seq.;* 42 U.S.C. 5195 *et seq.*

CFR Citation: Not Yet Determined.

Legal Deadline: None.

Abstract: The Secretary of Agriculture is authorized to establish a system to prioritize contracts and make allocations of certain agriculture-related resources, as necessary, to meet national defense priorities. ''Stand-by'' procedures for the Department of Agriculture to implement this authority are out of date and generally inadequate to meet Government or national needs should a situation arise that calls for exercise of the authority. As a result, the Farm Service Agency is implementing regulations to allow USDA to efficiently place priority ratings on contracts or orders with respect to resources within its authority should the need arise. The new Agriculture Priorities and Allocation System (APAS) regulations will be similar to the Department of Commerce's Defense Priorities and Allocation System (DPAS) for establishing priority ratings for contract performance.

Statement of Need: This rule is needed to implement the USDA delegated responsibilities from the Defense Production Act and related Executive Order.

Summary of Legal Basis: The Defense Production Act (50 U.S.C. App. 2061 to 2170, 2171, and 2172) and the related Executive Order 13603, ''National Defense Resources Preparedness,'' dated March 16, 2012.

Alternatives: As an alternative to this proposed rule, we could have continued to require the Department of Commerce to implement the USDA authority; however, the reauthorized and amended Defense Production Act requires each of the agencies to implement regulations.

Anticipated Cost and Benefits: A cost benefit analysis was prepared for the related proposed rule and was made available when the proposed rule published.

Risks: None.

Timetable:

Action	Date	FR Cite
NPRM	05/19/11	76 FR 29084
NPRM Comment Period End.	07/18/11	
Final Rule	04/00/14	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

URL For Public Comments: www.regulations.gov.

Agency Contact: Deirdre Holder, Director, Regulatory Review Group, Department of Agriculture, Farm Service Agency, 1400 Independence Avenue SW., Washington, DC 20250–0572, *Phone:* 202 205–5851, *Fax:* 202 720–5233, *Email: deirdre.holder@wdc.usda.gov.*

RIN: 0560–AH68

USDA—ANIMAL AND PLANT HEALTH INSPECTION SERVICE (APHIS)

Proposed Rule Stage

4. Viruses, Serums, Toxins, and Analogous Products; Single Label Claim for Veterinary Biological Products

Priority: Other Significant.

Legal Authority: 21 U.S.C. 151 to 159

CFR Citation: 9 CFR 112.

Legal Deadline: None.

Abstract: This rulemaking would amend the Virus-Serum-Toxin Act regulations to replace the current label format, which reflects any of four different levels of effectiveness, with a single, uniform label format. It would also require biologics licensees to provide a standardized summary, with confidential business information removed, of the efficacy and safety data submitted to the Animal and Plant Health Inspection Service in support of the issuance of a full product license or conditional license. A single label format along with publicly available safety and efficacy data will help biologics producers to more clearly communicate product performance to their customers.

Statement of Need: The intent of this proposal is to address a request made by our stakeholders and to more clearly communicate product performance information to the user by requiring a uniform label format and a summary of efficacy and safety data (with confidential business information removed).

Summary of Legal Basis: APHIS administers and enforces the Virus-Serum-Toxin Act, as amended (21 U.S.C. 151–159). The regulations issued pursuant to the Act are intended to ensure that veterinary biological products are pure, safe, potent, and efficacious when used according to label instructions.

Alternatives: We could retain the current APHIS labeling guidance, but maintaining the status quo would not address the concern reported by stakeholders concerning the interpretation of product performance.

Anticipated Cost and Benefits: APHIS anticipates that the only costs associated with the proposed labeling format would be one-time costs incurred by licensees and permittees in having labels for existing licensed products updated in accordance with the proposed new format. A simpler, uniform label format that would allow biologics licensees and permittees to more clearly communicate product performance information to the end user. In addition, the rule would simplify the evaluation of efficacy studies and reduce the amount of time required by APHIS to evaluate study data, thus allowing manufacturers to market their products sooner.

Risks: APHIS has not identified any risks associated with this proposed action.

Timetable:

Action	Date	FR Cite
Notice	05/24/11	76 FR 30093
Comment Period End.	07/25/11	
NPRM	01/00/14	
NPRM Comment Period End.	03/00/14	

Regulatory Flexibility Analysis Required: Undetermined.

Small Entities Affected: Businesses.

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: Donna L Malloy, Operational Support Section, Center for Veterinary Biologics, Policy, Evaluation, and Licensing, VS, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 148, Riverdale, MD 20737–1231, *Phone:* 301 851–3426.

RIN: 0579–AD64

USDA—APHIS

5. Brucellosis and Bovine Tuberculosis; Update of General Provisions

Priority: Other Significant.

Legal Authority: 7 U.S.C. 1622; 7 U.S.C. 8301 to 8317; 15 U.S.C. 1828; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701

CFR Citation: 9 CFR 50 and 51; 9 CFR 71; 9 CFR 76 to 78; 9 CFR 86; 9 CFR 93; 9 CFR 161.

Legal Deadline: None.

Abstract: This rulemaking would consolidate the regulations governing bovine tuberculosis (TB), currently found in 9 CFR part 77, and those governing brucellosis, currently found in 9 CFR part 78. As part of this consolidation, we are proposing to transition the TB and brucellosis programs away from a State status system based on disease prevalence. Instead, States and tribes would implement an animal health plan that identifies sources of the diseases within the State or tribe and specifies mitigations to address the risk posed by these sources. The consolidated regulations would also set forth standards for surveillance, epidemiological investigations, and affected herd management that must be incorporated into each animal health plan, with certain limited exceptions; conditions for the interstate movement of cattle, bison, and captive cervids; and conditions for APHIS approval of tests for bovine TB or brucellosis. Finally, the rulemaking would revise the import requirements for cattle and bison to make these requirements clearer and assure that they more effectively mitigate the risk of introduction of the diseases into the United States.

Statement of Need: The current regulations were issued during a time when the prevalence rates for the disease in domestic, cattle, bison, and captive cervids were much higher than they are today. As a result, the regulations specify measures that are necessary to prevent these diseases from spreading through the interstate movement of infected animals. The regulations are effective in this regard, but do not address reservoirs of tuberculosis and brucellosis that exist in certain States. Moreover, the regulations presuppose one method of dealing with infected herds—whole-herd depopulation—and do not take into consideration the development of other methods, such as test-and-remove protocols, that are equally effective but less costly for APHIS and producers. Finally, our current regulations governing the importation of cattle and bison do not always address the risk that such animals may pose of spreading brucellosis or bovine tuberculosis, and need to be updated to allow APHIS to take appropriate measures when prevalence rates for bovine tuberculosis or brucellosis increase or decrease in foreign regions.

Summary of Legal Basis: Under the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*), the Secretary of Agriculture has the authority to issue orders and promulgate regulations to prevent the introduction into the United States and the dissemination within the United States of any pest or disease of livestock.

Alternatives: One alternative would be to leave the current regulations unchanged. As noted above, the current regulations are effective in preventing the interstate movement of infected animals, but do not address reservoirs of brucellosis and tuberculosis that exist in certain States, and thus do not address the root cause of such infection. They also are written in a prescriptive manner which does not allow States to take into consideration scientific developments and other emerging information in determining how best to deal with infected animals and herds. Finally, APHIS' current regulations governing the importation of cattle and bison do not always address the risk that such animals may pose of spreading bovine tuberculosis or brucellosis.

Anticipated Cost and Benefits: Certain additional costs may be incurred by producers as a result of this rule. For example, the proposed rule would impose new interstate movement restrictions on rodeo, event, and exhibited cattle and bison and impose additional costs for producers of such cattle and bison. These new testing requirements could cost, in aggregate, between $651,000 and $1 million. Also, the proposed additional restrictions for the movement of captive cervids could result in additional costs for producers. Adhering to these new requirements may have a total cost to the captive cervid industry of between about $157,000 and $485,000 annually.

States and tribes would incur costs associated with this proposed rule, in particular in developing animal health plans for bovine tuberculosis and brucellosis. The proposed animal health plans for brucellosis and bovine tuberculosis would build significantly on existing operations with respect to these diseases. We anticipate that all 50 States and as many as 3 tribes would develop animal health plans. Based on our estimates of plan development costs, the total cost of the development of these 53 animal health plans could be between about $750,000 and $2.9 million. We expect that under current circumstances, four or five States are likely to develop recognized management area plans as proposed in this rule as part of their animal health plans. Based on our estimates of recognized management area plan development costs, the cost of developing recognized management area plans by these States could total between $56,000 and $274,000.

While direct effects of this proposed rule for producers should be small, whether the entity affected is small or large, consolidation of the brucellosis and bovine tuberculosis regulations is expected to benefit the affected livestock industries. Disease management would be more focused, flexible and responsive, reducing the number of producers incurring costs when disease concerns arise in an area. Also, the competitiveness of the United States in international markets depends on its reputation for producing healthy animals. The proposed rule would enhance this reputation through its comprehensive approach to the control of identified reservoirs of bovine tuberculosis or brucellosis in wildlife populations in certain parts of the United States and more stringent import regulations consistent with domestic restrictions. We expect that the benefits would justify the costs.

Risks: If we do not issue this proposed rule, reservoirs of brucellosis and tuberculosis that exist in certain States will not be adequately evaluated and addressed. Additionally, our current regulations regarding the importation of cattle and bison do not always address the risk that such animals may pose of spreading brucellosis or bovine tuberculosis.

Timetable:

Action	Date	FR Cite
NPRM	02/00/14	
NPRM Comment Period End.	04/00/14	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses, Governmental Jurisdictions.

Government Levels Affected: Local, State, Tribal.

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

Agency Contact: Langston Hull, National Center for Import and Export, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 39, Riverdale, MD 20737, *Phone:* 301 851–3300.

C William Hench, Senior Staff Veterinarian, Ruminant Health Programs, National Center for Animal Health Programs, VS, Department of Agriculture, Animal and Plant Health Inspection Service, 2150 Centre Avenue, Building B–3E20, Ft. Collins, CO 80526, *Phone:* 970 494–7378.

RIN: 0579–AD65

USDA—APHIS

6. Establishing a Performance Standard for Authorizing the Importation and Interstate Movement of Fruits and Vegetables

Priority: Other Significant.

Legal Authority: 7 U.S.C. 450; 7 U.S.C. 7701 to 7772; 7 U.S.C. 7781 to 7786; 21 U.S.C. 136 and 136a

CFR Citation: 7 CFR 318 and 319.

Legal Deadline: None.

Abstract: This rulemaking would amend our regulations governing the importations of fruits and vegetables by broadening our existing performance standard to provide for consideration of all new fruits and vegetables for importation into the United States using a notice-based process. It would also remove the region- or commodity-specific phytosanitary requirements currently found in these regulations. Likewise, we are proposing an equivalent revision of the performance standard in our regulations governing the interstate movements of fruits and vegetables from Hawaii and the U.S. territories (Guam, Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands) and the removal of commodity-specific phytosanitary requirements from those regulations. This proposal would allow for the consideration of requests to authorize the importation or interstate movement of new fruits and vegetables in a manner that enables a more flexible and responsive regulatory approach to evolving pest situations in both the United States and exporting countries. It would not, however, alter the science-based process in which the risk associated with importation or interstate movement of a given fruit or vegetable is evaluated or the manner in which risks associated with the importation or interstate movement of a fruit or vegetable are mitigated.

Statement of Need: The revised regulations are needed to streamline the administrative process involved in consideration of fruits and vegetables currently not authorized for interstate movement or importation, while continuing to provide opportunity for public comment and engagement on the science and risk-based analysis associated with such imports and interstate movements. The proposal would also enable us to adapt our import requirements more quickly in the event of any changes to a country's pest or disease status or as a result of new scientific information or treatment options.

Summary of Legal Basis: Under section 7701 of the Plant Protection Act (PPA), given that the smooth movement of enterable plants and plant products into, out of, or within the United States is vital to the U.S. economy, it is the responsibility of the Secretary of Agriculture to facilitate exports, imports, and interstate commerce in agricultural products and other commodities that pose a risk of harboring plant pests or noxious weeds in ways that will reduce, to the extent practicable, as determined by the Secretary, the risk of dissemination of plant pests or noxious weeds. Decisions regarding exports, imports, and interstate commerce are required to be based on sound science.

Alternatives: We considered taking no action at this time and leaving the regulations as they are currently written. We decided against this alternative because leaving the regulations unchanged would not address the needs identified immediately above.

Anticipated Cost and Benefits: Consumers and businesses would benefit from the more timely access to fruits and vegetables for which entry or movement would currently require rulemaking. This benefit would be reduced to the extent that certain businesses would face increased competition for the subject fruits and vegetables sooner due to their more timely approval. APHIS has not identified other costs that may be incurred because of the proposed rule.

Risks: The performance-based process more closely links APHIS' decision to authorize importation of a fruit or vegetable with the pest risk assessment and brings us in line with other countries that authorize importation of a fruit or vegetable with the pest risk assessment. Some countries have viewed the rulemakings for fruits and vegetables that follow completion of the pest risk assessment as a non-technical trade barrier and may have slowed the approval of U.S. exports (including, but not limited to, fruits and vegetables) into their markets, or placed additional restrictions on existing exports from the United States.

Timetable:

Action	Date	FR Cite
NPRM	03/00/14	
NPRM Comment Period End.	05/00/14	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: Federal.

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: Matthew Rhoads, Associate Executive Director, Plant Health Programs, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 131, Riverdale, MD 20737–1231, *Phone:* 301 851–2133.

RIN: 0579–AD71

USDA—APHIS

7. User Fees for Agricultural Quarantine and Inspection Services

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

Legal Authority: 7 U.S.C. 7701 to 7772; 7 U.S.C. 7781 to 7786; 7 U.S.C. 8301 to 8317; 21 U.S.C. 136 and 136a; 49 U.S.C. 80503

CFR Citation: 7 CFR 354.

Legal Deadline: None.

Abstract: This rulemaking would amend the user fee regulations by adding new fee categories and adjusting current fees charged for certain agricultural quarantine and inspection services that are provided in connection with certain commercial vessels, commercial trucks, commercial railroad cars, commercial aircraft, and international passengers arriving at ports in the customs territory of the United States. It would also adjust the fee caps associated with commercial vessels, commercial trucks, and commercial railcars. Based on the conclusions of a third party assessment of the user fee program and on other

considerations, we have determined that revised user fee categories and revised user fees are necessary to recover the costs of the current level of activity, to account for actual and projected increases in the cost of doing business, and to more accurately align fees with the costs associated with each fee service.

Statement of Need: Regarding certain agricultural quarantine and inspection services that are provided in connection with certain commercial vessels, commercial trucks, commercial railroad cars, commercial aircraft, and international passengers arriving at ports in the customs territory of the United States, we have determined that revised user fee categories and revised user fees are necessary to recover the costs of the current level of activity, to account for actual and projected increases in the cost of doing business, and to more accurately align fees with the costs associated with each fee service.

Summary of Legal Basis: Section 2509(a) of the Food, Agriculture, Conservation, and Trade (FACT) Act of 1990 (21 U.S.C. 136a) authorizes APHIS to collect user fees for certain agricultural quarantine and inspection (AQI) services. The FACT Act was amended on April 4, 1996, and May 13, 2002. The FACT Act, as amended, authorizes APHIS to collect user fees for AQI services provided in connection with the arrival, at a port in the customs territory of the United States, of commercial vessels, commercial trucks, commercial railroad cars, commercial aircraft, and international passengers. According to the FACT Act, as amended, these user fees should recover the costs of:

- Providing the AQI services for the conveyances and the passengers listed above;
- Providing preclearance or preinspection at a site outside the customs territory of the United States to international passengers, commercial vessels, commercial trucks, commercial railroad cars, and commercial aircraft;
- Administering the user fee program; and
- Maintaining a reasonable reserve.

In addition, the FACT Act, as amended, contains the following requirement:

- The fees should be commensurate with the costs with respect to the class of persons or entities paying the fees. This is intended to avoid cross-subsidization of AQI services.

Alternatives: APHIS focused on three alternatives composed of different combinations of paying classes. The first or preferred alternative is the proposed rule; the second alternative differed from the first by not including user fees for recipients of AQI treatment services; and under the third alternative, recipients of commodity import permits and pest import permits would pay user fees, in addition to the classes that would pay fees under the proposed rule. The latter two alternatives were rejected.

Anticipated Cost and Benefits: The proposed changes in user fees would ensure that the program can continue to protect America's agricultural industries and natural resource base against invasive species and diseases while more closely aligning, by class, the cost of AQI services provided and user fee revenue received.

Risks: AQI services benefit U.S. agricultural and natural resources by protecting them from the inadvertent introduction of foreign pests and diseases that may enter the country and the threat of intentional introduction of pests or pathogens as a means of agroterrorism. In the extreme, failure to maintain the nation's biosecurity could disrupt American agricultural production, erode confidence in the U.S. food supply, and destabilize the U.S. economy.

Timetable:

Action	Date	FR Cite
NPRM	04/00/14	
NPRM Comment Period End.	06/00/14	

Regulatory Flexibility Analysis Required: Undetermined.

Small Entities Affected: Businesses.

Government Levels Affected: Federal.

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: William E Thomas, Senior Agriculturist, Office of the Deputy Administrator, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 130, Riverdale, MD 20737, *Phone:* 301 851–2306.

Michael Peranio, Chief, User Fees, Financial Services Branch, FMD, MRPBS, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 55, Riverdale, MD 20737, *Phone:* 301 851–2852.

RIN: 0579–AD77

USDA—RURAL HOUSING SERVICE (RHS)

Proposed Rule Stage

8. Civil Rights Compliance Requirements

Priority: Other Significant.

Legal Authority: Pub. L. 100–259; 29 U.S.C. 794; Pub. L. 94–135; 42 U.S.C. 6101 *et seq.;* Pub. L. 94–239; 15 U.S.C. 1601 *et seq.;* EO 11246; Pub. L. 88–352; 42 U.S.C. 2000d *et seq.;* Pub. L. 90–284; 42 U.S.C. 3601 to 3619; Pub. L. 100–430; Pub. L. 92–318; 20 U.S.C. 1681 *et seq.;* Pub. L. 93–112; EO 12898

CFR Citation: 7 CFR 15; 12 CFR 202; 28 CFR 42; 45 CFR 90; 41 CFR 60 to 64; 24 CFR 14; 7 CFR 1901–E; 7 CFR 1940–D.

Legal Deadline: None.

Abstract: In this proposed rule the Rural Housing Service (RHS) proposes to effectuate a comprehensive civil rights regulation to provide detailed guidelines to improve compliance with applicable enacted civil right laws. Mechanisms for monitoring compliance by USDA field offices and recipients of Federal financial assistance at all levels will decrease the Agency's vulnerability that exists due to compliance issues.

Statement of Need: The 1901–E is the current civil rights compliance regulation covering Rural Development programs which was published in 1977. The 1940–D will update and replace the information provided in the 1901–E which addresses limited elements of civil rights compliance and limited information on enforcement policies and procedures. This proposed rule will increase the understanding of civil rights compliance requirements under title VI and applicable civil rights laws which will directly reduce the number of complaints received by customers, applicants, borrowers, grantees, recipients and beneficiaries.

Summary of Legal Basis: This information is used by Rural Development to comply with the Department of Justice (DOJ) title VI Regulation 28 CFR part 42 subpart F to insure that Federal agencies which extend Federal financial assistance properly enforce title VI of the Civil Rights Act and similar provisions in Federal grant statutes. Additionally, section 42.407—''Procedures to Determine Compliance'' established Rural Development requirements to conduct pre-award and post-award compliance reviews. The requirement to conduct compliance reviews is also based on the requirements of Executive Order 12250.

Alternatives: The alternative to publishing this rule is to continue to use the 1901–E as it is written.

Anticipated Cost and Benefits: This proposed rule will not impose any new costs for the public (customers, applicants, borrowers, grantees, recipients and/or beneficiaries) of Rural Development's loan and grant programs. The proposed rule will align Rural Development's civil rights enforcement policies with laws and regulations which are already federal law. This rule will also align Rural Development civil rights regulations with USDA departmental regulations. On average Rural Development received 250 complaints each year. It is estimated that each complaint costs on average $10,000 to process. Lawsuits and findings of discrimination add to this cost.

Risks: There are no risks associated with publishing or not publishing this rule but there may be inferred risk to recipients or beneficiaries due to non-compliance issues.

Timetable:

Action	Date	FR Cite
NPRM	04/00/14	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Undetermined.

Agency Contact: Renata Robinson, Department of Agriculture, Rural Housing Service, 1400 Independence Avenue SW., Washington, DC 20250, *Phone:* 202 692–0070, *Email: renata.robinson@wdc.usda.gov.*

RIN: 0575–AA83

USDA—RHS

9. Loan Packager Certification

Priority: Other Significant.

Legal Authority: 5 U.S.C. 301; 42 U.S.C. 1480

CFR Citation: 7 CFR 3550.

Legal Deadline: None.

Abstract: In the Single Family Housing (SFH) direct loan program, the current loan application packaging process is an informal arrangement and the packagers' level of program knowledge and expertise, as well as their level of service, is inconsistent. To address this, the Rural Housing Service (RHS) is proposing to amend its regulations for the SFH direct loan program to create a certified loan application process. Certified packagers will promote the direct loan program in eligible communities; informally prescreen interested parties to determine their likelihood of qualifying for the program; and fully prepare and document the loan application package on behalf of the applicant for submission to the Agency. The certified loan application process will include the requirements for eligible individuals to obtain the designation of an Agency-certified loan application packager and the requirements for qualified nonprofit organizations and public agencies that employ certified packagers. These requirements will cover experience, training, proficiency, and structure. The process will also include Agency-approved independent nonprofit organizations that serve as intermediaries and perform quality assurance reviews on packaged loan applications prior to submission to the Agency. In addition, RHS is proposing to set limitations on the loan application packaging fee. The fee may not exceed two percent of the average area loan limit nationwide; the Administrator will periodically set a maximum dollar amount for the fee within this limit and set different maximum dollar amounts for certified packagers working with and without intermediaries. These amounts will be published on the Agency's Web site as an attachment to HB–1–3550.

Agency financing of the packaging fee will remain dependent on the borrower's repayment ability and the total secured indebtedness limitation outlined in 7 CFR 3550.63.

Statement of Need: Formalizing the loan application process will allow for Agency oversight; it will also ensure minimum competency standards.

By establishing a vast network of competent, experienced, and committed Agency-certified packagers, this action will benefit low- and very low-income people who wish to achieve homeownership in rural areas by increasing their awareness of the Agency's housing program, increasing specialized support available to them to complete the application for assistance, and improving the quality of loan application packages submitted on their behalf.

Summary of Legal Basis: The SFH direct loan program was authorized by the Housing Act of 1949, as amended.

Alternatives: The alternative to implementing a certified loan application packaging process is maintaining the status quo, which is problematic for the following reasons:

With voluntary early retirement authority and voluntary separation incentive payments offered in the first quarter of Fiscal Years 2012 and 2013, the number of Rural Development staff available to process section 502 loan applications has been severely reduced. Without operational restructuring and redistribution, program participants will experience unprecedented and significant delays in loan application processing.

The current procedure allows loan application packaging under an informal arrangement, which results in inconsistencies in the packagers' level of program knowledge and expertise as well as their level of service.

Limited travel budgets restrict the Rural Development staffs' ability to target underserved areas (such as Indian reservations, colonias counties, and persistent poverty counties).

Anticipated Cost and Benefits:

Cost/benefit to the borrowers: With an interest rate of 3.75%, which is the program's full note interest rate that has been in effect as of September 2013, and with a standard term of 33 years, a packaging fee of $1,500 will cost the borrower $6.62/month ($1,500 x .00441; the amortization factor for this extra loan amount). Because many borrowers receive the maximum payment assistance allowed, the amount billed for the fee may be reduced down to $4.46/month ($1,500 x .00297 the amortization factor for this extra loan amount at 1% for 33 years). In FY 2012, the families served through the direct single family housing program had an average annual income of $27,600. At most, the increase in the monthly payment represents .02 percent of the allowable qualifying ratios ($6.62/$27,600). All other factors aside, the packaging fee should not adversely impact an applicant's eligibility.

For borrowers that choose to apply through the certified loan application packaging process, their increased loan costs are more than offset by the benefits they will experience (largely being made aware of an affordable homeownership program that they may not have otherwise heard of because of the Agency's reduced physical presence in rural areas and having a knowledgeable and committed packager hold their hand through the entire application process).

Cost/benefit to the Agency: The training costs associated with this action is approximately $39,600 per fiscal year in comparison to maintaining the status quo. The one-time cost to modify the program's loan origination system to create a new data element to track applications obtained through the certified loan application process is $100,000.

Implementing a certified loan application process will save the Agency approximately $1.5 million in salaries and expenses per fiscal year in comparison to maintaining the status quo.

Risks: There may be some limited opposition to the loan application

packaging fee from affordable housing advocates, but the Agency believes the substantial measure by which the process's merits outweigh potential drawbacks will be widely recognized. The loan application packaging fee outlined in the proposed rule is significantly higher than the amount currently allowed. However, the fee also ensures critical outreach and support for families and individuals who might otherwise have little chance of securing a mortgage. Moreover, engaging the services of a certified packager is completely at the applicant's discretion-the borrower has the option of electing to proceed without the additional assistance afforded by the fee. The allowable fee reflects the additional responsibilities that will be placed on those involved in the certified loan application packaging process (principally submitting viable loan application packages to expedite the Agency's underwriting review); and the fee can be financed with the SFH loan, adding little to the required monthly payment. The rule also furthers the government's partnering opportunities with private organizations. The proposed certification process is not mandatory. Individuals and entities that do not meet the requirements for certification may still package on behalf of an applicant but any fee charged will not be an allowable loan purpose.

Timetable:

Action	Date	FR Cite
NPRM	08/23/13	78 FR 52460
NPRM Comment Period End.	10/22/13	
NPRM Comment Period Extended.	11/01/13	78 FR 65582
Final Action	09/00/14	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Agency Contact: Brooke Baumann, Senior Loan Specialist, Department of Agriculture, Rural Housing Service, STOP 0783, 1400 Independence Avenue SW., Washington, DC 20250, *Phone:* 202 720–1474, *Fax:* 202 720–2232, *Email: brooke.baumann@wdc.usda.gov*.

RIN: 0575–AC88

USDA—FOOD AND NUTRITION SERVICE (FNS)

Proposed Rule Stage

10. Child Nutrition Program Integrity

Priority: Other Significant.

Legal Authority: Pub. L. 111–296

CFR Citation: 7 CFR part 210; 7 CFR part 215; 7 CFR part 220; 7 CFR part 225; 7 CFR part 226; 7 CFR part 235.

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	03/00/14	
NPRM Comment Period End.	05/00/14	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: Local, State.

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

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RIN: 0584–AE08

USDA—FNS

11. Child and Adult Care Food Program: Meal Pattern Revisions Related to the Healthy, Hunger-Free Kids Act of 2010

Priority: Other Significant.

Legal Authority: Pub. L. 111–296

CFR Citation: 7 CFR 226.

Legal Deadline: None.

Abstract: This proposal would implement section 221 of the Healthy, Hunger-Free Kids Act of 2010 (Pub. L. 111–296, the Act) which requires USDA to review and update, no less frequently than once every 10 years, requirements for meals served under the Child and Adult Care Food Program (CACFP) to ensure that meals are consistent with the most recent Dietary Guidelines for Americans and relevant nutrition science.

Statement of Need: Section 221 of the Healthy, Hunger-Free Kids Act of 2010 (Pub. L. 111–296, the Act) requires USDA to review and update, no less frequently than once every 10 years, requirements for meals served under the Child and Adult Care Food Program (CACFP) to ensure that meals are consistent with the most recent Dietary Guidelines for Americans and relevant nutrition science. The Act also clarifies the purpose of the program, restricts the use of food as a punishment or reward, outlines requirements for milk and milk

substitution, and introduces requirements for the availability of water. This rule will establish the criteria and procedures for implementing these provisions of the Act.

Summary of Legal Basis: Section 221 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 improve the nutritional quality of meals served and the overall health of children participating in the CACFP. Most CACFP meals are served to children from low-income households. At this time, we cannot estimate the financial impact the proposed rule will have on State agencies, sponsoring organizations, and child care institutions, but we expect that there will be a small cost increase associated with the implementation of improved meal pattern requirements. A regulatory impact analysis will be conducted to determine these cost implications.

Risks: None identified.

Timetable:

Action	Date	FR Cite
NPRM	02/00/14	
NPRM Comment Period End.	05/00/14	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Governmental Jurisdictions.

Government Levels Affected: Local, State.

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RIN: 0584–AE18

USDA—FNS

12. Enhancing Retailer Eligibility Standards in SNAP

Priority: Other Significant.

Legal Authority: Sec. 3, U.S.C. 2012; Sec. 9, U.S.C. 2018

CFR Citation: 7 CFR 271.2; 7 CFR 278.1.

Legal Deadline: None.

Abstract: This rulemaking will address the criteria used to authorize redemption of SNAP benefits (especially by restaurant-type operations).

Statement of Need: Sections 3(k), (p) and (r), Section 7, and Section 9 of the Food and Nutrition Act and Title 7 Parts 271, 274, and 278 of the Code of Federal Regulations provide factors for determining the eligibility of retail food stores to participate in the Supplemental Nutrition Assistance Program (''SNAP''). The Food and Nutrition Service (FNS) has published a notice requesting information from any and all interested parties on opportunities to enhance retailer definitions and requirements in a manner that improves access to healthy food choices for SNAP participants as well as program integrity, and ensures that only those retailers that effectuate the purpose of SNAP are authorized to accept benefits. FNS is requesting information to understand what policy changes and, as needed, statutory changes, should be considered for retailer authorizations. FNS will use this information in determining how to make positive progress in the available healthy choices for program participants at authorized SNAP retail stores. FNS will propose revisions to existing regulations following this process of gathering stakeholder input.

Summary of Legal Basis: Section 3(k) of the Food and Nutrition Act of 2008 (the Act) generally (with limited exception) (1) requires that food purchased with SNAP benefits be meant for home consumption and (2) forbids the purchase of hot foods with SNAP benefits. The intent of those statutory requirements can be circumvented by selling cold foods, which may be purchased with SNAP benefits, and offering onsite heating or cooking of those same foods, either for free or at an additional cost. In addition, Section 9 of the Act provides for approval of retail food stores and wholesale food concerns based on their ability to effectuate the purposes of the Program.

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

Anticipated Cost and Benefits: The proposed changes will allow FNS to improve access to healthy food choices for SNAP participants and to ensure that participating retailers effectuate the purposes of the Program. FNS anticipates that these provisions will have no significant costs to States.

Risks: None identified.

Timetable:

Action	Date	FR Cite
NPRM	05/00/14	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: State.

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RIN: 0584–AE27

USDA—FNS

Final Rule Stage

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

Priority: Other Significant.

Legal Authority: 42 U.S.C. 1786

CFR Citation: 7 CFR 246.

Legal Deadline: Final, Statutory, November 30, 2006.

CN and WIC Reauthorization Act of 2004 (Pub. L. 108–265) requires issuance of a final rule within 18 months of the release of the IOM Report.

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 Act of 1966, as amended, section 17; especially 17(b)(14) and 17(f)(11).

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. 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. 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 Rule	02/00/14	

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.*

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RIN: 0584–AD77

USDA—FNS

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14. 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 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, and others were new program options the FCEA created that State agencies may include in their administration of the program. FNS did consider alternatives within these mandatory and optional FCEA provisions addressed in the rule. For example, under the new optional provision implementing section 4119 of the FCEA, Telephonic Signature Systems, FNS considered what specific conditions must be satisfied for a signature to be considered a spoken signature.

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, including that 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 Action	03/00/14	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: Local, State.

Agency Contact: Charles H Watford, Regulatory Review Specialist, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Alexandria, VA 22302, *Phone:* 703 605–0800, *Email: charles.watford@fns.usda.gov.*

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RIN: 0584–AD87

USDA—FOOD SAFETY AND INSPECTION SERVICE (FSIS)

Proposed Rule Stage

15. Records To Be Kept by Official Establishments and Retail Stores That Grind Raw Beef Products

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

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

CFR Citation: 9 CFR 320.

Legal Deadline: None.

Abstract: FSIS is proposing to amend its recordkeeping regulations to specify that all official establishments and retail stores that grind 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 product and identify the names of those source materials.

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 to 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 traceback and traceforward 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 conduct traceback and traceforward 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 will fully 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 or 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 will fully 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.

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 76,093 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 recordkeeping costs would be approximately $1.46 million. Agency costs of approximately $0.01 million 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 estimated averted Shiga toxin-producing E.coli illnesses of $1.06 million and $0.58 million due to averted cases of Salmonellosis.

Total benefits from this rule are estimated to be $1.64 million, with a net annual benefit of $0.13 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 faster 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 STECs 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 estimates that the annual costs of STEC and salmonellosis illnesses that will continue to be incurred without this rule is $1.64 million, which comes from an estimated $1.06 million due to illnesses associated with STECs and an estimated $0.58 million due to cases of salmonellosis.

Timetable:

Action	Date	FR Cite
NPRM	03/00/14	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: None.

Agency Contact: Victoria Levine, Program Analyst, Issuances Staff (IS), Department of Agriculture, Food Safety and Inspection Service, Office of Policy and Program Development, 1400 Independence Avenue SW., Room 6079, South Building, Washington, DC 20250–3700, *Phone:* 202 690–3184, *Fax:* 202 690–0486, *Email: victoria.levine@fsis.usda.gov.*

RIN: 0583–AD46

USDA—FSIS

Final Rule Stage

16. 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 Action	04/00/14	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Businesses.

Government Levels Affected: None.

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RIN: 0583–AD32

USDA—FSIS

17. 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: FSIS is developing final regulations to amend 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 intends to 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 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	05/00/14	

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: Rick Harries, Director, Import/Export Coordination and Policy Development Staff (IECPDS), Department of Agriculture, Food Safety and Inspection Service, Office of Policy and Program Development, 1400 Independence Avenue SW., Room 2147, South Building, Washington, DC 20250–3700, *Phone:* 202 720–6508, *Fax:* 202 720–7990, *Email: rick.harries@fsis.usda.gov*.

RIN: 0583–AD41

USDA—FSIS

18. Common or Usual Name for Raw Meat and Poultry Products Containing Added Solutions

Priority: Other Significant.

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

CFR Citation: 9 CFR 317.2(e); 9 CFR 381.117(h).

Legal Deadline: None.

Abstract: FSIS is developing final regulations to establish a common or usual name for raw meat and poultry products that contain added solutions, and that do not meet a standard of identity. FSIS proposed to amend the meat and poultry labeling regulations to require that the common or usual name must include an accurate description of the raw meat or poultry component, the percentage of added solution, and the individual ingredients or multi-ingredient components in the solution listed in descending order of prominence by weight. The Agency also proposed that the print for all words in the common or usual name appears in a single easy-to-read type style and color, and on a single color-contrasting background. The Agency also intends to remove the standard of identity for ''ready-to-cook poultry products to which solutions are added'' (9 CFR 381.169).

Statement of Need: Without adequate labeling information, consumers likely cannot distinguish between raw meat and poultry product that contain added solutions and single-ingredient meat and poultry products. Added solutions are a characterizin component of a product likely to affect consumer's purchasing decisions. Therefore, to ensure that labels adequately inform consumers that a meat and poultry product contains added solutions, the Agency is establishing a common or usual name for products containing added solutions.

Summary of Legal Basis: 21 U.S.C. 601(n)(1), (n)(2), (n)(9); 453(h)(1), (h)(3), (h)(9).

Alternatives:

1. No Action. FSIS considered taking no action but did not select this alternative because a consumer research study submitted to the Agency showed that consumers view information about these additives as important factors in their purchasing decisions.

2. Require the word ''enhanced'' in the product's common or usual name, or the use of the term ''enhanced'' in the containing statement, e.g., ''enhanced with 15 percent solution.'' FSIS did not select this alternative because the word implies that the product is improved by the addition of the solution. The intent of this rule is to increase transparency to consumers, not to suggest that the product is either better or worse than a raw product without the added solution. In addition, consumer research showed that the containing statement, ''enhanced with up to 15 percent solution of water salt, and sodium phosphates'' was preferred by fewer study participants (about 10 percent fewer) than the use of the description ''contains up to 15 percent water, salt, and sodium phosphates.

3. Require that the common or usual name of the added solutions product include an accurate description of the raw meat or poultry component, the percentage of added solution, and the common or usual name of the ingredients in the solution, with all of the print in a single font size, color, and style on a single-color contrasting background (the proposed amendments). FSIS selected this alternative because it is likely to improve consumer awareness and understanding that raw meat or poultry product contains an added solution. Requiring the percentage of the solution and the ingredient of the solution as part of the common or usual name is information consumers need to make informed purchasing decisions.

Anticipated Cost and Benefits: The amendments will require establishments that manufacture raw meat and poultry products with added solution to modify or redesign the product label, effective December 2016, the Uniform Compliance Date for Food Labeling. FSIS's estimates that the one-time total cost of modifying labels for all federally inspected processors is $80 million, as central estimate. The amendments will improve public awareness of product identities by providing truthful and accurate labeling of meat and poultry products to clearly differentiate products containing added solutions from single-ingredient products. Consumers can better determine whether products containing added solutions are suitable for their personal dietary needs through increased product name prominence.

Risks: None.

Timetable:

Action	Date	FR Cite
NPRM	07/27/11	76 FR 44855
NPRM Comment Period End.	09/26/11	
NPRM Comment Period Re-opened.	11/08/11	76 FR 69146
NPRM Comment Period End.	01/09/12	
Final Action	03/00/14	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Businesses.

Government Levels Affected: None.

Agency Contact: Rosalyn Murphy-Jenkins, Director, Labeling and Program Delivery Staff (LPDS), Department of Agriculture, Food Safety and Inspection Service, Office of Policy and Program Development, Patriots Plaza 3, 1400 Independence Avenue SW., Room 8–148, Mailstop 5273, Washington, DC 20250–5273, *Phone:* 301 504–0879, *Fax:* 202 245–4792, *Email: rosalyn.murphy-jenkins@fsis.usda.gov*.

RIN: 0583–AD43

USDA—FSIS

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

Priority: Other Significant.

Legal Authority: 21 U.S.C. 601 to 695

CFR Citation: 9 CFR 317.2(e)(3).

Legal Deadline: None.

Abstract: FSIS has proposed regulations 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. This rule would require that the product name for such beef products include the descriptive designation ''mechanically tenderized'' and accurate description of the beef component. The rule would also require

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, this rule would 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 stating 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 necessary 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.

Alternatives: The Agency considered two options: Option 1, extend labeling requirements to include vacuum tumbled beef products and enzyme-formed beef products; and Option 2, extend the proposed labeling requirements to all needle- or blade-tenderized meat and poultry products.

Anticipated Cost and Benefits: The proposed rule estimated the one-time cost to produce labels for mechanically tenderized beef at $1.05 million or $2.62 million, if this rule is in effect before the added solutions rule. The annualized cost is $140,000 for 10 years at a 7 percent discount rate or $349,000 over 10 years at a 7 percent discount rate, if this rule is in effect before the added solutions rule.

The proposed rule estimated the expected number of E. coli O157:H7 illnesses prevented would be 453 per year, with a range of 133 to 1,497, if the predicted percentages of beef steaks and roasts are cooked to an internal temperature of 160 °F (or 145 °F and 3 minutes of dwell time). These prevented illnesses amount to $1,486,000 per year in benefits with a range of $436,000 to $4,912,000.

Therefore, the expected annualized net benefits are $296,000 to $4,772,000 with a primary estimate of $1,346,000. If, however, this rule is in effect before the added solutions rule, the expected annualized net benefits are then $1,137,000, with a range of $87,000 to $4,563,000, plus the unquantifiable benefits of increased consumer information and market efficiency, minus an unquantified consumer surplus loss and an unquantified cost associated with food service establishments changing their standard operating procedures.

Risks: FSIS estimates that approximately 1,965 illnesses annually is attributed to mechanically tenderized beef, either with or without added solutions. If all the servings are cooked to a minimum of 160 °F then the number of illnesses drops to 78. This number of illness is due to a data set for all STEC and not just O157 data. From the risk assessment, 1,887 out of 1,965 illnesses were estimated to be prevented annually if mechanically tenderized meat were cooked to 160 degrees.

Timetable:

Action	Date	FR Cite
NPRM	06/10/13	78 FR 34589
NPRM Comment Period End.	08/09/13	
NPRM Comment Period Extended.	08/09/13	78 FR 48631
Final Action	06/00/14	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: None.

Agency Contact: Rosalyn Murphy–Jenkins, Director, Labeling and Program Delivery Staff (LPDS), Department of Agriculture, Food Safety and Inspection Service, Office of Policy and Program Development, Patriots Plaza 3, 1400 Independence Avenue SW., Room 8–148, Mailstop 5273, Washington, DC 20250–5273, *Phone:* 301 504–0879, *Fax:* 202 245–4792, *Email: rosalyn.murphy-jenkins@fsis.usda.gov.*

RIN: 0583–AD45

USDA—FOREST SERVICE (FS)

Proposed Rule Stage

20. Forest Service Manual 2020—Ecological Restoration and Resilience Policy

Priority: Other Significant.

Legal Authority: Not Yet Determined

CFR Citation: None.

Legal Deadline: None.

Abstract: This policy establishes a common definition for ecological restoration and resilience that is consistent with the 2012 Land Planning rule. The directive will provide additional guidance in implementing the definition throughout Forest Service program areas by incorporating it into the Forest Service Manual.

Restoration objectives span a number of initiatives in various program areas, including the invasive species strategy, recovery of areas affected by high-severity fires, hurricanes, and other catastrophic disturbances; fish habitat restoration and remediation; riparian area restoration; conservation of threatened and endangered species; and restoration of impaired watersheds and large-scale watershed restoration projects. The restoration policy will allow agency employees to more effectively communicate Forest Service work in meeting restoration needs at the local, regional, and national levels. Currently an internal Forest Service interim policy for this proposed directive has been implemented in the field units, without any issues. Incorporating the definition into the Forest Service Manual will bring the FS policy into alignment with current ecological restoration science and with congressional and FS authorizations and initiatives.

Statement of Need: There is a critical need for ecological restoration on National Forest System lands and the concept of restoration is threaded throughout existing Agency authorities and collaborative efforts such as the National Fire Plan. However, without a definition in FS' Directive System there has not been consistent interpretation and application. An established policy is necessary for consistency and for the landscape to better weather disturbances, especially under future environmental conditions.

Summary of Legal Basis: The Forest Service proposes to amend the Forest Service Manual (FSM) to add a new title: FSM 2020 Ecological Restoration and Resilience. The proposed directive reinforces adaptive management, use of science, and collaboration in planning and decision making. These foundational land management policies, including use of restoration to achieve desired conditions, underwent formal public review during revision of the Planning Rule (36 CFR 219) and amendment of associated directives (FSM 1900, 1920).

Alternatives: No alternatives were considered as an established policy is necessary for Agency consistency.

Anticipated Cost and Benefits: The promulgation of this directive will have no monetary effect to the Agency or the public. The proposed directive will help agency employees and partners more effectively communicate restoration needs and accomplishments at the local, regional, and national levels.

Risks: There is no risk identified with this rulemaking. The Forest Service has been accomplishing ecological restoration work for many years but has not specifically and consistently referred to it as ''restoration'' until recently. This final directive brings agency policy into alignment with field operations and current and emerging ecological restoration science and terminology.

Timetable:

Action	Date	FR Cite
Proposed Directive.	09/12/13	78 FR 56202
Proposed Directive Comment Period End.	11/12/13	
Final Directive	09/00/14	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: None.

Agency Contact: LaRenda C King, Assistant Director, Directives and Regulations, Department of Agriculture, Forest Service, ATTN: ORMS, D&R Branch, 1400 Independence Avenue SW., Washington, DC 20250–0003, *Phone:* 202 205–6560, *Email: larendacking@fs.fed.us.*

RIN: 0596–AC82

USDA—FS

Final Rule Stage

21. Land Management Planning Rule Policy

Priority: Other Significant.

Legal Authority: 5 U.S.C. 302; 16 U.S.C. 1604; 16 U.S.C. 1613

CFR Citation: 36 CFR 219.

Legal Deadline: None.

Abstract: The Forest Service promulgated a new Land Management Planning rule in April 2012. This rule streamlined the Forest Service's paperwork requirements and expanded the public participation requirements for revising National Forest's Land Management Plans. On February 27, 2013, the Forest Service published proposed directives (78 FR 13316) that will update the current directives, which provide Forest Service internal guidance on how to implement the 2012 planning rule. The directives will allow full implementation of the Land Management Planning rule, which will enable the Forest Service to reduce the time to revise expired plans from 4 to 5 years to 2 to 3 years. These directives, once finalized, will enable the National Forests to revise their management plans under the new rule.

Statement of Need: The existing direction in the Forest Service Manual 1920 and the Forest Service Handbook 1909.12 regarding Land Management Planning needs to be updated to support implementation of the 2012 Planning Rule (36 CFR 219). This will bring the planning directives in line with the new planning rule and clarify substantive and procedural requirements to implement the rule. The updated directives would implement a planning framework that fosters collaboration with the public during land management planning, and is science-based, responsive to change, and promotes social, economic, and ecological sustainability.

Summary of Legal Basis: The Forest Service promulgated a new land management planning regulation at 36 CFR 219 (the ''2012 Planning Rule''). The final Planning rule and record of decision was published on April 9, 2012 (77 FR 21162).

Alternatives: The Forest Service must finalize the directives to bring the FS's internal directives in-line with the CFR.

Anticipated Cost and Benefits: No new costs to the agency or the public are associated with these directives. The amended directives would result in more effective and efficient planning within the Agency's capability.

Risks: There are no risks to the public or to the Forest Service associated with this rulemaking.

Timetable:

Action	Date	FR Cite
Proposed Rule	02/27/13	78 FR 13316
Comment Period End.	04/29/13	
Final Rule	02/00/14	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: None.

Agency Contact: LaRenda C King, Assistant Director, Directives and Regulations, Department of Agriculture, Forest Service, ATTN: ORMS, D&R Branch, 1400 Independence Avenue SW., Washington, DC 20250–0003, *Phone:* 202 205–6560, *Email: larendacking@fs.fed.us.*

RIN: 0596–AD06

USDA—OFFICE OF THE SECRETARY (AgSEC)

Proposed Rule Stage

22. Nondiscrimination in Programs or Activities Conducted by the United States Department of Agriculture

Priority: Other Significant.

Legal Authority: 5 U.S.C. 301; 29 U.S.C. 794

CFR Citation: 7 CFR 15d.

Legal Deadline: None.

Abstract: USDA proposes to amend its regulation on nondiscrimination in programs or activities conducted by the Department. This regulation, adopting the nondiscrimination principles of Title VI of the Civil Rights Act of 1964, and applying them to programs and activities conducted by USDA, was first established in 1964. The changes are proposed to clarify the roles and responsibilities of USDA's Office of the Assistant Secretary for Civil Rights and USDA agencies in enforcing nondiscrimination in programs or activities conducted by the Department and to strengthen USDA's civil rights compliance and complaint processing activities to better protect the rights of USDA customers.

Statement of Need: The intent of the proposal is to clarify the roles and responsibilities of OASCR and USDA agencies in enforcing non-discrimination in programs or activities conducted by the Department (''conducted programs'') and to strengthen USDA's civil rights compliance and complaint processing activities to better protect the rights of USDA customers. This regulation does not address those programs for which the Department provides Federal financial assistance [1] (''assisted programs'').

Summary of Legal Basis: 5 U.S.C. 301; 29 U.S.C. 794. This regulation when it was first established adopted the nondiscrimination principles of title VI of the Civil Rights Act of 1964—protections on the bases of race, color, and national origin—and applied them to programs and activities conducted by USDA (see 29 **Federal Register** (FR) 16966, creating 7 CFR part 15, subpart b, referring to nondiscrimination in direct USDA programs and activities, now found at 7 CFR section 15d). However, in efforts to provide fair services to all program participants, USDA expanded the protected bases for

[1] Federally assisted programs are programs and activities receiving financial assistance through a third party such as a State or municipal government, university, or organization. Federally conducted programs, which are those programs covered in this regulation are programs and activities receiving assistance directly from USDA.

its conducted programs to include religion, sex, age, marital status, familial status, sexual orientation, disability, and whether any portion of a person's income is derived from public assistance programs. The regulation was last revised in 1999 (64 FR 66709, Nov 30, 1999).

Alternatives: Maintaining the status quo would not provide USDA with a uniform requirement for reporting and tabulating the race, ethnicity, and gender data across USDA's diverse program areas. It would also not encourage the early resolution of customers' complaints in accordance with the Secretary of Agriculture's Blueprint for Stronger Service, nor would it strengthen USDA's ability to ensure that all USDA customers receive fair and consistent treatment, and align the regulations with USDA's civil rights goals.

Anticipated Cost and Benefits: OASCR anticipates that there will be a small cost to the public who are served by USDA's conducted programs through the data collection requirement should they volunteer to provide the data.

Risks: OASCR has not identified any risks associated with this proposed action.

Timetable:

Action	Date	FR Cite
NPRM	11/00/13	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: None.

Agency Contact: Anna G. Stroman, Acting Chief, Policy Division, Office of the Assistant Secretary for Civil Rights, Department of Agriculture, Office of the Secretary, Reporter's Building, 300 7th St. SW., Room 618, Washington, DC 20024, *Phone:* 202 205–5953, *Email: anna.stroman@ascr.usda.gov.*

RIN: 0503–AA52

USDA—RURAL BUSINESS—COOPERATIVE SERVICE (RBS)

Proposed Rule Stage

23. Business and Industry (B&I) Guaranteed Loan Program

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

Legal Authority: Consolidated Farm and Rural Development Act

CFR Citation: 7 CFR 4287; 7 CFR 4279.

Legal Deadline: None.

Abstract: The Business and Industry (B&I) Guaranteed Loan Program regulations were last rewritten in 1996. While there have been some minor modifications to the B&I Guaranteed Loan Program regulations since 1996 to implement Farm Bill provisions etc., some refinements to the regulation need to be made to enhance the program, improve efficiency, correct minor inconsistencies, clarify the regulations to make them more clear and easier to understand, and ultimately reduce delinquencies.

The Agency held several lender meetings throughout the country to see how changes to the program could benefit lenders who utilize the program and make it more attractive for them. The proposed changes being considered should lower the subsidy rate, thereby increasing supportable loan level, which is critical to program success as the program's budget is proposed to be decreased. The proposed rule is intended to increase lending activity, expand business opportunities, and create more jobs in rural areas, particularly in areas that have historically experienced economic distress.

There is no expected cost associated with implementation of the rule.

Statement of Need: With the passage of the 2008 Farm Bill, there is the need to conform certain portions of the B&I Guaranteed Loan Program regulations with requirements found in the 2008 Farm Bill, such as the addition of cooperative equity security guarantees, the locally and regionally grown agricultural food products initiative, and exceptions to the rural area definition. In addition, with the passage of time, the Agency has identified enhancements that will improve program delivery and/or administration, leverage program resources, better align the regulation with the program's goals and purposes, clarify the regulations to make them easier to understand, and reduce delinquencies and defaults. These enhancements will also help to improve program subsidy costs. By lowering program subsidy costs over time, the Agency will be able to better leverage the budget authority provided by Congress. This will allow the Agency to guarantee a higher total dollar amount of loan requests and, assuming the same average size of loans being guaranteed, to guarantee more loans. A reduction in program subsidy costs will manifest in more funds available for additional projects, further improving the economic conditions of rural America. This should result in increased lending activity, the expansion of business opportunities, and the creation of more jobs in rural areas.

Summary of Legal Basis: Consolidated Farm and Rural Development Act, as amended by the 2008 Farm Bill.

Alternatives: The only alternative would be the status quo alternative, which is not an acceptable alternative.

Anticipated Cost and Benefits: The benefits of the enhanced rule are that the rule is expected to reduce loan losses, lower the subsidy rate, and provide program delivery enhancements. The program changes have a cumulative effect of lowering the program cost; however, the amount of the change in cost cannot be estimated with any reasonable precision.

Risks: The only identified risk is not getting the rule published.

Timetable:

Action	Date	FR Cite
Proposed Rule	04/00/14	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: None.

Agency Contact: Brenda Griffin, Loan Specialist, B&I Processing Division, Department of Agriculture, Rural Business–Cooperative Service, 1400 Independence Avenue SW., Washington, DC 20250, *Phone:* 202 720–6802, *Fax:* 202 720–6003, *Email: brenda.griffin@wdc.usda.gov.*

RIN: 0570–AA85

USDA—RBS

Final Rule Stage

24. Rural Energy for America Program

Priority: Other Significant.

Legal Authority: 7 U.S.C. 8107

CFR Citation: 7 CFR 4280–B.

Legal Deadline: None.

Abstract: The Agency implemented an interim rule for the Rural Energy for America Program (REAP) on April 14, 2011, to revise and update the existing Renewable Energy System and Energy Efficiency Improvement Program established under the Farm Security and Rural Investment Act of 2002 (2002 Farm Bill).

This interim rule revised and updated the existing Renewable Energy System and Energy Efficiency Improvement Program (7 CFR 4280, subpart) that was implemented in response to the Renewable Energy and Energy Efficiency Program (section 9006 of the 2002 Farm Bill). The interim rule implemented the provisions found in section 9006 of the 2002 Farm Bill as amended and various provisions found in fiscal year 2010 notices of funding availability (NOFAs) published in the

Federal Register. The interim rule provides grants for energy audits and renewable energy development assistance; grants for renewable energy system feasibility studies; and financial assistance (grants, guaranteed loans) for energy efficiency improvements and renewable energy systems. The 2002 Farm Bill as amended directs that at least 20 percent of funds be used for grants of $20,000 or less, up to 10 percent for feasibility studies, and up to 4 percent of mandatory funds for energy audits. Eligible entities for energy audits and renewable energy development assistance include units of State, tribal, or local government; an instrumentality of a State, tribal, or local government; land grant or other institutions of higher education; rural electric cooperatives; or public power entities. Eligible entities for renewable energy feasibility study and financial assistance for energy efficiency improvements and renewable energy systems include agricultural producers and rural small businesses.

The Rural Business-Cooperative Service (RBS) published a Proposed Rule on April 12, 2013, with a 60-day comment period to implement additional changes to REAP to further improve program delivery (e.g., through the simplification of the application process).

Statement of Need: While the interim rule implemented provisions required by the 2008 Farm Bill and included in the fiscal year 2010 NOFAs, there are additional changes to be made in order to reduce the burden to applicants and improve program delivery. In order to achieve these changes, it is necessary to propose changes to 7 CFR 4280, subpart B, and then, at a later date, to implement a final rule.

Summary of Legal Basis: REAP was authorized by the 2002 Farm Bill, which made available $55,000,000 in mandatory funding for 2009, $60,000,000 mandatory funding for 2010, $70,000,000 mandatory funding for 2011 and 2012, and $25,000,000 in discretionary funding for each fiscal year 2009 through 2012. The program provides for grants and guaranteed loans for renewable energy systems and energy efficiency improvements, and grants for feasibility studies and energy audit and renewable energy development assistance. The purpose of the program is to reduce the energy consumption and increase renewable energy production.

Alternatives: The alternatives are to (1) continue operating the program under the 7 CFR 4280, subpart B as it currently is written; (2) revise 7 CFR 4280, subpart B based on public comments received on the interim rule and issue a final rule; or (3) publish a proposed rule and then final rule, taking into account comments received on both the interim rule and the proposed rule.

Anticipated Cost and Benefits: Benefits of the rule may include a reduction in energy consumption, an increase in renewable energy production and reduced burden for certain loan and grant applications.

Risks: The risk associated with this regulatory initiative is that by the time a Final Rule is published, the need will be diminished because there may not be any funding available to the program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/14/11	76 FR 21109
Interim Final Rule Effective.	04/14/11	
Interim Final Rule Comment Period End.	06/13/11	
NPRM	04/12/13	78 FR 22044
Final Action	04/00/14	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Businesses.

Government Levels Affected: None.

Agency Contact: Kelley Oehler, Branch Chief, Department of Agriculture, Rural Business—Cooperative Service, STOP 3225, 1400 Independence Avenue SW., Washington, DC 20250–3225, *Phone:* 202 720–6819, *Fax:* 202 720–2213, *Email: kelley.oehler@wdc.usda.gov.*

RIN: 0570–AA76

USDA—OFFICE OF PROCUREMENT AND PROPERTY MANAGEMENT (OPPM)

Final Rule Stage

25. Biopreferred Program Guidelines Revisions

Priority: Other Significant.

Legal Authority: Pub. L. 110–246

CFR Citation: 7 CFR 3201.

Legal Deadline: None.

Abstract: The 2008 Farm Bill requires USDA to address how the BioPreferred Program will designate complex products and intermediate materials and feed stocks and make other changes to update program guidelines.

Statement of Need: Changes in the Guidelines for Designating Biobased products are necessary for USDA to comply with legislative mandates driving the program. The proposed regulation would be published as final.

Summary of Legal Basis: The Office of Procurement and Property Management (OPPM) published a notice of proposed rulemaking in the **Federal Register** on May 1, 2012 (77 FR 25632) proposing to amend 7 CFR section 3201, subpart A, the ''Guidelines for Designating Biobased Products for Federal Procurement'' (Guidelines). Section 3201, which established the Federal biobased products preferred procurement program, was authorized by section 9002 of the Farm Security and Rural Investment Act of 2002 (FSRIA), 7 U.S.C. 8102 and was amended by the Food, Conservation and Energy Act of 2008 (2008 Farm Bill) on June 18, 2008. This regulatory action proposed to revise certain text within the current section 3201 to address program requirements that were changed or added by the 2008 Farm Bill. The proposed amendments provide the framework for implementing the requirements that USDA: (1) Designate biobased ''intermediate ingredients and feedstocks'' and ''finished products'' for preferred procurement by Federal agencies; (2) designate items composed of intermediate ingredients and feedstocks that have been designated if the content of the designated intermediate ingredients and feedstocks exceeds 50 percent of the item; and (3) provide information as to the availability, price, performance, and environmental and public health benefits of materials and items that have been designated for Federal preferred procurement.

Alternatives: There are no alternatives as this action was mandated by Congress.

Anticipated Cost and Benefits: We expect that this final rule will result in benefits that justify its cost, but we do not have information necessary to quantify those benefits. This final rule will allow USDA to expand the Federal procurement preference for biobased products to those intermediate ingredients and feedstocks not presently represented in the program. The expansion will create additional market opportunities for manufacturers and vendors of intermediate ingredients and feedstocks as the Government begins to purchase and use such products. As a result of the increased opportunities and use, American farmers and forest landowners should expect to see increased demand for their raw feedstock materials as the demand for biobased products grows. In addition, by increasing the scope of products available under the program, the regulatory action should assist the Government with the goals established for sustainable procurement set under Executive Order 13514. As additional biobased products become available for Federal procurement, Government

Agencies will have increased opportunities to buy and use these products.

This rulemaking was determined to be significant for the purposes of Executive Order 12866 (Regulatory Planning and Review), and was reviewed by the Office of Management and Budget. It will not have an annual effect on the economy of $100 million or more and will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

Risks: After receiving public comment on the proposed rule USDA has determined the new rule poses no significant risks nor will it negatively impact Indian tribal governments or their members.

Timetable:

Action	Date	FR Cite
NPRM	05/01/12	77 FR 25632
NPRM Comment Period End.	07/02/12	
Final Action	04/00/14	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Businesses.

Government Levels Affected: Federal.

Agency Contact: Ron Buckhalt, Manager, BioPreferred Program, Office of Procurement and Property Management, Department of Agriculture, Office of Procurement and Property Management, 361 Reporters Building, 300 7th Street SW., Washington, DC 20250, *Phone:* 202 205–4008, *Fax:* 202 720–8972, *Email: ronb.buckhalt@dm.usda.gov.*

RIN: 0599–AA18

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 2013. During the next year, NOAA plans to publish six 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 Services (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 2013, 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. 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.

2. Proposed Rule to Designate 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.

3. Final Rule to Designate Critical Habitat for the Hawaiian Monk Seal (0648–BA81): NOAA Fisheries is developing a final rule to designate critical habitat for the Hawaiian monk seal in the main and Northwestern Hawaiian Islands. In response to a 2008 petition from the Center for Biological Diversity, Kahea, and the Ocean Conservancy to revise Hawaiian monk seal critical habitat, NOAA Fisheries published a proposed rule in June 2011 to revise Hawaiian monk seal critical habitat by adding critical habitat in the main Hawaiian Islands and extending critical habitat in the Northwestern Hawaiian Islands. Proposed critical habitat includes both marine and terrestrial habitats (e.g., foraging areas to 500 meter depth, pupping beaches, etc.). To address public comments on the proposed rule, NOAA Fisheries is augmenting its prior economic analysis to better describe the anticipated costs of the designation. NOAA Fisheries is analyzing new tracking data to assess monk seal habitat use in the main Hawaiian Islands. That may lead to some reduction in foraging area critical habitat for the main Hawaiian Islands to better reflect where preferred foraging features may be found.

4. Proposed Rule to List Critical Habitat for Arctic Ringed Seals (0648–BC56): NOAA Fisheries published a final rule to list the Arctic ringed seal as a threatened species under the Endangered Species Act (ESA) in December 2012. This rulemaking would designate critical habitat for the Arctic ringed seal. The proposed critical habitat designation would be in the northern Bering, Chukchi, and Beaufort seas within the current range of the species.

5. Proposed Rule to List Critical Habitat for Beringia Distinct Population of Bearded Seals (0648–BC55): NOAA Fisheries published a final rule to list the Beringia Distinct Population Segment of the bearded seal as a threatened species under the Endangered Species Act (ESA) in December 2012. This rulemaking would designate critical habitat for the Beringia distinct population segment of the bearded seal. The proposed critical habitat designation would be in the northern Bering, Chukchi, and Beaufort seas within the current range of the species.

6. Final Rule for the Removal of the Sunset Provision of the Final Rule Implementing Vessel Speed Restrictions to Reduce the Threat of Ship Collisions With North Atlantic Right Whales (0648–BB20): In 2008 NOAA Fisheries promulgated a regulation designed to reduce the likelihood of deaths and serious injuries to endangered North Atlantic right whales that result from collisions with ships. The rule implemented speed restrictions of no more than 10 knots applying to all vessels 65 ft long or greater in certain locations and times of the year along the east coast of the U.S. In view of uncertainties regarding the manner in which ships and whales interact and the burdens imposed on vessel operators, the rule included a sunset clause under which the rule would expire on December 9, 2013. NOAA Fisheries has proposed removing the sunset provision with the current restrictions remaining in place eliminating or reinstating the sunset provision, studies and metrics that might be used to evaluate the existing rule, and future modifications that should be considered.

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:

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, which will add to BIS' export control purview, military related items that the President determines no longer warrant control under rules administered by the State Department.

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.

In FY 2013, BIS activities crossed an important milestone with publication of two final rules that began to put ECRI policies into place. An Initial Implementation rule (73 FR 22660, April 16, 2013) sets in place the structure under which items the President determines no longer warrant control on the United States Munitions List will be controlled on the Commerce Control List. It also revises license exceptions and regulatory definitions, including the definition of ''specially designed'' to more make those exceptions and definitions clearer and to more close align them with the International Traffic in Arms Regulations, and adds to the CCL certain military aircraft, gas turbine engines and related items. A second final rule (78 FR 40892, July 8, 2012) followed on by adding to the CCL military vehicles, vessels of war submersible vessels, and auxiliary military equipment that President determined no longer warrant control on the USML. BIS expects to publish additional ECRI final rules in FY 2014.

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–XC164	Final Rule Implementing a Targeted Acadian Redfish Fishery for Sector Vessels.	
0648–BC50	Exempted Fishery for the Spiny Dogfish Fishery in the Waters East and West of Cape Cod, MA.	
0648–BC25	Regulatory amendment to revise requirements for the annual Crab Economic Data Reports under the Bering Sea and Aleutian Islands Crab Rationalization Program.	Yes.
0648–BA93	Regulatory amendment to modify the Groundfish Retention Standard Program.	
0648–BB79	Proposed Rule to Implement Changes to the Regulations for Designating Critical Habitat under the Endangered Species Act.	
0648–BB80	Proposed Rule to Amend the Definition of Destruction or Adverse Modification of Critical Habitat under the Endangered Species Act.	
0648–BB81	Proposed Rule to Amend the Regulations Governing the Issuance of Incidental Take Statements under Section 7 of the Endangered Species Act.	
0648–BC24	Final Rule to Revise Regulations for Conducting Impact Analyses for Critical Habitat Designations under the Endangered Species Act.	
0694–AF03	Export Control Reform Initiative: Strategic Trade Authorization License Exception.	
0694–AF17	Proposed Revision to the Export Administration Regulations: Control of Items the President Determines No Longer Warrant Control Under the United States Munitions List.	
0694–AF36	Proposed 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 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.
0694–AF65	Revisions to the Export Administration Regulations: Initial Implementation of Export Control Reform.	
0694–AF87	Export Administration Regulations: Control of Spacecraft Systems and Related Items the President Determines No Longer Warrant Control Under the United States Munitions List.	
0651–AC82	Reduction of Fees for Trademark Applications.	
0651–AC54	Setting and Adjusting Patent Fees.	

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DEPARTMENT OF DEFENSE

Statement of Regulatory Priorities

Background

The Department of Defense (DoD) is the largest Federal department consisting of three Military departments (Army, Navy, and Air Force), nine Unified Combatant Commands, 17 Defense Agencies, and ten DoD Field Activities. It has 1,412,674 military personnel and 886,975 civilians assigned as of June 30, 2013, 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 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.

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)
0701–AA76	Air Force Freedom of Information Act Program.
0701–AA77	Air Force Privacy Act Program.
0703–AA87	United States Navy Regulations and Official Records.
0703–AA90	Guidelines for Archaeological Investigation Permits and Other Research on Sunken Military Craft and Terrestrial Military Craft Under the Jurisdiction of the Department of the Navy.
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.
0750–AG47	Safeguarding Unclassified Controlled Technical Information (DFARS Case 2011–D039).
0750–AG62	Patents, Data, and Copyrights (DFARS Case 2010–D001).
0750–AH11	Only One Offer—Further Implementation (DFARS Case 2013–D001).
0750–AH54	Performance-Based Payments (DFARS Case 2011–D045).
0750–AH86	Forward Pricing Rate Proposal Adequacy Checklist (DFARS Case 2012–D035).
0750–AI03	Approval of Rental Waiver Requests (DFARS Case 2013–D006).
0790–AI24	DoD Freedom of Information Act (FOIA) Program Regulation.
0790–AI30	Defense Contract Management Agency (DCMA) Privacy Program.
0790–AI42	Personnel Security Program.
0790–AI51	DoD Freedom of Information Act (FOIA) Program; Amendment.
0790–AI63	Alternative Dispute Resolution.
0790–AI71	National Industrial Security Program (NISP): Procedures for Government Activities.Relating to Foreign Ownership, Control or Influence (FOCI).
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–AI80	National Industrial Security Program: Industrial Security Procedures for Government Activities.
0790–AI84	National Defense Science and Engineering Graduate (NDSEG) Fellowships.
0790–AI87	Defense Logistics Agency Freedom of Information Act Program.
0790–AI88	Shelter for the Homeless.
0790–AI92	Inspector General; Privacy Act; Implementation.
0790–AJ03	DoD Privacy Program.
0790–AJ04	Unlawful Discrimination (On the Basis of Race, Color, National Origin, or Age in Programs or Activities Receiving Federal Financial Assistance From the DoD).
0790–AJ05	End Use Certificates (EUCs).
0790–AJ06	Voluntary Education Programs.
0790–AJ07	Historical Research in the Files of the Office of the Secretary of Defense (OSD).
0790–AJ10	Enhancement of Protections on Consumer Credit for Members of the Armed Forces and Their Dependents.
COMPLETED RULES	
0710–AA66	Civil Monetary Penalty Inflation Adjustment Rule.
0710–AA60	Nationwide Permit Program Regulations *.
0750–AH19	Accelerated Payments to Small Business (DFARS Case 2011–D008).
0750–AH70	Defense Trade Cooperation Treaty With Australia and the United Kingdom (DFARS Case 2012–D034).
0750–AH87	System for Award Management Name Changes, Phase 1 Implementation (DFARS Case 2012–D053).
0790–AI54	Defense Support of Civilian Law Enforcement Agencies.
0790–AI86	Defense Logistics Agency Privacy Program.
	DoD also removed 32 CFR part 513, ''Indebtedness of Military Personnel,'' because the part is obsolete and the governing policy is now codified at 32 CFR part 112.

Administration Priorities

1. Rulemakings That Are Expected To Have High Net Benefits Well In Excess Of Costs

The Department plans to—

• Finalize the rule to implement section 806 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2011), as amended by section 806 of the NDAA for FY 2013. Section 806 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 in order to minimize the potential risk for purchased supplies and services to maliciously introduce unwanted functions and degrade the integrity and operation of sensitive information technology systems.

• Revise the DFARS to improve awareness, compliance, and enforcement of DoD policies on combating trafficking in persons. The rule will further improve stability, productivity, and certainty in the contingency operations that DoD supports and ensure that DoD contractors do not benefit from the use of coerced labor.

• Finalize the rule to implement section 818 of the NDAA for FY 2012 relating to the detection and avoidance of counterfeit parts. The rule would address contractor responsibilities for detecting and avoiding the use or inclusion of counterfeit electronic parts or suspect counterfeit electronic parts, the use of trusted suppliers, and requirements for contractors to report counterfeit electronic parts and suspect counterfeit electronic parts. The rule seeks to preclude the introduction of counterfeit material that could compromise DoD weapon and information systems.

2. Rulemakings of Particular Interest to Small Businesses

The Department plans to—

• Revise the DFARS to implement new prescriptions and clause formats for part 219, Small Business Programs, clauses with alternates. This proposed rule, with its unique prescriptions for the basic version and each alternate for solicitation provisions and clauses, will facilitate the use of automated contract writing systems. The inclusion of the full text of the alternate clause in the regulation should make the terms of the alternate clearer to the offerors and contractors by clarifying paragraph substitutions. As a result, inapplicable paragraphs from the basic clause that are superseded by the alternate will not be included in solicitations or contracts, reducing the potential for confusion.

• 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. Removal of the obsolete implementing coverage for 10 U.S.C. 2323 will bring DFARS up to date and provide accurate and indisputable regulations affecting the small business and vendor communities.

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

The Department plans to—

• Finalize the rule for DFARS to implement section 803 of the NDAA for FY 2011 to allow a covered litigation support contractor access to technical, proprietary, or confidential data for the sole purpose of providing litigation support.

• Revise the DFARS to standardize solicitation provisions and contract clauses relating to information technology Cloud Services.

• Revise the DFARS to reduce the frequency of submission of subcontracting reports.

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 Cases 2012–D057, 2013–D005, 2013–D014, 2013–D025; and 2013–D026;—Propose 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. The inclusion of the full text of the alternate clauses in the regulation for use in solicitations and contracts should make the terms of the alternate clauses clearer to offerors and contractors by clarifying paragraph substitutions. As a result, inapplicable paragraphs from the basic clause that are superseded by the alternate will not be included in solicitations or contracts, reducing the potential for confusion.

• DFARS Case 2013–D037—removes redundant DFARS coverage on contractors performing private security functions under a contract that requires performance during contingency operations, in an area of combat operations, or in an area of other significant military operations. These requirements have been incorporated into the FAR, so the DFARS coverage is no longer required.

• DFARS 2013–D033—deletes unnecessary text from the DFARS to increase clarity of the proposal adequacy checklist. Item 19 on the checklist is being deleted as it overlaps and duplicates other information addressed by other items on the checklist.

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 improve information security controls by addressing the requirements for safeguarding unclassified controlled technical information. This rule implements security measures to safeguard unclassified DoD information within contractor information systems from unauthorized access and disclosure and to prescribe reporting to DoD certain cyber intrusion events that affect DoD information resident on or transiting through contractor unclassified information systems.

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) The final rule is expected to be published the first quarter of FY 2014.

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: Mission Compatibility Evaluation Process. 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 first quarter of FY 2014.

4. Military Community and Family Policy, Department of Defense

The Department of Defense proposes new policies, responsibilities, and procedures for the operation of voluntary education programs within DoD. Additionally, the Department

plans to publish a rule regarding child development programs:

• Proposed Rule: Voluntary Education Programs. In this proposed rule, the Department of Defense (DoD) discusses new policy, responsibilities, and procedures for the operation of voluntary education programs within DoD. The new policies discussed in the rule include the following. All educational institutions providing education programs through the DoD Tuition Assistance (TA) Program will provide meaningful information to students about the financial cost and attendance at an institution so military students can make informed decisions on where to attend school; not use unfair, deceptive, and abusive recruiting practices; and provide academic and student support services to Service members and their families. New criteria are created to strengthen existing procedures for access to military installations by educational institutions. An annual review and notification process is required if there are changes made to the uniform semester-hour (or equivalent) TA caps and annual TA ceilings. Military Departments will be required to provide their Service members with a joint services transcript (JST). The DoD Postsecondary Education Complaint System is implemented for Service members, spouses, and adult family members to register student complaints. The Military Departments are authorized to establish Service-specific TA eligibility criteria and management controls. DoD anticipates publishing a final rule in the second quarter of FY 2014.

• Interim Final Rule: Child Development Programs (CDPs): In this interim final rule, the Department of Defense updates policy, responsibilities, and procedures for providing care to minor children birth through age 12 of individuals eligible for care in DoD CDPs to include center-based care, family child care (FCC), school-age care (SAC), supplemental child care, and community based care. The subject areas in this rule include authorizing the publication of supporting guidance for the implementation of CDP policies and responsibilities (including child development training modules, program aids, and other management tools) and establishment of the DoD Effectiveness Rating and Improvement System (ERIS). DoD anticipates publishing a final rule in the second quarter of FY 2014.

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:

• Proposed Rule: TRICARE; Reimbursement of Long Term Care Hospitals. The proposed 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 proposed rule implements a reimbursement methodology similar to that furnished to Medicare beneficiaries for services provided by long term care hospitals. DoD anticipates publishing a proposed rule in the second quarter of FY 2014.

• Interim Final Rule: CHAMPUS/TRICARE: Pilot Program for Refills of Maintenance Medications for TRICARE Life Beneficiaries through the TRICARE Mail Order Program. This interim final rule implements section 716 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112–239), which establishes a 5-year pilot program that would generally require TRICARE for Life beneficiaries to obtain all refill prescriptions for covered maintenance medications from the TRICARE mail order program or military treatment facility pharmacies. Covered maintenance medications are those that involve recurring prescriptions for chronic conditions, but do not include medications to treat acute conditions. Beneficiaries may opt out of the pilot program after 1 year of participation. This rule includes procedures to assist beneficiaries in transferring covered prescriptions to the mail order pharmacy program. This regulation is being issued as an interim final rule in order to comply with the express statutory intent that the program begin in calendar year 2013. DoD anticipates publishing an interim final rule in the first quarter of FY 2014.

• Final Rule: TRICARE: Certified Mental Health Counselors. This rule was published as an interim final rule on December 27, 2011 (76 FR 80741), in order to meet the congressional requirement set forth in the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2011, section 724, which required the Department of Defense to prescribe regulations by June 20, 2011, to establish the criteria, as had previously been studied in accordance with section 717 of the NDAA 2008, that would allow licensed or certified mental health counselors (MHCs) to be able to independently provide care to TRICARE beneficiaries and receive payment for those services. Under current TRICARE requirements, MHCs are authorized to practice only with physician referral and supervision. This IFR establishes a transition period to allow MHCs to gain the requisite education, examination, and post-master's clinical experience for the new category of qualified mental health professionals, ''TRICARE Certified Mental Health Counselors,'' who will be authorized to practice independently under TRICARE, as well as phase out the category of MHC who require referral and supervision from TRICARE authorized physicians. DoD anticipates finalizing this rule in the second quarter of FY 2014.

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

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

• 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 wellbeing of all persons covered by the regulation. An interim final rule was published on April 11, 2013 (78 FR 21715). DoD anticipates publishing a final rule in the second quarter of FY 2014.

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. 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 2014.

8. Chief Information Officer, Department of Defense

The Department of Defense plans to amend the voluntary cyber security information sharing program between DoD and eligible cleared defense contractors:

• Proposed Rule: Defense Industrial Base (DIB) Voluntary Cyber Security/Information Assurance (CS/IA) Activities. The Department proposes to amend the DoD–DIB CS/IA Voluntary Activities regulation (32 CFR part 236) in response to Section 941 National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2013 which requires the Secretary of Defense to establish procedures that require each cleared defense contractor (CDC) to report when a network or information system that meets the criteria reports cyber intrusions. DoD anticipates publishing a proposed rule in the second or third quarter of FY 2014.

BILLING CODE &P

DOD—OFFICE OF THE SECRETARY (OS)

Proposed Rule Stage

26. • Defense Industrial Base (DIB) Cyber Security/Information Assurance (CS/IA) Activities; Amendment

Priority: Other Significant.
Legal Authority: E.O. 12829
CFR Citation: 32 CFR 236.
Legal Deadline: None.

Abstract: This rule amends the DoD–DIB CS/IA Voluntary Activities regulation in response to section 941 National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2013 which requires the Secretary of Defense to establish procedures that require each cleared defense contractor (CDC) to report when a network or information system that meets the criteria reports cyber intrusions.

Statement of Need: The Department of Defense (DoD) will amend the DoD–DIB CS/IA Voluntary Activities (32 CFR part 236) regulation to incorporate changes as required by section 941 NDAA for FY 2013 to include mandated cyber intrusion incident reporting by all cleared defense contractors (CDCs).

Summary of Legal Basis: This regulation is proposed under the authorities of section 941 NDAA for FY 2013.

Alternatives: DoD analyzed the requirements in section 941 NDAA for FY 2013 and determined that implementation must be accomplished through the rulemaking process. This will allow the public to comment on the implementation strategy.

Anticipated Cost and Benefits: Implementing the amended rule to meet the requirements of section 941 NDAA for FY 2013 affects approximately 8,700 CDCs. Each company will require DoD approved medium assured certificates to submit the mandatory cyber incident reporting to the DoD access controlled Web site. The cost per certificate is $175. In addition, it is estimated that the average burden per reported incident is 7 hours which includes identifying the cyber incident details, gathering and maintaining the data needed, reviewing the collection of information to be reported, and completing the report. Note, these costs are the same as those associated with 32 CFR part 236 (DoD–DIB CS/IA Voluntary Activities), but are now applicable across a larger population of defense contractors. The benefit of this amended rule is satisfying the legal mandate from section 941 NDAA for FY 2013 as well as informing the Department of incidents that impact DoD programs and information. DoD needs to have the ability to assess the strategic and operational impacts of cyber incidents and determine appropriate mitigation activities.

Risks: There will likely be significant public interest in DoD's implementation of section 941 NDAA for FY2013. DoD will need to assure the public that DoD will provide for the reasonable protection of trade secrets, commercial or financial information, and information that can be used to identify a specific person that may be evident through the cyber incident reporting and media analysis.

Timetable:

Action	Date	FR Cite
NPRM	04/00/14	

Regulatory Flexibility Analysis Required: No.
Government Levels Affected: None.
Agency Contact: Vicki Michetti, Department of Defense, Office of the Secretary, 6000 Defense Pentagon, Washington, DC 20301–6000, *Phone:* 703 604–3177, *Email:* *vicki.d.michetti.civ@mail.mil.*
RIN: 0790–AJ14

DOD—OS

Final Rule Stage

27. Service Academies

Priority: Other Significant.
Legal Authority: 10 U.S.C. 301
CFR Citation: 32 CFR 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. 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	02/00/14	

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

28. Sexual Assault Prevention and Response Program Procedures

Priority: Other Significant.

Legal Authority: 10 U.S.C. ch 47 Sec. 113

CFR Citation: 32 CFR 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 (SAPR) 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; 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 servicemembers 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, health care 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 health care 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 health care 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 servicemembers, 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	04/11/13	78 FR 21715
Interim Final Rule Effective.	04/11/13	
Interim Final Rule Comment Period End.	06/10/13	
Final Action	11/00/13	

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

29. Operational Contract Support

Priority: Other Significant.
Legal Authority: Pub. L. 110–181
CFR Citation: 32 CFR 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 5 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	03/00/14	

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

30. Mission Compatibility Evaluation Process

Priority: Other Significant.
Legal Authority: Pub. L. 111–383, sec 358
CFR Citation: 32 CFR 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	01/00/14	

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—OS

31. Child Development Programs (CDPS)

Priority: Other Significant.

Legal Authority: 10 U.S.C. 1783, 10 U.S.C. 1791 through 1800, 10 U.S.C. 2809, and U.S.C. 2812

CFR Citation: 32 CFR 79.

Legal Deadline: None.

Abstract: This interim final rule revises 32 CFR part 79 to: (a) Update policy, responsibilities, and procedures for providing care to minor children birth through age 12 of individuals eligible for care in DoD Child Development Programs (CDPs) to include center-based care, family child care (FCC), school-age care (SAC), supplemental child care, and community based care; (b) authorize the publication of supporting guidance for the implementation of CDP policies and responsibilities, including child development training modules, program aids, and other management tools; and (c) establish the DoD Effectiveness Rating and Improvement System (ERIS). This rule is being published as an interim final rule to extend child care benefits to same-sex spouses of military service members and DoD civilian employees.

Statement of Need: This interim final rule revises 32 CFR part 79 to update policy, responsibilities, and procedures for providing care to minor children birth through age 12 of individuals eligible for care in DoD CDPs to include center-based care, family child care (FCC), school-age care (SAC), supplemental child care, and community based care.

Summary of Legal Basis: This rule is proposed under the authorities of sections 1783, 1791 through 1800, 2809 and 2812 of title 10, United States Code (U.S.C.).

Alternatives: Without this rule, the Department of Defense's Child Development Programs (CDPs) would be operating according to guidance that is 20 years old and does not take into account necessary critical procedures and policies to ensure that children within DoD CDPs are cared for in a safe and developmentally appropriate setting.

Anticipated Cost and Benefits: The preliminary estimate of the anticipated cost associated with this rule for the fiscal year is approximately $980,000.00. This estimated cost is for the operation of the entire DoD CDP and includes funding from the DoD (from the Office of the Secretary of Defense as well as the military services) and fees paid by parents. These funds provide care to more than 200,000 children and youth in a variety of settings to include child development centers, family child care homes, school age care programs, and community based care. The operation of these programs is a key workforce issue for military members and families. The anticipated benefits associated with this rule include:

(1) The streamlining and consolidating of two outdated instructions into a single instruction providing policy for the DoD CDP.

(2) Guidance and procedures which will provide a safe and secure environment for military children to grow.

(3) Establishment of a more standardized approach to each military services CDP, still allowing for the variances dictated by the unique mission of specific branches and installations.

(4) Clarification of the benefits provided to military members with same sex spouses.

Risks: The degree of risk to the public is minimal. There are no anticipated negative effects of the rule on any entity.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/00/14	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: None.

Additional Information: DoD Instruction 6060.02.

Agency Contact: Eddy Mentzer, Department of Defense, 4800 Mark Center Drive, Suite 03G15, Alexandria, VA 22350, *Phone:* 571 372–0857.

RIN: 0790–AI81

DOD—OS

32. • 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; EO 13607

CFR Citation: 32 CFR 68.

Legal Deadline: None.

Abstract: In this proposed rule, the Department of Defense (DoD) discusses new policy, responsibilities, and procedures for the operation of voluntary education programs within DoD. The new policies discussed in the rule include the following: All educational institutions providing education programs through the DoD Tuition Assistance (TA) Program will provide meaningful information to students about the financial cost and attendance at an institution so military students can make informed decisions on where to attend school; not use unfair, deceptive, and abusive recruiting practices; and provide academic and student support services to servicemembers and their families. New criteria are created to strengthen existing procedures for access to military installations by educational institutions. An annual review and notification process is required if there are changes made to the uniform semester-hour (or equivalent) TA caps and annual TA ceilings. Military Departments will be required to provide their servicemembers with a joint services transcript (JST). The DoD Postsecondary Education Complaint System is implemented for servicemembers, spouses, and adult family members to register student complaints. The Military Departments are authorized to establish service-specific TA eligibility criteria and management controls.

Statement of Need: The Department of Defense (DoD) proposed rule identifies programs that provide active duty Service members with quality educational opportunities to enhance their academic achievement which in turn improves job performance and promotion potential. The overall outcome goal of these programs is to ensure the DoD has the best educated and best military force possible. In the proposed rule, DoD implements policy, assigns responsibilities, and prescribes procedures for the operation of voluntary education programs within DoD.

Summary of Legal Basis: This regulation is proposed under the authorities of sections 2007 and 2005 of title 10, United States Code.

Alternatives: No alternatives are possible.

Anticipated Cost and Benefits: Costs are controlled through limitations emplaced in the DoD Uniform Tuition Assistance policy with course and yearly caps. Subject to appropriations, each servicemember pays no more than $250.00 per semester-unit for tuition and fees combined. Each servicemember participating in off-duty, voluntary education is eligible for up to $4,500.00, in aggregate, for each fiscal year. This limitation allows all servicemembers that voluntarily participate to continue their education. 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 2012 was $660.5 million, which included tuition assistance and operational costs. This funding provided approximately 539,000 individuals (servicemembers and their adult family members) the opportunity to participate in voluntary education programs around the world.

Voluntary education programs have a positive effect on our servicemembers and their adult family members, providing ways to advance their personal education, career aspirations, and prepare them for future vocational pursuits. Additionally, partnerships with educational institutions also have a positive effect on the global economy. The services have worked with approximately 3,500 colleges and universities worldwide (both regionally and nationally accredited by an accrediting body recognized by the U.S. Department of Education) in reference to TA.

Risks: There are no risks.

Timetable:

Action	Date	FR Cite
NPRM	08/14/13	78 FR 49382
Correction	08/21/13	78 FR 51678
NPRM Comment Period End.	09/30/13	
Final Action	02/00/14	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Agency Contact: Carolyn Baker, Department of Defense, Office of the Secretary, 4800 Mark Center Drive, Alexandria, VA 22350, *Phone:* 571 372–5355.

RIN: 0790–AJ06

DOD—DEFENSE ACQUISITION REGULATIONS COUNCIL (DARC)

Final Rule Stage

33. Safeguarding Unclassified Controlled Technical Information (DFARS CASE 2011–D039)

Priority: Other Significant.

Legal Authority: 41 U.S.C. 1303; Pub. L. 112–239

CFR Citation: 48 CFR 204; 48 CFR 212; 48 CFR 252.

Legal Deadline: None.

Abstract: DoD is issuing an interim rule to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to add a DFARS subpart and associated contract clauses to address requirements for the safeguarding of unclassified information within contractor information systems as specified in Executive Order 13556, Controlled Unclassified Information. DoD published an advance notice of proposed rulemaking (ANPR), and notice of public meeting in the **Federal Register** at 75 FR 9563 on March 3, 2010, to provide the public an opportunity for input into the initial rulemaking process. A proposed DFARS rule was published in the **Federal Register** at 76 FR 38089 on June 29, 2011, to implement adequate security measures to safeguard unclassified DoD information within contractor information systems from unauthorized access and disclosure, and to prescribe reporting to DoD with regard to certain cyber intrusion events that affect DoD information resident on or transiting through contractor unclassified information systems. After comments were received on the proposed rule it was decided that the scope of the rule would be modified to reduce the information covered. This interim rule addresses safeguarding requirements that cover only unclassified controlled

technical information, and reporting the compromise of unclassified controlled technical information. DoD anticipates this rule may have a significant economic impact on a substantial number of small entities. DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

Statement of Need: The Department of Defense (DoD) interim rule is in support of existing DoD information policy in DoD 5200.1–R, Information Security Program Regulation; Under Secretary of Defense (Intelligence) Directive Type Memorandum (DTM), April 17, 2004; DTM 08–027, entitled Security of Unclassified DoD Information on Non-DoD Information Systems, September 16, 2010, and other applicable DoD issuances. DoD requires this amendment to the DFARS to accomplish the following:

a. Avoid compromise of unclassified computer networks on which controlled technical information is resident on or transiting through contractor information systems, and prevent the exfiltration of controlled technical information.

b. Improve the protection of controlled technical information by employing enhanced security measures, as identified in the clause, to appropriately protect controlled technical information from unauthorized disclosure, loss, or exfiltration.

c. Implement tracking and reporting of controlled technical information incursions to (1) assess the impact of loss; and (2) better understand methods of loss.

d. Standardize procedures for tracking and reporting intrusions.

Additionally, this interim rule is part of DoD's effort to enhance the protection of DoD information, and it also partially implements the National Defense Authorization Act (NDAA) for Fiscal Year 2013 section 941 requirement to mandate contractor reporting of information created by or for DoD that has been potentially compromised by a penetration of a contractor network.

Summary of Legal Basis: 41 U.S.C. 1303 and section 941 of the National Defense Authorization Act of Fiscal Year 2013.

Alternatives: There are no significant alternatives to accomplish the stated objectives of this rule. DoD considered regulatory requirements that were deemed to be complementary, but not adequate as an alternative to this rule.

Anticipated Cost and Benefits: This rule improves national security by implementing safeguards that strengthen information security controls to unclassified controlled technical information within contractor information systems from unauthorized access and disclosure. This rule benefits both the Government and contractors.

Risks: None.

Timetable:

Action	Date	FR Cite
ANPRM	03/03/10	75 FR 9563
ANPRM Comment Period End.	05/03/10	
NPRM	06/29/11	76 FR 38089
NPRM Comment Period End.	08/29/11	
NPRM Comment Period Extended.	12/16/11	76 FR 55297
NPRM Comment Period Extended.	10/28/11	76 FR 66889
NPRM Comment Period End.	12/16/11	
Final Action	11/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: Federal.

Agency Contact: Manuel Quinones, Department of Defense, Defense Acquisition Regulations Council, 4800 Mark Center Drive, Suite15D07–2, Alexandria, VA 22350, *Phone:* 571 372–6088, *Email: manuel.quinones@osd.mil.*

RIN: 0750–AG47

DOD—DARC

34. Requirements Relating to Supply Chain Risk (DFARS Case 2012–D050)

Priority: Other Significant.

Legal Authority: 41 U.S.C. 1303; Pub. L. 111–383, sec 806; Pub. L. 112–239, sec 806

CFR Citation: 48 CFR 208; 48 CFR 212; 48 CFR 215; 48 CFR 233.

Legal Deadline: Final, Statutory, July 7, 2011, section 806 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2011, as amended by section 806 of the NDAA for FY 2013.

Within 180 days from enactment of the National Defense Authorization Act for Fiscal Year 2011, which was enacted on January 7, 2011.

Abstract: DoD is issuing an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a section of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2011, as amended by the NDAA for FY 2013. This interim rule revises the DFARS to implement section 806 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011, Public Law 111–383; entitled ''Enhancement of Whistleblower Protections for Contractor Employees,'' made extensive changes to 10 U.S.C. 2409, entitled ''Contractor employees: protection from reprisal or disclosure.

Statement of Need: The Department of Defense is required to implement in the Defense Federal Acquisition Regulation protection against risks to the supply chain affecting National Security Systems (NSSs). Additionally, DOD Instruction (DODI) 5200.44 (November 5, 2012) Protection of Mission Critical Functions to Achieve Trusted Systems and Networks (TSN), recognizes the need to improve supply chain risk management.

Summary of Legal Basis: This interim rule is required under the authorities of section 806 of the National Defense Authorization Act (NDAA) for Fiscal Year 2011 (Pub. L. 111–383), as amended by section 806 of the NDAA for FY 2013 (Pub. L. 112–239).

Alternatives: DoD considered two possible alternatives to protect against risks to the National Security Systems. However, consistent with the stated objectives of Section 806 of the NDAA for FY 2011, as amended, and Department of Defense Instruction 5200.44 (November 5, 2012), no viable alternatives exist. The first possible alternative included having all contractors report, on all contracts, the nature of the supply chain risk mitigation efforts they have applied to their manufacturing processes. This alternative would be unduly burdensome for both contractors and the government and was therefore rejected. The second alternative is not to have section 806 clauses applicable to commercial and commercial off-the-shelf (COTS) items and purchases below the simplified acquisition threshold. However, the requirements of section 806 should apply to the procurement of commercial items (including COTS items); because the intent of the statute is to protect the supply chain, which in turn protects all NSSs. Commercial and commercial off-the-shelf information technology supplies and services often become parts of the NSSs. To protect the NSSs, using the authority of Public Law 111–383, as amended by Public Law 112–239, requires application in all information technology supply and services contacts. Therefore, exempting commercial (including COTS) items from application of the statute would negate the intended effect of the statute. This second alternative was also rejected as a viable alternative.

Anticipated Cost and Benefits: This interim rule will mitigate the risk and potential harm to the National Security

Systems (NSS) and protect the integrity of the supply chain to NSS by avoiding sabotage, maliciously introducing unwanted functions, or other subversion of the design, integrity, manufacturing, production, installation, operation or maintenance of systems. Ultimately, DoD anticipates significant savings to taxpayers by reducing the risk of unsafe products entering our supply chain, which pose serious threats or risks to sensitive government information technology systems.

Risks: There is risk to the National Security Systems if unwanted functions are allowed to penetrate the DoD supply chain. This risk to NSS, if left unmitigated, threatens the security of sensitive information technology systems and puts in jeopardy the safety of our military forces.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/13	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: None.

Agency Contact: Manuel Quinones, Department of Defense, Defense Acquisition Regulations Council, 4800 Mark Center Drive, Suite15D07–2, Alexandria, VA 22350, *Phone:* 571 372–6088, *Email: manuel.quinones@osd.mil.*

RIN: 0750–AH96

DOD—DARC

35. Enhancement of Contractor Employee Whistleblower Protections (DFARS Case 2013–D010)

Priority: Other Significant.

Legal Authority: 41 U.S.C. 1303; Pub. L. 112–239, sec 827

CFR Citation: 48 CFR 203; 48 CFR 252.

Legal Deadline: Final, Statutory, January 2, 2013, section 827 of the NDAA for Fiscal Year 2013 (Pub. L. 112–239). July 2, 2013 or within 180 days from enactment of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2013 (Pub. L. 112–239), which was enacted on Jan 2, 2013.

Abstract: DoD is issuing an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement statutory amendments to whistleblower protections for contractor employees. DoD is revising the DFARS to implement a policy enhancing the whistleblower protections for contractor employees as modified by section 827 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112–239, enacted January 2, 2013). Section 827, entitled ''Requirements for Information Relating to Supply Chain Risk,'' as amended by section 806 of the NDAA for FY 2013 (Pub. L. 112–239), and allows the DoD to consider the impact of supply chain risk in specified types of procurements related to National Security Systems (NSS). Section 806 defines supply chain risk as ''the risk that an adversary may sabotage, maliciously introduce unwanted function, or otherwise subvert the design, integrity, manufacturing, production, distribution, installation, operation, or maintenance of a covered system so as to surveil, deny, disrupt, or otherwise degrade the function, use, or operation of such system.''

Statement of Need: The Department of Defense (DoD) is issuing an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement amendments made by section 827 of the National Defense Authorization Act for Fiscal Year 2013. Section 827 amends 10 U.S.C. 2409 and 10 U.S.C. 2324(k), making the changes applicable to DoD and NASA. Each agency is amending its FAR supplement.

Summary of Legal Basis: Public Law 112–239, section 827 and 41 U.S.C. 1303.

Alternatives: There are no significant alternatives to accomplish the stated objectives of this rule. DoD considered several alternatives with emphasis on reducing the burden on small entities. Because of the terms used in the statute, DoD is unable to exempt small entities or to establish a dollar threshold for coverage. Regardless of the size of the business, a whistleblower employee must be protected from retaliation by his/her employer.

Anticipated Cost and Benefits: The costs associated with implanting the amendments to existing protections for contractor whistleblower employees, as a result of changes to the law, are minimal. Benefit: The rule proposes to strengthen protections for contractor personnel who disclose incidents of fraud, waste, and abuse of DoD contracts.

Risks: There is potential risk to the public on cases involving fraud, waste, and abuse of DoD contracts going unreported for fear of inadequate protections for whistleblowers under the law.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/13	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: None.

Agency Contact: Manuel Quinones, Department of Defense, Defense Acquisition Regulations Council, 4800 Mark Center Drive, Suite15D07–2, Alexandria, VA 22350, *Phone:* 571 372–6088, *Email: manuel.quinones@osd.mil.*

RIN: 0750–AH97

DOD—DARC

36. • Allowability of Legal Costs for Whistleblower Proceedings (DFARS Case 2013–D022)

Priority: Other Significant.

Legal Authority: 41 U.S.C. 1303; Pub. L. 112–239, sec 827; 10 U.S.C. 2324(k)

CFR Citation: 48 CFR 216; 48 CFR 231; 48 CFR 252.

Legal Deadline: Final, Statutory, January 2, 2013, section 827(g) and (i) of the NDAA for fiscal year 2013 (Pub. L. 113–239).

Abstract: DoD is issuing an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a section of the National Defense Authorization Act for Fiscal Year 2013 that amends the allowability of legal costs incurred by a contractor related to whistleblower proceedings. This interim rule is to implement paragraphs 827(g) and (i) of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 113–239). Section 827(g) expands the cost principle at 10 U.S.C. 2324(k) to apply the cost principle on allowability of costs related to legal and other proceedings to costs incurred by contractors in proceedings commenced by a contractor employee submitting a complaint under 10 U.S.C. 2409 (whistleblowing), and include as specifically unallowable, legal costs of a proceeding that results in an order to take corrective action under 10 U.S.C. 2409.

Statement of Need: DoD requires this action to implement paragraphs 827(g) and (i) of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 113–239). Section 827(g) expands the cost principle at 10 U.S.C. 2324(k) to apply the cost principle on allowability of costs related to legal and other proceedings to costs incurred by contractors in proceedings commenced by a contractor employee submitting a complaint under 10 U.S.C. 2409 (whistleblowing), and include as specifically unallowable, legal costs of a proceeding that results in an order to take corrective action under 10 U.S.C. 2409.

This interim rule revises the DFARS subparts 216.3 and 231.2 and adds a new clause at 252.216 to implement paragraphs (g) and (i) of section 827 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 113–239).

Summary of Legal Basis: The legal basis for this rule is section 827(g) of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112–239), enacted on January 2, 2013.

Alternatives: DoD was unable to identify any alternatives to the rule that would reduce the impact on the public, particularly on small entities, and still meet the requirements of the statute.

Anticipated Cost and Benefits: There is no significant cost to the Government; however, there is potential cost to a contractor involved in the submission of a whistleblower complaint that results in a monetary penalty to the contractor or an order for the contractor to take corrective measures. Benefits include potential savings to taxpayers, since costs incurred by the contractor are disallowed as a result of one of its employee's filing a complaint under 10 U.S.C. 2409.

Risks: There is risk to a contractor if a contractor employee commenced a proceeding by submitting a complaint under 10 U.S.C. 2409, and if that proceeding resulted in imposition of a monetary penalty or an order to take corrective action under 10 U.S.C. 2409.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/13	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: None.

Agency Contact: Manuel Quinones, Department of Defense, Defense Acquisition Regulations Council, 4800 Mark Center Drive, Suite 15D07–2, Alexandria, VA 22350, *Phone:* 571 372–6088, *Email: manuel.quinones@osd.mil.*

RIN: 0750–AI04

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

Proposed Rule Stage

37. Tricare; Reimbursement of Long Term Care Hospitals

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

Legal Authority: 10 U.S.C. 1079(j)(2)

CFR Citation: 32 CFR 199.

Legal Deadline: None.

Abstract: The proposed 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 proposed rule implements a reimbursement methodology similar to that furnished to Medicare beneficiaries for services provided by long-term care hospitals.

Statement of Need: The rule is necessary to meet the statutory provision to use Medicare reimbursement rules to the extent practicable.

Summary of Legal Basis: Congress established enabling legislation under section 707 of the National Defense Authorization Act of Fiscal year 2002 (NDAA–02), Public Law 107–107 (December 28, 2001) changing the statutory authorization in 10 U.S.C. 1079(j)(2) that TRICARE payment methods for institutional care shall be determined to the extent practicable, in accordance with the same reimbursement rules used by Medicare.

Alternatives: This rule implements statutorily required provisions for adoption and implementation of Medicare institutional reimbursement rules which are consistent with well established congressional objectives. No other alternative is applicable.

Anticipated Cost and Benefits: It is projected that implementation of this rule will result in a health care savings of $71 million in year one of implementation.

Risks: The proposed rule implements statutorily required provisions for adoption and implementation of Medicare institutional reimbursement systems which are consistent with well established congressional objectives. No risk to the public is applicable.

Timetable:

Action	Date	FR Cite
NPRM	02/00/14	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: Federal.

Agency Contact: Ann N. Fazzini, Department of Defense, Office of Assistant Secretary for Health Affairs, 1200 Defense Pentagon, Washington, DC 20301, *Phone:* 303 676–3803.

RIN: 0720–AB47

DOD—DODOASHA

Final Rule Stage

38. Tricare: Certified Mental Health Counselors

Priority: Other Significant.

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

CFR Citation: 32 CFR 199.

Legal Deadline: Final, Statutory, June 20, 2011, section 724 of NDAA 2011.

Congressional requirement set forth in the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2011, section 724, which required the Department of Defense to prescribe regulations by June 20, 2011, to establish the criteria, as had previously been studied in accordance with section 717 of the NDAA 2008, that would allow licensed or certified mental health counselors to be able to independently provide care to TRICARE beneficiaries and receive payment for those services.

Abstract: This rule was published as an interim final rule (IFR) in order to meet the congressional requirement set forth in the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2011, section 724, which required the Department of Defense to prescribe regulations by June 20, 2011, to establish the criteria, as had previously been studied in accordance with section 717 of the NDAA 2008, that would allow licensed or certified mental health counselors (MHCs) to be able to independently provide care to TRICARE beneficiaries and receive payment for those services. Under current TRICARE requirements, MHCs are authorized to practice only with physician referral and supervision. This IFR establishes a transition period to allow MHCs to gain the requisite education, examination, and post-master's clinical experience for the new category of qualified mental health professionals, ''TRICARE Certified Mental Health Counselors,'' who will be authorized to practice independently under TRICARE, as well as phase out the category of MHC who require referral and supervision from TRICARE authorized physicians.

Statement of Need: The Interim Final Rule provides 9.6 million TRICARE beneficiaries access to a new category of qualified mental health professionals whose qualifications confirm their ability to diagnose and treat mental health disorders found in the military population, as well as the psychosocial issues experienced by military members, retirees, and family members. During the transition period of the IFR, the criteria for the MHCs have not changed and will allow continuity of care for beneficiaries who are receiving

services from supervised MHCs under the current system. A continued robust, quality provider pool is available for TRICARE beneficiaries to access when seeking medically necessary and appropriate mental health counseling services in the MHS purchased care system.

Summary of Legal Basis: The legal authority for this interim final rule is section 724 of the National Defense Authorization Act for Fiscal Year 2011, Public Law 111–383, which required the Department of Defense to prescribe regulations to establish the criteria that would allow licensed or certified mental health counselors to be able to independently provide care to TRICARE beneficiaries and receive payment for those services.

Alternatives: This action is required by statute, therefore, there are no alternatives.

Anticipated Cost and Benefits: The anticipated cost associated with this rule is under $100 million in 1995 dollars, updated annually for inflation. The benefits are that TRICARE will be in compliance with its statutory provisions, and mental health of beneficiaries who receive services from TRICARE Certified Mental Health Counselors will be improved.

Risks: Failure to implement this will mean that TRICARE regulations are not most appropriately implementing the changes legislated by TRICARE statutory provisions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/27/11	76 FR 80741
Interim Final Rule Effective.	12/27/11	
Interim Final Rule Comment Period End.	02/27/12	
Final Action	11/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Agency Contact: Patricia Moseley, Department of Defense, Office of Assistant Secretary for Health Affairs, Defense Pentagon, Washington, DC 22301, *Phone:* 703 681–0064.

RIN: 0720–AB55

DOD—DODOASHA

39. CHAMPUS/TRICARE: Pilot Program for Refills of Maintenance Medications for Tricare for Life Beneficiaries Through the TRICARE Mail Order Program

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 199.

Legal Deadline: None.

Abstract: This interim final rule implements section 716 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112–239), which establishes a 5-year pilot program that would generally require TRICARE for Life beneficiaries to obtain all refill prescriptions for covered maintenance medications from the TRICARE mail order program or military treatment facility pharmacies. Covered maintenance medications are those that involve recurring prescriptions for chronic conditions, but do not include medications to treat acute conditions. Beneficiaries may opt out of the pilot program after 1 year of participation. This rule includes procedures to assist beneficiaries in transferring covered prescriptions to the mail order pharmacy program. This regulation is being issued as an interim final rule in order to comply with the express statutory intent that the program begin in calendar year 2013.

Statement of Need: The Department of Defense (DoD) proposed rule establishes processes for the new program of refills of maintenance medications for TRICARE for Life beneficiaries through military treatment facility pharmacies and the mail order pharmacy program.

Summary of Legal Basis: This regulation is proposed under 5 U.S.C. 301; 10 U.S.C. ch 55; 32 CFR section 199.21.

Alternatives: The rule fulfills a statutory requirement, therefore, there are no alternatives.

Anticipated Cost and Benefits: The effect of the statutory requirement, implemented by this rule, is to shift a volume of prescriptions from retail pharmacies to the most cost effective points-of-service venues of military treatment facility pharmacies and the mail order pharmacy program. This will produce savings to the Department of approximately $104 million per year and savings to beneficiaries of approximately $34 million per year in reduced copayments.

Risks: Loss of savings to both the Department and beneficiaries. No risk to the public.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Businesses.

Government Levels Affected: None.

Agency Contact: RADM Thomas McGinnis, Department of Defense, Office of Assistant Secretary for Health Affairs, 1200 Defense Pentagon, Washington, DC 20301–1200, *Phone:* 703 681–2890.

RIN: 0720–AB60

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 student 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 2013–2014 school year about 55 million students will attend an estimated 130,000 elementary and secondary schools in approximately 13,600 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.

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. We also continue to seek greater public participation in our rulemaking activities through the use of transparent and interactive rulemaking procedures and new technologies.

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. The Higher Education Act of 1965, as Amended

Gainful Employment. The Secretary proposes amendments to the regulations for the Federal Student Aid programs authorized under title IV of the Higher Education Act of 1965, as amended (HEA). The proposed amendments follow a negotiated rulemaking conducted by the Department in the fall of 2013. Specifically, a negotiating committee met in September and November of 2013 to prepare proposed regulations regarding measures for determining whether certain postsecondary educational programs lead to gainful employment in a recognized occupation, the conditions under which these educational programs remain eligible for the title IV Federal Student Aid programs, and requirements for reporting and disclosure of relevant information.

150% Regulations. The Secretary published interim final regulations with a request for public comment on May 16, 2013 (78 FR 28954), to amend the William D. Ford Federal Direct Loan Program (Direct Loan Program) regulations to reflect changes made to the program by the Moving Ahead for Progress in the 21st Century Act (MAP–21), Pub. L. 112–141. Specifically, these interim final regulations reflected the provisions in MAP–21 that amended the HEA to extend the 3.4 percent interest rate on Direct Subsidized Loans from July 1, 2012, through June 30, 2013, and to ensure that a new borrower on or after July 1, 2013, may not receive Direct Subsidized Loans for more than 150 percent of the published length of the educational program in which the borrower is enrolled. Under the changes made by MAP–21, if the borrower exceeds this Direct Subsidized Loan limit, the borrower also becomes responsible for the accruing interest on the Direct Subsidized Loans. We intend to publish final regulations by January 2014.

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*.

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. Individuals With Disabilities Education Act

The Secretary published a notice of proposed rulemaking on September 18, 2013 (78 FR 57324), to amend regulations under Part B of the Individuals with Disabilities Education Act (IDEA) regarding local maintenance of effort (MOE) to ensure that all parties involved in implementing, monitoring,

and auditing local educational agency (LEA) compliance with MOE requirements understand the rules. Specifically, we are 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 an 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.

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?
1810–AB16	Title I—Improving the Academic Achievement of the Disadvantaged	No.
1820–AB64	Assistance to States for the Education of Children with Disabilities—Public Benefits or Insurance	No.
1820–AB65	Assistance to States for the Education of Children with Disabilities—Maintenance of Effort	No.
1820–AB66	American Indian Vocational Rehabilitation Services Program	No.
1820–AB67	Disability and Rehabilitation Research Projects and Centers Program: Disability and Rehabilitation Research: Research Fellowships; Special Projects and Demonstrations for Spinal Cord Injuries.	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–AD11	Federal Pell Grant Program	Yes.
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.
1840–AD14	Negotiated Rulemaking Under Title IV of HEA	Undetermined.
1840–AD15	Gainful Employment	No.
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

40. • Gainful Employment

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

Legal Authority: 20 U.S.C. 1001 to 1003; 20 U.S.C. 1070g; 20 U.S.C. 1085; 20 U.S.C. 1088; 20 U.S.C. 1091 to 1092; 20 U.S.C. 1094; 20 U.S.C. 1099c; 20 U.S.C. 1099c–1

CFR Citation: 34 CFR 668.

Legal Deadline: None.

Abstract: The Secretary proposes amendments to the regulations for the Federal Student Aid programs authorized under title IV of the Higher Education Act of 1965, as amended (HEA). The proposed amendments follow a negotiated rulemaking conducted by the Department in the fall of 2013. Specifically, a negotiating committee met in September and November of 2013 to prepare proposed regulations regarding measures for determining whether certain postsecondary educational programs lead to gainful employment in a recognized occupation, the conditions under which these educational programs remain eligible for the title IV Federal Student Aid programs, and requirements for reporting and disclosure of relevant information.

Statement of Need: The Secretary proposes amendments to the regulations for the title IV, HEA Federal Student Aid programs. The proposed amendments follow a negotiated rulemaking conducted by the Department in September and November of 2013 to prepare proposed regulations regarding measures for determining whether certain

postsecondary educational programs lead to gainful employment in a recognized occupation, the conditions under which these educational programs remain eligible for the title IV Federal Student Aid programs, and requirements for reporting and disclosure of relevant information.

Summary of Legal Basis: The Secretary proposes amendments to the regulations for the Federal Student Aid programs authorized under title IV of the Higher Education Act of 1965, as amended (HEA).

Alternatives: To be determined.

Anticipated Cost and Benefits: To be determined.

Risks: To be determined.

Timetable:

Action	Date	FR Cite
NPRM	02/00/14	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses, Organizations.

Government Levels Affected: None.

Agency Contact: John A. Kolotos, Department of Education, Office of Postsecondary Education, Room 8018, 1990 K Street NW., Washington, DC 20006–8502, *Phone:* 202 502–7762, *Email: john.kolotos@ed.gov.*

RIN: 1840–AD15

BILLING CODE 4000–01–P

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 improve 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–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–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 Distribution Transformer and Microwave Oven standards, which were already published in 2013, have an estimated net benefit to the nation of up to $16.3 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 about three 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.*

Estimate of Combined Aggregate Costs and Benefits

The regulatory actions included in this Regulatory Plan for battery chargers

and external power supplies, walk-in coolers and freezers, metal halide lamp fixtures, manufactured housing, commercial refrigeration equipment, residential furnace fans, and commercial and industrial electric motors may provide significant benefits to the Nation. DOE believes that the benefits to the Nation of the proposed energy standards for metal halide lamp fixtures, commercial refrigeration equipment and walk-in coolers and freezers (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 7.19 to 7.49quads over thirty years. The net benefit to the Nation was estimated to be between $11.16 billion (seven-percent discount rate) and $31.57 billion (three-percent discount rate). DOE believes that the proposed energy standards for external power supplies, residential furnace fans, and commercial and industrial electric motors 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 rulemakings for external power supplies, residential furnace fans, and commercial and industrial electric motors.

BILLING CODE &P

DOE—ENERGY EFFICIENCY AND RENEWABLE ENERGY (EE)

Proposed Rule Stage

41. Energy Conservation Standards for Walk-in Coolers and Walk-in Freezers

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. 6313(f)(4)

CFR Citation: 10 CFR 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 performance based 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: DOE believes that the benefits to the Nation of the proposed energy standards for commercial refrigeration equipment (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 5.39 quads over 30 years and the benefit to the Nation will be between $8.6 billion and $24.3 billion.

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
NPRM Comment Period Extended.	04/14/10	75 FR 41103
Comment Period End.	05/28/10	
NPRM	09/11/13	78 FR 55781
NPRM Comment Period End.	11/12/13	
Final Action	04/00/14	

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

URL for More Information: www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/30.

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

42. Energy Efficiency Standards for Metal Halide Lamp Fixtures

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

Unfunded Mandates: Undetermined.

Legal Authority: 42 U.S.C. 6295(hh)(2)

CFR Citation: 10 CFR 431.

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

Abstract: Section 324 of the Energy Independence and Security Act of 2007 amends the Energy Policy and Conservation Act to require DOE issue a final rule by January 1, 2012, to determine if the energy conservation standards should be amended.

Statement of Need: EPCA requires minimum energy efficiency standards for certain appliances and commercial equipment, including metal halide lamp fixtures.

Summary of Legal Basis: Title III of the Energy Policy and Conservation Act of 1975 (EPCA or the Act), Public Law 94–163 (42 U.S.C. 6291–6309, as codified), established the Energy Conservation Program for Consumer Products Other Than Automobiles. Pursuant to EPCA, any new or amended energy conservation standard that the U.S. Department of Energy (DOE) prescribes for certain products, such as metal halide lamp fixtures, shall be designed to achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified (42 U.S.C. 6295(o)(2)(A)), and result in a

significant conservation of energy. (42 U.S.C. 6295(o)(3)(B))

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 metal halide lamp fixtures (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 range from 0.80 quads to 1.1 quads over 30 years and the benefit to the Nation will be between $0.95 billion and $3.2 billion.

Timetable:

Action	Date	FR Cite
Notice: Public Meeting, Framework Document Availability.	12/30/09	74 FR 69036
Comment Period End.	01/29/10	
Notice: Public Meeting, Data Availability.	04/01/11	76 FR 18127
Comment Period End.	05/16/11	
NPRM	08/20/13	78 FR 51464
NPRM Comment Period End.	10/21/13	
Final Action	01/00/14	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Undetermined.

Federalism: Undetermined.

URL For More Information: www1.eere.energy.gov/buildings/appliance_standards/commercial/metal_halide_lamp_ballasts.html.

URL For Public Comments: www.regulations.gov.

Agency Contact: Lucy DeButts, Office of Buildings Technologies Program, EE–2J, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585, *Phone:* 202 287–1604, *Email: lucy.debutts@ee.doe.gov.*

RIN: 1904–AC00

DOE—EE

43. Energy Efficiency Standards for Manufactured Housing

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

Unfunded Mandates: Undetermined.

Legal Authority: 42 U.S.C. 17071

CFR Citation: 10 CFR 460.

Legal Deadline: Final, Statutory, December 19, 2011.

Abstract: The rule would establish energy efficiency standards for manufactured housing and a system to ensure compliance with, and enforcement of, the standards.

Statement of Need: EISA 2007 requires minimum energy efficiency standards for appliances, which has the effect of eliminating inefficient appliances and equipment from the market.

Summary of Legal Basis: Section 413 of EISA 2007, 42 U.S.C. 17071, directs DOE to develop and publish energy standards for manufactured housing.

Alternatives: The statute requires DOE to conduct a rulemaking to establish standards based on the most recent version of the International Energy Conservation Code (IECC), except in cases in which the Secretary finds that the IECC is not cost effective or a more stringent standard would be more cost effective based on the impact of the IECC on the purchase price of manufactured housing and on total lifecycle construction and operating costs.

Anticipated Cost and Benefits: Because DOE has not yet proposed energy efficiency standards, 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 for increased energy efficiency that are economically justified. Estimates of energy savings will be provided when DOE issues the notice of proposed rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	02/22/10	75 FR 7556
ANPRM Comment Period End.	03/24/10	
Request for Infommation.	06/25/13	78 FR 37995
NPRM	09/00/14	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: None.

URL For More Information: www.energycodes.gov/status/mfg_housing.stm.

URL For Public Comments: www.regulations.gov.

Agency Contact: Mohammed Khan, Office of Building Technologies Program, EE–2J, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585, *Phone:* 202 586–7892, *Email: mohammed.khan@ee.doe.gov.*

RIN: 1904–AC11

DOE—EE

44. Energy Conservation Standards for Commercial Refrigeration Equipment

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

Unfunded Mandates: Undetermined.

Legal Authority: 42 U.S.C. 6313(c)(5)

CFR Citation: 10 CFR 431.

Legal Deadline: Final, Statutory, January 1, 2013.

Abstract: DOE is reviewing and updating energy conservation standards, as required by the Energy Policy and Conservation Act, to reflect technological advances. All amended standards must be technologically feasible and economically justified. As required by EPCA, DOE published previously a final rule establishing energy conservation standards for ice-cream freezers, self-contained commercial refrigerators, freezers, and refrigerator-freezers without doors, for equipment manufactured after January 1, 2012. (74 FR 1092, Jan. 9, 2009) DOE is required to issue a final rule for this second review of energy conservation standards for commercial refrigeration equipment no later than January 1, 2013.

Statement of Need: EPCA requires minimum energy efficiency standards for certain appliances and commercial equipment, including commercial refrigeration equipment.

Summary of Legal Basis: Title III of the Energy Policy and Conservation Act of 1975 (EPCA or the Act), Public Law 94–163 (42 U.S.C. 6291–6309, as codified), established the Energy Conservation Program for Consumer Products Other Than Automobiles. Pursuant to EPCA, any new or amended energy conservation standard that the U.S. Department of Energy (DOE) prescribes for certain products, such as commercial refrigeration equipment, shall be designed to achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified (42 U.S.C. 6295(o)(2)(A)), and result in a significant conservation of energy. (42 U.S.C. 6295(o)(3)(B))

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 commercial refrigeration equipment (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 quad over 30 years and the benefit to the Nation will be between $1.61 billion and $4.07 billion.

Timetable:

Action	Date	FR Cite
Notice: Public Meeting, Framework Document Availability.	05/06/10	75 FR 24824
Comment Period End.	06/07/10	
Notice: Public Meeting, Data Availability.	03/30/11	76 FR 17573
Comment Period End.	05/16/11	
NPRM	09/11/13	78 FR 55889
NPRM Comment Period End.	11/12/13	
Final Action	02/00/14	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: Undetermined.

Federalism: Undetermined.

URL for More Information: www1.eere.energy.gov/buildings/appliance_standard/rulemaking.aspx/ruleid/27.

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.*

RIN: 1904–AC19

DOE—EE

45. Energy Conservation Standards for Residential Furnace Fans

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 (f)(4)(D)

CFR Citation: 10 CFR 430.

Legal Deadline: Final, Statutory, December 31, 2013.

Abstract: DOE is initiating its first rulemaking to consider new energy conservation standards or energy use standards for purposes of circulating air through duct work, as required under 42 U.S.C. 6295(f)(4)(D). DOE commonly refers to these products as ''residential furnace fans.'' EPCA, as amended, requires DOE to publish a final rule establishing any final energy conservation or energy use standards not later than December 31, 2013.

Statement of Need: EPCA requires minimum energy efficiency standards for certain appliances and commercial equipment, including residential furnace fans.

Summary of Legal Basis: Title III of the Energy Policy and Conservation Act of 1975 (EPCA or the Act), Public Law 94–163 (42 U.S.C. 6291–6309, as codified), established the Energy Conservation Program for Consumer Products Other Than Automobiles. Pursuant to EPCA, any new or amended energy conservation standard that the U.S. Department of Energy (DOE) prescribes for certain products, such as residential furnace fans, shall be designed to achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified (42 U.S.C. 6295(o)(2)(A)), and result in a significant conservation of energy. (42 U.S.C. 6295(o)(3)(B)

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.	06/03/10	75 FR 31323
Comment Period End.	07/06/10	
Preliminary Analysis.	07/10/12	77 FR 40530
Comment Period End.	09/10/12	
NPRM; Public Meeting.	10/25/13	78 FR 64067
NPRM Comment Period End.	12/24/13	
Public Meeting	12/03/13	
Final Action	12/00/13	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Undetermined.

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

URL for Public Comments: www.regulations.gov.

Agency Contact: Ronald B. Majette, Program Manager, Office of Building Technologies Program, EE–2J, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585, *Phone:* 202 586–7935, *Email: ronald.majette@ee.doe.gov.*

Related RIN: Related to 1904–AC21.

RIN: 1904–AC22

DOE—EE

46. Energy Efficiency Standards for Certain Commercial and Industrial Electric Motors

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. 6313(b)(4)(B)

CFR Citation: 10 CFR 431.25.

Legal Deadline: Final, Statutory, December 19, 2012.

Abstract: Consistent with changes made by the Energy Independence and Security Act of 2007 (EISA 2007), DOE is amending its electric motor standards by expanding the scope of the electric

motors that would be regulated. Under the Energy Policy and Conservation Act (EPCA), as amended, DOE must publish a final rule determining whether to amend its standards no later than 24 months after the effective date of the previous final rule.

Statement of Need: EPCA requires minimum energy efficiency standards for certain appliances and commercial equipment, including commercial and industrial electric motors.

Summary of Legal Basis: Title III of the Energy Policy and Conservation Act of 1975 (EPCA or the Act), Public Law 94–163 (42 U.S.C. 6291–6309, as codified), established the Energy Conservation Program for Consumer Products Other Than Automobiles. Pursuant to EPCA, any new or amended energy conservation standard that the U.S. Department of Energy (DOE) prescribes for certain products, such as electric motors, shall be designed to achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified (42 U.S.C. 6295(o)(2)(A)), and result in a significant conservation of energy. (42 U.S.C. 6295(o)(3)(B)).

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.	09/28/10	75 FR 59657
Comment Period End.	11/24/10	
Preliminary Analysis.	07/23/12	77 FR 43015
Comment Period End.	09/07/12	
NPRM	11/00/13	
Final Action	05/00/14	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: None.

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

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

URL For More Information: www1.eere.energy.gov/buildings/appliance_standards/commercial/electric_motors.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: Duplicate of 1904–AC14.

RIN: 1904–AC28

DOE—EE

Final Rule Stage

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

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

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

CFR Citation: 10 CFR 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 along with standards for other classes of external power supplies that DOE determines satisfy the necessary statutory criteria. 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 would include any amended or new standards as part of that final rule. DOE completed this determination in 2012. 75 FR 27170 (May 14, 2010)

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	
Request for Information.	03/26/13	78 FR 18253
RFI Comment Period End.	05/28/13	
Final Action	12/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: Local, State.

Federalism: This action may have federalism implications as defined in E.O. 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.

URL For Public Comments: www.regulations.gov.

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

BILLING CODE–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Statement of Regulatory Priorities for Fiscal Year 2014

As the lead federal agency responsible for protecting the health of all Americans and providing supportive services for vulnerable populations, the Department of Health and Human Services (HHS) implements programs that strengthen the health care system; advance scientific knowledge and innovation; improve 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.

The Department's regulatory agenda for Fiscal Year 2014 advances this mission by issuing rules that will: Increase access to health care for all Americans and strengthen the Medicare program, the nation's largest insurance provider; support the President's commitment to implement strategies to reduce gun violence; build from previous experiences to safeguard the nation's food supply; promote children's health and well-being through programs that target those critical early years; arm consumers with information to help them make healthy choices; and marshal the best research and technology available to streamline and modernize the health care delivery and medical product availability systems. This overview highlights several regulations that best exemplify these priorities.

Expanding Coverage in the Private Health Care Market and Strengthening Medicare

The Department continues to implement Affordable Care Act provisions that expand health insurance coverage and promote health care security for all Americans. Millions of Americans—including women, families, seniors, and small business owners—are already benefitting from the Affordable Care Act. As the Department begins open enrollment in the Health Insurance Marketplaces, we will continue to provide guidance to states, providers, and insurers to enhance the experience of individuals and families accessing the Marketplaces. In addition, the Department plans to publish other rules that would enhance the protections of the Affordable Care Act.

- For example, the Centers for Medicare and Medicaid Services (CMS) is preparing to monitor and update policies related to the Health Insurance Marketplaces based on experience with initial open enrollment to address emerging needs of states, health care providers, and insurers.[1]
- CMS, along with the Departments of Labor and the Treasury, recently published a final rule to implement the Mental Health Parity and Addiction Equity Act (MHPAEA) of 2008, which requires parity between mental health or substance use disorder benefits and medical/surgical benefits with respect to financial requirements and treatment limitations under group health plans and health insurance coverage offered in connection with a group health plan. The Affordable Care Act builds on MHPAEA and requires coverage of mental health and substance use disorder services as one of ten essential health benefits categories. Under the essential health benefits rule, individual and small group health plans are required to comply with these parity regulations. This rule, in conjunction with the Affordable Care Act provisions will expand mental health and substance use disorder benefits and parity protections for 62 million Americans.[2]

CMS has also identified a number of opportunities to strengthen the Medicare program by updating rules related to health care payments and issuing rules to help root out potential waste, fraud, and abuse.

- In one such rule, CMS will propose certain qualification standards regarding the types of prosthetic and orthotic devices billable to the Medicare program.[3] This rule continues the Department's efforts to identify and eliminate avenues for Medicare fraud and works to protect the Medicare Trust Fund.
- In addition, CMS will update several Medicare provider payment rules to better reflect the state of practice and be responsive to feedback from providers.[4] These rules, which are published annually, provide predictability for health care providers so they can manage their finances appropriately.

Advancing Strategies To Reduce Gun Violence

On April 23, 2013, the Department published an Advance Notice of Proposed Rulemaking (ANPRM) requesting public input on issues

[1] Exchange: Eligibility, Enrollment, and Appeals Updates Proposed Rule (RIN: 0938–AS02).

[2] *http://www.mentalhealth.gov/get-help/health-insurance/index.html.*

[3] Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS): Special Payment Rules (RIN: 0938–AR84).

[4] Hospital Inpatient Prospective Payment System for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and Fiscal Year 2015 Rates (RIN: 0938–AS11); CY 2015 Revisions to Payment Policies Under the Physician Fee Schedule and Other Revisions to Medicare Part B (0938–AS12); CY 2015 Hospital Outpatient PPS Policy Changes and Payment Rates, and CY 2015 Ambulatory Surgical Center Payment System Policy Changes and Payment Rates (0938–AS15).

related to the HIPAA Privacy Rule and reporting to the National Instant Criminal Background Check System (NICS) the identities of individuals subject to a federal mental health prohibitor that disqualifies the individuals from possessing or receiving a firearm. The ANPRM also announced the Department's consideration of a proposal to modify the HIPAA Privacy Rule to expressly permit certain covered entities to disclose to NICS the identities of individuals subject to the federal mental health prohibitor. This NPRM will address public comments received in response to the ANPRM and includes proposals to help facilitate NICS reporting.

Safeguarding the Nation's Food Supply

FDA will continue its work to implement the Food Safety Modernization Act and other statutory authorities related to food safety, working with public and private partners to build a new system of food safety oversight. In the past year, FDA has issued significant proposed rules on preventive controls for human food and produce safety, as well as foreign supplier verification for importers and accreditation of third-party auditors. This year, FDA will continue its work to enhance its oversight of the nation's food supply, including publishing rules that will help curb the development of antimicrobial resistance in food products. For example:

- FDA recently issued a proposed rule establishing preventive controls in the manufacture and distribution of animal feeds.[5] This regulation, as well as a companion piece related to human foods, 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.
- In another proposed rule, FDA is codifying a provision in the Animal Drug User Fee Amendments of 2008 that requires sponsors of antimicrobial new animal drug products to annually report the amount of antimicrobial active ingredient in those drugs that are sold or distributed for use in food-producing animals, as well as outline other requirements for collecting additional drug distribution data. This rule will help FDA address the problem of antimicrobial resistance and will help ensure that FDA has the necessary information to examine safety concerns related to the use of antibiotics in food-producing animals.[6]

Promoting Children's Health and Well-Being

The Administration for Children and Families' (ACF) regulatory portfolio includes rules that promote children's health and well-being by strengthening programs that serve children and their families. Specifically, ACF rules support the President's Early Learning Initiative: A series of new investments that will establish a continuum of high-quality early learning for a child—beginning at birth and continuing to age five.

- For example, one final rule would provide the first comprehensive update of Child Care and Development Fund (CCDF) regulations since 1998.[7] 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. This final 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 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 work for low-income parents and promotes children's learning and healthy development.
- Another final rule would amend Head Start program eligibility standards, as a component of an ongoing effort to strengthen the Head Start program and help ensure for children and families most in need access to this high-quality educational program.[8]

Empowering Americans To Make Healthy Choices in the Marketplace

As of 2010, more than one-third of U.S. adults[9] and 17% of all children and adolescents[10] 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.[11] 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'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.[12]

- 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.[13] 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.[14] 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

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

[6] Reports of Distribution and Sales Information for Antimicrobial Active Ingredients Used in Food-Producing Animals Proposed Rule (RIN: 0910–AG45).

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

[8] Head Start Eligibility Determination Final Rule (RIN: 0970–AC46).

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

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

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

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

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

[14] Food Labeling: Calorie Labeling of Articles of Food Sold in Vending Machines Final Rule (RIN: 0910–AG56).

on the label to help consumers maintain healthy dietary practices.[15]

▪ 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 healthy dietary practices.[16]

Reducing the Harms of Tobacco Use

In 2009, Congress enacted the Family Smoking Prevention and Tobacco Control Act, which authorized FDA to regulate tobacco for the first time in history. Under the Tobacco Control Act, FDA has responsibility for regulating the manufacturing, marketing, and distribution of tobacco products to protect the public health and for reducing tobacco use by minors. In the coming year, FDA plans to issue a proposed rule that would clarify which products containing tobacco, in addition to cigarettes, are subject to FDA oversight.[17] This rule would also allow FDA to establish regulatory standards on the sale and distribution of tobacco products, such as age-related access restrictions and rules on advertising and promotion, as appropriate, to protect public health. This rule will help FDA target its efforts to identify and regulate tobacco products that are intended to entice children and youth.

Modernizing Medical Product Safety and Availability

In 2012, Congress gave FDA new authorities under the Food and Drug Administration Safety and Innovation Act to support its core mission of safeguarding the quality of medical products available to the public while ensuring the availability of innovative products to promote the public health. Similar to its work in the food safety, nutrition, and tobacco control spheres, FDA works diligently to implement regulations springing from this new statutory authority with a focus on enhancing FDA oversight and protecting the quality of medical products in the global drug supply chain; improving the availability of needed drugs and devices; and promoting better-informed decisions by health professionals and patients.

▪ For example, a newly issued regulatory proposal would require manufacturers of certain drugs, such as drugs used for cancer treatments, anesthesia drugs, and other drugs that are critical to the treatment of serious diseases and life-threatening conditions, to report discontinuances or interruptions in the manufacturing of these products.[18] This rule would help FDA address and potentially prevent drug shortages and would help inform providers and public health officials earlier about potential drug shortages.

▪ Another recent proposed rule would update FDA's regulations to reflect the increased use of generic drugs in the current marketplace and create parity between brand name and generic drug manufacturers with regards to the ability to update product labeling. In this rule, FDA would propose to allow generic drug manufacturers to independently update product labeling to reflect certain types of newly acquired safety information through submission of a ''changes being effected'' supplement, irrespective of whether the revised labeling differs from that of the corresponding brand name drug.[19] The rule would also propose the process by which information regarding a ''changes being effected'' labeling supplement would be made publicly available during FDA's review, so that the public can have timely access to this information.

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 updating rules to align with emerging health and safety standards, eliminating outdated procedures, streamlining rules, and providing flexibility to use technology.

▪ CMS continues its retrospective review efforts by proposing rules to update safety standards, eliminate redundancies, and reduce burden for patients and providers. For example, one proposed rule would amend the fire safety standards for hospitals, long-term care facilities, intermediate care facilities for the intellectually disabled (ICFs/ID), ambulatory surgery centers (ASCs), hospices which provide in-patient services, religious non-medical health care institutions, and Programs of All-Inclusive Care for the Elderly (PACE) facilities.[20] Further, this proposed rule would adopt the most recent edition of the Life Safety Code (LSC) and eliminate references in our regulations to all earlier editions.

▪ In another rule, CMS, working with the Centers for Disease Control and Prevention and the Office for Civil Rights, will amend the Clinical Laboratory Improvement Amendments of 1988 (CLIA) regulations to allow laboratories to provide patients with direct access to completed test results at the patient's request.[21] This rule supports the Administration's transparency initiative by allowing consumers to make informed decisions about their care and treatment.

▪ In a major undertaking, the Department and White House Office of Science and Technology Policy will propose revisions to the ethical rules governing research on human subjects, often referred to as the Common Rule.[22] 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.

HHS—OFFICE FOR CIVIL RIGHTS (OCR)

Proposed Rule Stage

48. HIPAA Privacy Rule and the National Instant Criminal Background Check System (NICS)

Priority: Other Significant.

Legal Authority: Pub. L. 104–191; President's Gun Violence Reduction Executive Actions

CFR Citation: 45 CFR 164.

Legal Deadline: None.

Abstract: This proposed rule would modify the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule to expressly permit certain HIPAA covered entities to disclose to

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

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

[17] ''Tobacco Products'' Subject to the Federal Food, Drug, and Cosmetic Act, as Amended by the Family Smoking Prevention and Tobacco Control Act (RIN: 0910–AG38).

[18] Revision of Postmarketing Reporting Requirements: Permanent Discontinuance or Interruption in Manufacturing of Certain Drug and Biological Products (Drug Shortages) Proposed Rule (RIN: 0910–AG88).

[19] Supplemental Applications Proposing Labeling Changes for Approved Drugs Proposed Rule (RIN: 0910–AG94).

[20] Fire Safety Requirements for Certain Health Care Facilities Proposed Rule (RIN: 0938–AR72).

[21] CLIA Program and HIPAA Privacy Rule: Patients' Access to Test Reports (RIN: 0938–AQ38).

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

the National Instant Criminal Background Check System (NICS) the identities of individuals who are subject to a Federal ''mental health prohibitor'' that disqualifies them from possessing or receiving a firearm.

Statement of Need: This proposed rule is needed to ensure that entities that perform involuntary commitments or make adjudications causing individuals to be disqualified from possessing or receiving a firearm under the Federal mental health prohibitor can report to the NICS.

Summary of Legal Basis: On January 16, 2013, President Barack Obama announced 23 Executive actions aimed at curbing gun violence across the nation, including a specific commitment to address unnecessary legal barriers, particularly relating to the Health Insurance Portability and Accountability Act, which may prevent states from making information available to the NICS.

Anticipated Cost and Benefits: The rule does not establish any new requirements and is expected to be cost neutral. Possible unquantified benefits include increased flexibility for States and covered entities to report to the NICS, and increased public safety as a result of increased reporting to the NICS.

Risks: Not applicable.

Timetable:

Action	Date	FR Cite
ANPRM	04/23/13	78 FR 23872
ANPRM Comment Period End.	06/07/13	
NPRM	12/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: State.

URL For More Information: *www.hhs.gov/ocr/privacy.*

Agency Contact: Andra Wicks, Department of Health and Human Services, Office for Civil Rights, 200 Independence Avenue SW., Washington, DC 20201, *Phone:* 202 205–2292, *Fax:* 202 205–4786, *Email:* *andra.wicks@hhs.gov.*

RIN: 0945–AA05

HHS—FOOD AND DRUG ADMINISTRATION (FDA)

Proposed Rule Stage

49. Food Labeling; Revision of the Nutrition and Supplement Facts Labels

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: 21 CFR 101.9; 21 CFR 101.36.

Legal Deadline: None.

Abstract: FDA is proposing to amend the labeling regulations for conventional foods and dietary supplements to provide updated nutrition information on the label to assist consumers in maintaining healthy dietary practices. If finalized, this rule will modernize the nutrition information found on the Nutrition Facts label, as well as the format and appearance of the label.

Statement of Need: Almost all of the regulations for the nutrition labeling of foods and dietary supplements have not been amended since mandatory nutrition labeling was first required in 1993. New scientific evidence and consumer research has become available in the last 18 years that can be used to update the content and appearance of information on the Nutrition Facts and Supplement Facts labels so that consumers can use the information more effectively to select foods that will assist them to maintain healthy dietary practices.

Summary of Legal Basis: FDA's legal basis derives from sections 201, 403, and 701(a) of the Federal Food, Drug, and Cosmetic Act.

Alternatives: The Agency will consider different options for the amount of time that manufacturers have to come into compliance with the requirements of this regulation, when finalized, so that the economic burden to industry can be minimized.

Anticipated Cost and Benefits: If finalized, this rule will affect all foods that are currently required to bear nutrition labeling. It will have a significant cost to industry because all food labels will have to be updated. Much of the information currently provided on the Nutrition Facts and Supplement Facts labels is based on old reference values and scientific information. The proposed changes would provide more current information to assist consumers in constructing a healthful diet. The potential benefit from the proposed rule stems from the improvement in diet among the U.S. population. Diet is a significant factor in the reduction in risk of chronic diseases such as coronary heart disease, certain types of cancer, stroke, diabetes, and obesity.

Risks: If information on the Nutrition Facts and Supplement Facts label is not updated, reference values that serve as the basis for the percent Daily Value will continue to be based on old scientific evidence, and consumers could believe that they are consuming an appropriate amount of nutrients when, in fact, they are not. In addition, consumers would not be able to determine the amount of specific nutrients in a food product because mandatory declaration of those nutrients is not currently required. Furthermore, consumers may continue to overlook information on the label because it is not displayed prominently on the label. Changes to the reference values, nutrients declared on the label, and changes to the format and appearance of the label would reduce the risk of consumers making food choices in the absence of necessary information.

Timetable:

Action	Date	FR Cite
ANPRM	07/11/03	68 FR 41507
ANPRM Comment Period End.	10/09/03	
Second ANPRM	04/04/05	70 FR 17008
Second ANPRM Comment Period End.	06/20/05	
Third ANPRM	11/02/07	72 FR 62149
Third ANPRM Comment Period End.	01/31/08	
NPRM	12/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses, Governmental Jurisdictions.

Government Levels Affected: Federal, Local.

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

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 EO 13563.

Agency Contact: Blakeley Fitzpatrick, Interdisciplinary Scientist, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS–830), HFS–830, 5100 Paint Branch Parkway, College Park, MD 20740, *Phone:* 240 402–1450, *Email:* *blakeley.fitzpatrick@fda.hhs.gov.*

RIN: 0910–AF22

HHS—FDA

50. Food Labeling: Serving Sizes of Foods That Can Reasonably Be Consumed at One-Eating Occasion; Dual-Column Labeling; Updating, Modifying, and Establishing Certain RACCs

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: 21 CFR 101.9; 21 CFR 101.12.

Legal Deadline: None.

Abstract: FDA is proposing to amend its labeling regulations for foods to provide updated Reference Amounts Customarily Consumed (RACCs) for certain food categories. If finalized, this rule would provide consumers with nutrition information based on the amount of food that is customarily consumed, which would assist consumers in maintaining healthy dietary practices. In addition to updating certain RACCs, FDA is also considering amending the definition of single-serving containers; amending the definition of serving size for breath mints; and providing for dual-column labeling, which would provide nutrition information per serving and per container, for certain containers.

Statement of Need: The regulations for serving sizes for nutrition labeling of foods have not been amended since mandatory nutrition labeling was first required in 1993. New scientific evidence, consumption data, and consumer research has become available in the last 18 years that can be used to update the serving size information on Nutrition Facts labels to reflect the amount of food customarily consumed. This will allow consumers to use the serving size information more effectively to select foods that will promote maintenance of healthy dietary practices.

Summary of Legal Basis: FDA's legal basis derived from sections 201, 403 and 701(a) of the Federal Food, Drug and Cosmetic Act.

Alternatives: The Agency will consider different options for the amount of time that manufacturers have to come into compliance with the requirements of this regulation, if finalized, so that the economic burden to industry can be minimized. The Agency also intends to publish this regulation simultaneously with other regulations requiring changes to Nutrition Fact labels to ease economic burden on manufacturers.

Anticipated Cost and Benefits: If finalized, this rule will affect most foods that are currently required to bear nutrition labeling. It will have a significant cost to industry because food labels on all affected foods will have to be updated. Much of the information currently provided on the Nutrition Facts labels is based on old reference values and scientific information. The proposed changes would provide more current information to assist consumers in constructing a healthful diet.

Risks: If serving size information on the Nutrition Facts label is not updated, reference amounts customarily consumed that serve as the basis for serving sizes will continue to be based on old consumption data. Proposed updates to the serving size listed on the Nutrition Facts label will be based on current nationwide consumption data. Without these updates, consumers will not have current information to assist them in constructing a healthy diet.

Timetable:

Action	Date	FR Cite
ANPRM	04/04/05	70 FR 17010
ANPRM Comment Period End.	06/20/05	
NPRM	12/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: Federal, State.

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

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

Agency Contact: Cherisa Henderson, Nutritionist, Department of Health and Human Services, Food and Drug Administration, HFS–830, 5100 Paint Branch Parkway, College Park, MD 20740, *Phone:* 202 402–1450, *Fax:* 301 436–1191, *Email: cherisa.henderson@fda.hhs.gov.*

RIN: 0910–AF23

HHS—FDA

51. 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.

Legal Authority: 21 U.S.C. 321; 21 U.S.C. 331; 21 U.S.C. 342; 21 U.S.C. 350c; 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 507.

Legal Deadline: NPRM, Statutory, October 2011, Final Rule to publish 9 months after close of comment period.

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.

To the extent the regulations are related to communicable disease, FDA's legal authority also derives from sections 311, 361, and 368 of the Public Health Services Act (42 U.S.C. 243, 264 and 271). Finally, FDA is acting under the direction of section 1002(a) of title X of FDAAA of 2007 (21 U.S.C. 2102) which requires the Secretary to establish processing standards for pet food.

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	10/29/13	78 FR 64736
NPRM Comment Period End.	02/26/14	

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.

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

52. ''Tobacco Products'' Subject to the Federal Food, Drug, and Cosmetic Act, as Amended by the Family Smoking Prevention and Tobacco Control Act

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. 301 *et seq.;* The Federal Food, Drug, and Cosmetic Act; Pub. L. 111–31; The Family Smoking Prevention and Tobacco Control Act

CFR Citation: Not Yet Determined.

Legal Deadline: None.

Abstract: The Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act) provides the Food and Drug Administration (FDA) authority to regulate cigarettes, cigarette tobacco, roll-your-own tobacco, and smokeless tobacco. The Federal Food, Drug, and Cosmetic Act (FD&C Act), as amended by the Tobacco Control Act, permits FDA to issue regulations deeming other tobacco products to be subject to the FD&C Act. This proposed rule would deem products meeting the statutory definition of ''tobacco product'' to be subject to the FD&C Act and would specify additional restrictions.

Statement of Need: Currently, the Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act) provides FDA with immediate authority to regulate cigarettes, cigarette tobacco, roll-your-own tobacco, and smokeless tobacco. The Tobacco Control Act also permits FDA to issue regulations deeming other tobacco products that meet the statutory definition of ''tobacco product'' to also be subject to the Food Drug & Cosmetic Act (FD&C Act). This regulation is necessary to afford FDA the authority to regulate these products which include hookah, electronic cigarettes, cigars, pipe tobacco, other novel tobacco products, and future tobacco products.

Summary of Legal Basis: This should include a description of the legal basis for the action and whether any aspect of the action is required by statute or court order (section 4(c)(I)(C) of EO 12866).

Section 901 of the FD&C Act, as amended by the Tobacco Control Act, permits FDA to issue regulations deeming other tobacco products to be subject to the FD&C Act. Section 906(d) provides FDA with the authority to propose restrictions on the sale and distribution of tobacco products, including restrictions on the access to, and the advertising and promotion of, tobacco products if FDA determines that such regulation would be appropriate for the protection of the public health.

Alternatives: This should describe, to the extent possible, the alternatives the agency has considered or will consider for analysis (section 4(c)(1)(B) of EO 12866). Special consideration should be given to flexible approaches that ''reduce burdens'' and maintain ''freedom of choice for the public'' (section 4 of EO 13563).

In addition to the benefits and costs of the proposed rule, FDA has estimated the benefits and costs of several alternatives to the proposed rule: deeming only, but exempt newly-deemed products from certain requirements; exempt certain classes of products from certain requirements; deeming only, with no additional provisions; and changes to the compliance periods.

Anticipated Cost and Benefits: This should include ''preliminary estimates of the anticipated costs and benefits'' of the regulatory action (section 4(c)(1)(B) of E.O. 12866). Under E.O. 13563, agencies must ''use the best available

techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' Consistent with previous guidance we have provided concerning the implementation of E.O. 12866, the description of costs should include both capital (upfront) costs and annual (recurring) costs. If the benefits are difficult to quantify, we encourage you, to the extent possible, to use nominal units (for example, health effects or injuries avoided) for benefits. Avoid the misclassification of transfer payments as costs or benefits. You should appropriately discount both costs and benefits. To the extent that you cannot quantify costs and benefits, you should describe them in narrative form. (The Unified Agenda format does not permit the use of a columnar format for cost and benefit information. Please provide these data using a narrative format.)

The proposed rule has two parts: one part deems all tobacco products to be subject to the FD&C Act; the other part proposes additional provisions that would apply to newly-deemed products as well as to other covered tobacco products. The proposed deeming action differs from most public health regulations in that it is an enabling regulation. In other words, in addition to directly subjecting newly-deemed ''tobacco products'' to the substantive requirements of Chapter IX of the FD&C Act, it enables FDA to issue further public health regulations related to such products. Thus, almost all the potential benefits and most of the costs that flow from the proposed deeming action would be realized in stages over the long term. The proposed rule would generate some immediate quantifiable benefits by dissuading smokers of small and large cigars, thereby improving health and longevity; it would impose costs in the form of registration, submission, labeling, and other requirements.

Risks: This should include, if applicable, a description of ''how the magnitude of the risk addressed by the action relates to other risks within the jurisdiction of the agency'' (section 4(c)(1)(D) of E.O. 12866). You should include 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 reduction effort to other risks and risk reduction efforts within the agency's jurisdiction.

Adolescence is the peak time for tobacco use initiation and experimentation. In recent years, new and emerging tobacco products, sometimes referred to as ''novel tobacco products,'' have been developed and are becoming an increasing concern to public health due, in part, to their appeal to youth and young adults. Non-regulated tobacco products come in many forms, including electronic cigarettes, nicotine gels, and certain dissolvable tobacco products (i.e., those dissolvable products that do not currently meet the definition of smokeless tobacco under 21 U.S.C. 387(18) because they do not contain cut, ground, powdered, or leaf tobacco and instead contain nicotine extracted from tobacco), and these products are widely available. This deeming rule is necessary to provide FDA with authority to regulate these products (e.g., registration, product and ingredient listing, user fees for certain products, premarket requirements, and adulteration and misbranding provisions). In addition, the additional restrictions that FDA seeks to promulgate for the proposed deemed products would reduce initiation and increase cessation (particularly among youth). This rule is consistent with other approaches that the Agency has taken to address the tobacco epidemic and is particularly necessary given that consumer use may be gravitating to the proposed deemed products.

Timetable:

Action	Date	FR Cite
NPRM	12/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: Undetermined.

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: May Nelson, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Tobacco Products, 9200 Corporate Boulevard, Rockville, MD 20850, *Phone:* 877 287–1373, *Fax:* 240 276–3904, *Email: may.nelson@fda.hhs.gov*

RIN: 0910–AG38

HHS—FDA

53. Reports of Distribution and Sales Information for Antimicrobial Active Ingredients Used in Food-Producing Animals

Priority: Other Significant.

Legal Authority: 21 U.S.C. 360b(l)(3)

CFR Citation: 21 CFR 514.80.

Legal Deadline: None.

Abstract: Section 105 of the Animal Drug User Fee Amendments of 2008 amended the Federal Food, Drug, and Cosmetic Act (FD&C Act) to require that the sponsor of each antimicrobial new animal drug product submit an annual report to the Food and Drug Administration on the amount of each antimicrobial active ingredient in the drug product that is sold or distributed for use in food-producing animals, including any distributor-labeled product. In addition to codifying these requirements, FDA is exploring additional drug distribution data collection.

Statement of Need: Section 105 of the Animal Drug User Fee Amendments of 2008 (ADUFA) amended section 512 of the FD&C Act to require that the sponsor of each new animal drug product that contains an antimicrobial active ingredient submit an annual report to the Food and Drug Administration (FDA, the Agency) on the amount of each antimicrobial active ingredient in the drug product that is sold or distributed for use in food-producing animals, including information on any distributor-labeled product. This legislation was enacted to assist FDA in its continuing analysis of the interactions (including drug resistance), efficacy, and safety of antibiotics approved for use in both humans and food-producing animals (H. Rpt. 110–804). This proposed rulemaking is to codify these requirements. In addition, FDA is exploring the establishment of other reporting requirements to provide for the collection of additional drug distribution data, including reporting sales and distribution data by species.

Summary of Legal Basis: Section 105 of ADUFA (110 Pub. L. 316; 122 Stat. 3509) amended section 512 of the FD&C Act (21 U.S.C. 360b) to require that sponsors of applications for new animal drugs containing an antimicrobial active ingredient submit an annual report to the Food and Drug Administration on the amount of each such ingredient in the drug that is sold or distributed for use in food-producing animals, including information on any distributor-labeled product. FDA is also issuing this rule under its authority under section 512(l) of the FD&C Act to collect information relating to approved new animal drugs.

Alternatives: This rulemaking codifies the Congressional mandate of ADUFA section 105. The annual reporting required under ADUFA is necessary to address potential problems concerning the safety and effectiveness of antimicrobial new animal drugs. Less

frequent data collection would hinder this purpose.

Anticipated Cost and Benefits: Sponsors of antimicrobial drugs sold for use in food-producing animals currently report sales and distribution data to the Agency under section 105 of ADUFA; this rulemaking will codify a current statutory requirement. There may be a minimal additional labor cost if any other reporting requirement is proposed. Additional data beyond the reporting requirements specified in ADUFA section 105 will help the Agency better understand how the use of medically important antimicrobial drugs in food-producing animals may relate to antimicrobial resistance.

Risks: Section 105 of ADUFA was enacted to address the problem of antimicrobial resistance, and to help ensure that FDA has the necessary information to examine safety concerns related to the use of antibiotics in food-producing animals. 154 Cong. Rec. H7534.

Timetable:

Action	Date	FR Cite
ANPRM	07/27/12	77 FR 44177
ANPRM Comment Period End.	09/25/12	
ANPRM Comment Period Extended.	11/26/12	77 FR 59156
NPRM	04/00/14	

Regulatory Flexibility Analysis Required: Undetermined.

Small Entities Affected: Businesses.

Government Levels Affected: None.

Agency Contact: Sharon Benz, Supervisory Animal Scientist, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine, MPN–4, Room 2648, HFV–220, 7529 Standish Place, Rockville, MD 20855, *Phone:* 240 453–6864, *Email: sharon.benz@fda.hhs.gov.*

RIN: 0910–AG45

HHS—FDA

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

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

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 discontinuances or interruptions in the manufacturing 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. The regulation may include biological products within the notification requirements if it would benefit public health.

Statement of Need: The Food and Drug Administration Safety and Innovation Act (FDASIA), Public Law 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	11/04/13	78 FR 65904
NPRM Comment Period End.	01/03/14	

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, 10903 New Hampshire Avenue, Silver Spring, MD 20903, *Phone:* 301 796–0737.

RIN: 0910–AG88

HHS—FDA

55. Supplemental Applications Proposing Labeling Changes for Approved Drugs and Biological Products

Priority: Other Significant.

Legal Authority: 21 U.S.C. 321; 21 U.S.C. 331; 21 U.S.C. 352; 21 U.S.C. 353; 21 U.S.C. 355; 21 U.S.C. 371; 42 U.S.C. 262; * * *

CFR Citation: 21 CFR 314.70; 21 CFR 314.97; 21 CFR 314.150; 21 CFR 601.12.

Legal Deadline: None.

Abstract: This proposed rule would amend the regulations regarding new drug applications (NDAs), abbreviated new drug applications (ANDAs), and biologics license applications (BLAs) to revise and clarify procedures for changes to the labeling of an approved

drug to reflect certain types of newly acquired information in advance of FDA's review of such change. The proposed rule would describe the process by which information regarding a ''changes being effected'' (CBE) labeling supplement submitted by an NDA or ANDA holder would be made publicly available during FDA's review of the labeling change. The proposed rule also would clarify requirements for the NDA holder for the reference listed drug and all ANDA holders to submit conforming labeling revisions after FDA has taken an action on the NDA and/or ANDA holder's CBE labeling supplement. These proposed revisions to FDA's regulations would create parity between NDA holders and ANDA holders with respect to submission of CBE labeling supplements.

Statement of Need: In the current marketplace, approximately 80 percent of drugs dispensed are generic drugs approved in ANDAs. ANDA holders, like NDA holders and BLA holders, are required to promptly review all adverse drug experience information obtained or otherwise received, and comply with applicable reporting and recordkeeping requirements. However, under current FDA regulations, ANDA holders are not permitted to use the CBE supplement process in the same manner as NDA holders and BLA holders to independently update product labeling with certain newly acquired safety information. This regulatory difference recently has been determined to mean that an individual can bring a product liability action for ''failure to warn'' against an NDA holder, but generally not an ANDA holder. This may alter the incentives for generic drug manufacturers to comply with current requirements to conduct robust postmarketing surveillance, evaluation, and reporting, and to ensure that their product labeling is accurate and up-to-date. Accordingly, there is a need for ANDA holders to be able to independently update product labeling to reflect certain newly acquired safety information as part of the ANDA holder's independent responsibility to ensure that its product labeling is accurate and up-to-date. Allowing ANDA holders to update product labeling through CBE supplements in the same manner as NDA holders and BLA holders may improve communication of important, newly acquired drug safety information to prescribing healthcare providers and the public.

Summary of Legal Basis: The FD&C Act (21 U.S.C. 301 *et seq.*) and the PHS Act (42 U.S.C. 201 *et seq.*) provide FDA with authority over the labeling for drugs and biological products, and authorize the Agency to enact regulations to facilitate FDA's review and approval of applications regarding the labeling for those products. FDA's authority to extend the CBE supplement process for certain safety-related labeling changes to ANDA holders arises from the same authority under which FDA's regulations relating to NDA holders and BLA holders were issued.

Alternatives: FDA considered several alternatives that would allow certain requirements of the proposed rule to vary, such as proposing a new category of supplements for certain labeling changes being effected in 30 days.

Anticipated Cost and Benefits: The economic benefits to the public health from adoption of the proposed rule are not quantified. By allowing all application holders to update labeling based on newly acquired information that meets the criteria for a CBE supplement, communication of important drug safety information to prescribing health care providers and the public could be improved. The primary estimate of the costs of the proposed rule includes costs to ANDA and NDA holders for submitting and reviewing CBE supplements.

Risks: This proposed rule is intended to remove obstacles to the prompt communication of safety-related labeling changes that meet the regulatory criteria for a CBE supplement. The proposed rule may encourage generic drug companies to participate more actively with FDA in ensuring the timeliness, accuracy, and completeness of drug safety labeling in accordance with current regulatory requirements. FDA's posting of information on its Web site regarding the safety-related labeling changes proposed in pending CBE supplements would enhance transparency and facilitate access by health care providers and the public so that such information may be used to inform treatment decisions.

Timetable:

Action	Date	FR Cite
NPRM	11/13/13	78 FR 67985
NPRM Comment Period End.	01/13/14	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: Undetermined.

Agency Contact: Janice L. Weiner, Senior Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, WO 51, Room 6304, 10903 New Hampshire Avenue, Silver Spring, MD 20993–0002, *Phone:* 301 796–3601, *Fax:* 301 847–8440, *Email: janice.weiner@fda.hhs.gov.*

RIN: 0910–AG94

HHS—FDA

56. Veterinary Feed Directive

Priority: Other Significant.

Legal Authority: 21 U.S.C. 354; 21 U.S.C. 360b; 21 U.S.C. 360ccc; 21 U.S.C. 360ccc–1; 21 U.S.C. 371

CFR Citation: 21 CFR 514; 21 CFR 558.

Legal Deadline: None.

Abstract: The Animal Drug Availability Act created a new category of products called veterinary feed directive drugs (VFD drugs). This rulemaking is intended to provide for the increased efficiency of the VFD program.

Statement of Need: Before 1996, two options existed for regulating the distribution of animal drugs, including drugs in animal feed: (1) over-the-counter (OTC) and (2) prescription (Rx). In 1996 the Animal Drug Availability Act (ADAA) created a new category of products called veterinary feed directive (VFD) drugs. VFD drugs are new animal drugs intended for use in or on animal feed, which are limited to use under the professional supervision of a licensed veterinarian in the course of the veterinarian's professional practice. In order for animal feed containing a VFD drug to be used in animals, a licensed veterinarian must first issue an order, called a veterinary feed directive (or VFD), providing for such use. The Food and Drug Administration (FDA, the Agency) finalized its regulation to implement the VFD-related provisions of the ADAA in December 2000.

Since that time, FDA has received informal comments that the VFD process is overly burdensome. As a result, FDA began exploring ways to improve the VFD program's efficiency. To that end, FDA published an advanced notice of proposed rulemaking on March 29, 2010 (75 FR 15387), and draft text of a proposed regulation, which it published April 13, 2012 (77 FR 22247). The proposed revisions to the VFD process are also intended to support the Agency's initiative to transition certain new animal drug products containing medically important antimicrobial drugs from an OTC status to a status that requires veterinary oversight.

The proposed rule, if finalized, will make the following changes to the VFD

regulations at section 558.6 (21 CFR 558.6): 1) Reorganize the VFD regulations to make them more user-friendly. This proposal will replace the six subsections of the existing regulations with three subsections that better identify what is expected from each party involved in the VFD process; 2) Provide increased flexibility for licensed veterinarians and animal producers to align with the most recent practice standards, technological and medical advances, and practical considerations, to assure the safe and effective use of VFD drugs; 3) Provide for the continued availability through the current feed mill distribution system of those Category I drugs that move to VFD dispensing status. This will prevent potential shortages of antimicrobial drugs needed by food animal producers for judicious therapeutic uses on their farms and ranches; and 4) Lower the recordkeeping burden for all involved parties to align with other feed manufacturing recordkeeping requirements, thus eliminating the need for two separate filing systems.

Summary of Legal Basis: FDA's authority for issuing this rule is provided in the ADAA (Pub. L. 104–250), which amended the Federal Food, Drug, & Cosmetic Act (FD&C Act) by establishing section 504.

Alternatives: An alternative to the proposed rule that would ease the burden on VFD drug manufacturers would be to allow additional time to comply with the proposed labeling requirements for currently approved VFD drugs, for example, 1 or more years after the final rule becomes effective. This would not affect any new VFD drug approvals after the effective date of the final rule, and it could provide a transition period for current VFD manufacturers to coordinate the labeling changes to the specimen labeling, representative labeling, the VFD form itself, and advertising within the usual frequency of label changes.

Anticipated Cost and Benefits: The estimated one-time costs to industry from this proposed rule, if finalized, are the costs to review the rule and prepare a compliance plan. In addition FDA estimates that the government will incur costs associated with reviewing the VFD drug labeling supplements that are expected to be submitted by VFD drug manufacturers. The expected benefit of this proposal is a general improvement in the efficiency of the VFD process. Additionally, the reduction in veterinarian labor costs due to this rule is expected to result in an annual cost savings.

Risks: As FDA begins to implement the judicious use principles for medically important antimicrobial drugs based on the framework set forth in Guidance for Industry #209, which published April 13, 2012, it is critical that the Agency makes the VFD program as efficient as possible for stakeholders while maintaining adequate protection for human and animal health. The provisions included in this proposed rule are based on stakeholder input received in response to multiple opportunities for public comment, and represent FDA's best effort to strike the appropriate balance between protection of human and animal health and programmatic efficiency.

Timetable:

Action	Date	FR Cite
ANPRM	03/29/10	75 FR 15387
ANPRM Comment Period End.	06/28/10	
NPRM	11/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

Agency Contact: Sharon Benz, Supervisory Animal Scientist, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine, MPN–4, Room 2648, HFV–220, 7529 Standish Place, Rockville, MD 20855, *Phone:* 240 453–6864. *Email: sharon.benz@fda.hhs.gov.*

RIN: 0910–AG95

HHS—FDA

Final Rule Stage

57. Food Labeling: Calorie Labeling of Articles of 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: FDA published a proposed rule 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 is issuing a final rule, and taking this action to carry out section 4205 of the Patient Protection and Affordable Care Act.

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 initially estimated that the total cost of complying with section 4205 of the Affordable Care Act and this rulemaking would 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 would 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	02/00/14	

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 EO 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

58. 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: FDA published a proposed rule in the **Federal Register** 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 is issuing a final rule, and taking this action to carry out section 4205 of the Patient Protection and Affordable Care Act.

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 initially estimated that the total cost of section 4205 and this rulemaking would 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 (which are subject to change in the final rule) included 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	02/00/14	

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 EO 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

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RIN: 0910–AG57

HHS—CENTERS FOR MEDICARE & MEDICAID SERVICES (CMS)

Proposed Rule Stage

59. Fire Safety Requirements for Certain Health Care Facilities (CMS–3277–P)

Priority: Other Significant.

Legal Authority: 42 U.S.C. 1302; 42 U.S.C. 1395

CFR Citation: 42 CFR 403; 42 CFR 416; 42 CFR 418; 42 CFR 460; 42 CFR 482; 42 CFR 483; 42 CFR 485.

Legal Deadline: None.

Abstract: This proposed rule would amend the fire safety standards for hospitals; critical access hospital long-term care facilities; intermediate care facilities for the intellectually disabled; ambulatory surgery centers hospices, which provide in-patient services; religious non-medical health care institutions; and programs of all-inclusive care for the elderly facilities. Further, this proposed rule would adopt the 2012 edition of the Life Safety Code and eliminate references in our regulations to all earlier editions.

Statement of Need: By adopting the 2012 editions of the Life Safety Code (NFPA 101) and the Health Care Facilities Code (NFPA 99) we will bring CMS standards up-to-date with the most recent requirements. Currently, Medicare and Medicaid facilities are following the 2000 NFPA 101 Life Safety Code standards, and CMS regulations do not require compliance with NFPA 99.

Summary of Legal Basis: The rule would amend certain provisions of the Social Security Act in order to adopt fire safety standards for hospitals, critical access hospitals, long-term care facilities, intermediate care facilities for individuals with intellectual disabilities, ambulatory surgery centers, hospices which provide inpatient services, religious non-medical health care institutions, and programs of all-inclusive care for the elderly facilities.

Alternatives: None. A rule is needed to update requirements for Medicare and Medicaid facilities.

Anticipated Cost and Benefits: We estimate that the effect of this rule will not be economically significant and the cost for facilities to implement this rule will be minimal.

Risks: None. We expect the health care, fire safety, and building safety communities will support this rule.

Timetable:

Action	Date	FR Cite
NPRM	01/00/14	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Businesses.

Government Levels Affected: None.

Additional Information: Includes Retrospective Review under EO 13563.

Agency Contact: Kristin Shifflett, Health Insurance Specialist Clinical Standard Group, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Clinical Standards and Quality, Mail Stop S3–02–01, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–4133, *Email: kristin.shifflett@cms.hhs.gov.*

RIN: 0938–AR72

HHS—CMS

60. Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS): Special Payment Rules (CMS–6012–P)

Priority: Other Significant.

Legal Authority: 42 U.S.C. 1395m(h)(1); Pub. L. 106–554 (BIPA), sec 427

CFR Citation: 42 CFR 424.

Legal Deadline: None.

Abstract: This proposed rule would specify the qualification standards and the type of prosthetic and orthotic devices billable to the Medicare program. It also proposes the accreditation deadline for the entities billing orthotics and prosthetics and identifies the DMEPOS product categories exempt from accreditation requirements.

Statement of Need: CMS believes it is the intent of the Congress to strengthen DMEPOS supplier standards in order to protect beneficiaries and ensure the integrity of the Medicare program. Historically, there has been no Medicare requirement that a supplier of prosthetics and custom fabricated orthotics be certified or meet educational requirements other than what a state law may require. This proposed rule would provide a basis to improve the quality of orthotics and prosthetics furnished to Medicare beneficiaries by establishing minimum national supplier and practitioner qualifications and accreditation requirements for DMEPOS suppliers.

Summary of Legal Basis: Section 1834(h) of the Social Security Act (the Act) establishes the payment rules for orthotics and prosthetics that are described in section 1861(s)(9) of the Act and in our regulations.

Alternatives: None. A rule is necessary to implement the proposed provisions.

Anticipated Cost and Benefits: This proposed rule is expected to provide savings for the Medicare program by establishing stringent safeguards that would protect the Medicare Trust Fund. It would also provide a basis to improve the provision and the quality of prosthetics and custom fabricated orthotics to Medicare beneficiaries by establishing that DMEPOS suppliers have the qualifications, specialized education, training, licensure, and certification.

Risks: Not publishing this proposed rule puts Medicare beneficiaries at risk. Beneficiaries would be best served by establishing safeguards that would provide a basis to improve the provision of quality prosthetics and custom fabricated orthotics to Medicare beneficiaries by establishing practitioner qualifications and accreditation requirements for DMEPOS suppliers.

Timetable:

Action	Date	FR Cite
NPRM	05/00/14	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Businesses.

Government Levels Affected: Undetermined.

Agency Contact: Sandra Bastinelli, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–3630, *Email: sandra bastinelli@cms.hhs.gov.*

RIN: 0938–AR84

HHS—CMS

61. • Eligibility, Enrollment, and Appeals Updates (CMS–9949–P)

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

Unfunded Mandates: Undetermined.

Legal Authority: Pub. L. 11–148 secs 1301 to 1304; secs 1311 to 1313; secs 1321 and 1322; secs 1331 and 1332; secs 1334 and 1402

CFR Citation: 45 CFR 155; 45 CFR 156.

Legal Deadline: None.

Abstract: This proposed rule would update policy based on experience with initial open enrollment.

Statement of Need: The Affordable Care Act establishes an initial open

enrollment period beginning October 1, 2013, and annual open enrollment periods in subsequent years. CMS expects that updates or revisions to existing policy may be necessary based on our experience with the initial open enrollment. These updates would be implemented before the second open enrollment period begins.

Summary of Legal Basis: This rule would address updates to provisions included in Title I of the Affordable Care Act.

Alternatives: None. Revisions made to the existing Exchange regulations would require rulemaking.

Anticipated Cost and Benefits: An estimate of costs or benefits will be completed once the necessary policy updates have been determined.

Risks: If this rule is not published, the Exchanges may not continue to function optimally.

Timetable:

Action	Date	FR Cite
NPRM	02/00/14	

Regulatory Flexibility Analysis Required: Undetermined.

Small Entities Affected: Businesses, Governmental Jurisdictions.

Government Levels Affected: Federal, State.

Federalism: Undetermined.

Agency Contact: Manasse Spencer, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–1642, *Email: spencer.manasse@cms.hhs.gov.*

RIN: 0938–AS02

HHS—CMS

62. • Hospital Inpatient Prospective Payment System for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and Fiscal Year 2015 Rates (CMS–1607–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, 2014. Final, Statutory, August 1, 2014.

Abstract: This annual 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 2015 IPPS and LTCHs at least 60 days before October 1, 2014.

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, 2014.

Alternatives: None. This implements a statutory requirement.

Anticipated Cost and Benefits: Total expenditures will be adjusted for FY 2015.

Risks: If this regulation is not published timely, inpatient hospital and LTCH services will not be paid appropriately beginning October 1, 2014.

Timetable:

Action	Date	FR Cite
NPRM	04/00/14	

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: Roechel Kujawa, 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:* 410 786–9111, *Email: roechel.kujawa@cms.hhs.gov.*

RIN: 0938–AS11

HHS—CMS

63. • CY 2015 Revisions to Payment Policies Under the Physician Fee Schedule and Other Revisions to Medicare Part B (CMS–1612–P)

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

Unfunded Mandates: Undetermined.

Legal Authority: Social Security Act, secs 1102, 1871 and 1848

CFR Citation: Not Yet Determined.

Legal Deadline: Final, Statutory, November 1, 2014.

Abstract: This annual 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 apply to services furnished beginning January 1, 2015.

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, 2014, and an implementation date of January 1, 2015.

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 2015.

Risks: If this regulation is not published timely, physician services will not be paid appropriately, beginning January 1, 2015.

Timetable:

Action	Date	FR Cite
NPRM	06/00/14	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: Undetermined.

Federalism: Undetermined.

Agency Contact: Kathy Bryant, Deputy Director, Division of Practitioner

Services, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Mail Stop C4–01–27, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–3448, *Email: kathy.bryant@cms.hhs.gov.*

RIN: 0938–AS12

HHS—CMS

64. • CY 2015 Hospital Outpatient Prospective Payment System (PPS) Policy Changes and Payment Rates, and CY 2015 Ambulatory Surgical Center Payment System Policy Changes and Payment Rates (CMS–1613–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, 2014.

Abstract: This annual proposed rule would revise the Medicare hospital outpatient prospective payment system (PPS) to implement statutory requirements and changes arising from our continuing experience with this system. The proposed rule 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. 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 2015 OPPS and ASC payment system at least 60 days before January 1, 2015.

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, 2015.

Alternatives: None. This is a statutory requirement.

Anticipated Cost and Benefits: Total expenditures will be adjusted for CY 2015.

Risks: If this regulation is not published timely, outpatient hospital and ASC services will not be paid appropriately beginning January 1, 2015.

Timetable:

Action	Date	FR Cite
NPRM	06/00/14	

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, Mail Stop C4–03–06, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–4617, *Email: marjorie.baldo@cms.hhs.gov.*

RIN: 0938–AS15

HHS—CMS

Final Rule Stage

65. CLIA Programs And HIPAA Privacy Rule; Patients' Access to Test Reports (CMS–2319–F)

Priority: Other Significant.

Legal Authority: 42 U.S.C. 263a

CFR Citation: 42 CFR 493; 45 CFR 164.

Legal Deadline: None.

Abstract: This CMS–CDC–OCR rule amends the Clinical Laboratory Improvement Amendments of 1988 (CLIA) regulations to specify that, upon a patient's request, the laboratory may provide access to completed test reports that, using the laboratory's authentication process, can be identified as belonging to that patient. Subject to conforming amendments, the rule retains the existing provisions that provide for release of test reports to authorized persons and, if applicable, the individuals (or their personal representative) responsible for using the test reports and, in the case of reference laboratories, the laboratory that initially requested the test. In addition, this rule also amends the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule to provide individuals the right to receive their test reports directly from laboratories by removing the exceptions for CLIA-certified laboratories and CLIA-exempt laboratories from the provision that provides individuals with the right of access to their protected health information.

Statement of Need: The current CLIA regulations and related laws of the states and territories pose potential barriers to the laboratory exchange of test reports directly with the patient. This rule implements changes that support of the Secretary's efforts of achieving patient-centered and health IT-enabled health care and allow patients direct access to their test reports from a laboratory

Summary of Legal Basis: The final rule removes the exceptions to an individual's right of access related to CLIA and CLIA-exempt laboratories. HIPAA-covered laboratories will be required to provide an individual (or the individual's personal representative) with access, upon request, to the individual's completed test reports (and other information maintained in a designated record set) in accordance with the provisions of section 164.524 of the Privacy regulations.

Alternatives: Several alternatives were considered before selecting the approach in this final rule to provide access to laboratory test reports upon a patient's request. One alternative would have been to leave the regulations as written without making any changes. However, this option would leave in place the restrictions on patients' direct access to their laboratory test results and would therefore impede the goal of promoting patient-centered health care. Another alternative would have been to revise the definition of ''authorized person'' under CLIA to specifically include a patient as an authorized person. This alternative was not considered feasible because the definition of ''authorized person'' in the CLIA regulations also permits individuals to order tests, and it defers to state law for authorization. A last alternative considered would have been to require the laboratory to automatically provide each test report directly to each patient rather than the permissive approach to provide patients access to their reports upon request. However, this alternative would have

had the potential of significantly increasing the cost for laboratories since 100 percent of the 350 million to 703 million test reports issued annually would need to be provided to the patients.

Anticipated Cost and Benefits: We estimate that this rule will not have an economically significant impact on laboratories. It will facilitate the ability of patients to compare test results over time and to share this information with future physicians or multiple physicians. This improved information sharing is likely to improve health care, especially for patients and providers who do not have access to electronic health records in the near term.

Risks: None. This rule will allow laboratories to use existing processes for patient access or develop new procedures that are appropriate for their facility. It expands an individual's right of access to include receiving test reports directly from laboratories. This rule does not alter the role of the ordering or treating provider in reporting and explaining test results to patients.

Timetable:

Action	Date	FR Cite
NPRM	09/14/11	76 FR 56712
NPRM Comment Period End.	11/14/11	
Final Action	11/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Businesses, Governmental Jurisdictions.

Government Levels Affected: State.

Additional Information: Includes Retrospective Review under EO 13563.

Agency Contact: Judith Yost, Director, Division of Laboratory Services, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Clinical Standards and Quality, 7500 Security Boulevard, Baltimore, MD 21244–1850, *Phone:* 410 786–3531, *Email: judith.yost@cms.hhs.gov.*

RIN: 0938–AQ38

HHS—ADMINISTRATION FOR CHILDREN AND FAMILIES (ACF)

Final Rule Stage

66. Head Start Eligibility Determination

Priority: Other Significant.

Legal Authority: 42 U.S.C. 9801 *et seq.*

CFR Citation: Not Yet Determined.

Legal Deadline: None.

Abstract: This rule would amend Head Start program regulations to clarify and strengthen procedures for determining eligibility for Head Start program enrollment, including procedures to document and verify such eligibility. The intent is to reduce the risk of providing Head Start services to persons who are ineligible for those services.

Statement of Need: This final rule will amend Head Start program regulations to clarify and strengthen procedures for determining eligibility for Head Start program enrollment, including procedures to document and verify such eligibility. The intent is to reduce the risk of providing Head Start services to persons who are ineligible for those services. The final rule directly responds to the findings of an investigation by the Government Accountability Office (GAO) that the Head Start program is at risk of having over-income children enrolled while legitimate under-income and categorically eligible children are put on wait lists.

Summary of Legal Basis: This final rule is published under the authority granted to the Secretary of Health and Human Services by section 644(c) of the Head Start Act, as amended by the Improving Head Start for School Readiness Act of 2007, as well as sections 645(a)(1)(A) and 645A(c) of the Act.

Alternatives: Upon learning of GAO's investigation findings, the Administration for Children and Families (ACF) immediately took numerous actions within our statutory and regulatory authority to respond to GAO's findings and to bolster program integrity efforts across the Head Start and Early Head Start programs; prevent future fraud and mismanagement; and ensure that every slot is reserved for an eligible child. For example, ACF issued a Program Instruction on May 10, 2010, entitled, ''Income Eligibility for Enrollment'' (ACF–PI–HS–10–01), which reminds grantees of their legal obligations to verify the eligibility of each child served and determine eligibility in accordance with the Head Start statute and regulations, as well as the serious consequences for falsifying eligibility determinations. However, we believe GAO's findings necessitate the implementation of new enrollment procedures, as contained in this final regulation, in order to reiterate and strengthen the requirements. Therefore, we are issuing this final regulation with requirements for Head Start and Early Head Start agency staff regarding verification, documentation, and certification of the information submitted by the applicants prior to determining if a pregnant woman or child is eligible for participation in a Head Start or Early Head Start program. This final regulation will ensure that taxpayer dollars are spent in conformance with the purpose and requirements of the Head Start Act and that the neediest children and families in our country benefit from the program's services.

Anticipated Cost and Benefits: There will not be a significant economic impact from this final rule. The estimated total cost of implementation of these rules for all grantees is approximately $132,188 annually.

Risks: Not applicable.

Timetable:

Action	Date	FR Cite
NPRM	03/18/11	76 FR 14841
NPRM Comment Period End.	04/18/11	
Final Action	04/00/14	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Agency Contact: Colleen Rathgeb, Division Director, Policy and Budget, HS, Department of Health and Human Services, Administration for Children and Families, 1250 Maryland Avenue SW., Washington, DC 20024, *Phone:* 202 205–7378, *Email: colleen.rathgeb@acf.hhs.gov.*

RIN: 0970–AC46

HHS—ACF

67. 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 98.

Legal Deadline: None.

Abstract: This 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.

Statement of Need: The CCDF program has far-reaching implications for America's poorest children. It provides child care assistance to 1.6

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 final 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 final 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 final 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 final rule directly benefit children and parents who use CCDF assistance to pay for child care. The 1.6 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 final rule will vary depending on a State's specific situation. ACF does not believe the costs of this final regulatory action would be economically significant and that the tremendous benefits to low-income children justify costs associated with this final rule.

Risks: Not applicable.

Timetable:

Action	Date	FR Cite
NPRM	05/20/13	78 FR 29422
NPRM Comment Period End.	08/05/13	
Final Action	06/00/14	

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

BILLING CODE 4150–24–P

DEPARTMENT OF HOMELAND SECURITY (DHS)

Fall 2013 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. *Secur*e and Manage Our Borders,
3. *Enforce and Administer our Immigration Laws,*
4. *Safeguard* and Secure Cyberspace,
5. *Ensur*e 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 2013 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); Public Law 109–295 (Oct. 4, 2006); the *Consolidated Natural Resources Act of 2008 (CNRA), Public Law No. 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); the* Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009, Public Law 110–329 (Sep. 30, 2008), and the Sandy Recovery Improvement Act (SRIA), Public Law 113–2 (Jan. 29, 2013).

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–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 1995 Amendments to the International Convention on Standards of Training, Certification, and Watchkeeping (STCW) for Seafarers, 1978.
1625–AB38	Update to Maritime Security.
1625–AB80	Revision to Transportation Worker Identification Credential (TWIC) Requirements for Mariners.
1625–XXXX	Inland Waterways Navigation Regulations.
1651–AA96	Definition of Form I–94 to Include Electronic Format.
1651–AA94	Internet Publication of Administrative Seizure/Forfeiture Notices.
1651–XXXX	Passenger List/Crew List I–418.
1652–AA43	Modification of the Aviation Security Infrastructure Fee (ASIF) (Market Share).
1652–AA61	Standardized Vetting, Adjudication, and Redress Services.
1653–AA44	Amendment to Accommodate Process Changes with SEVIS II Implementation.
1660–AA75	Debris Removal: Eligibility of Force Account Labor Straight-Time Costs Under the Public Assistance Program for Hurricane Sandy.
1660–AA77	Change in Submission Requirements for State Mitigation Plans.

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.

RIN	Rule
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 U.S. 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 the U.S. 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 U.S. 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-U.S. 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-U.S. 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, the U.S. Coast Guard 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 2013 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 2013 regulatory plan for DHS regulatory components, 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 to amend regulations regarding continued employment authorization for nonimmigrant workers in the Commonwealth of the Northern Mariana Islands (CNMI)—only Transitional Worker (CW–1) classification. Finally, USCIS will 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

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. This final rule amends DHS and Department of Justice (DOJ) regulations to comply with the Consolidated Natural Resources Act of 2008 (CNRA). The CNRA extends the immigration laws of the United States to the Consolidated Northern Mariana Islands (CNMI). In 2009, USCIS issued an interim final rule to implement conforming amendments to the DHS and DOJ regulations. This joint DHS–DOJ final rule titled ''Application of Immigration Regulations to the CNMI'' would finalize the 2009 interim final rule.

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) and U nonimmigrants (victims of criminal activity). 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. DHS and DOJ 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 2013 Regulatory Plan below, contribute to the fulfillment of those responsibilities and reflect our regulatory policies.

Implementation of the 1995 Amendments to the International Convention on Standards of Training, Certification, and Watchkeeping (STCW) for Seafarers, 1978. 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 Coast Guard complies with the STCW Convention's requirements. The Coast Guard published a notice of proposed rulemaking (NPRM) on November 17, 2009, and supplemental NPRMs (SNPRMs) on March 23, 2010 and August 1, 2011. 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. The Coast Guard has reviewed and analyzed public comments to the SNPRM, and intends to publish a final rule complying with the requirements of the newly amended STCW Convention. This rulemaking is associated with DHS's retrospective review and analysis efforts.

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 regulation, the Coast Guard is taking into account the characteristics of OSVs, 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. CBP is also automating some procedures that increase efficiencies and reduce the costs and burdens to travelers. 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 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. During the next fiscal year, CBP intends to issue a final rule that will finalize the two ESTA rulemakings, the 2008 ESTA interim final rule and the 2010 ESTA fee interim final rule.

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. 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. 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.

On November 25, 2008, CBP published an interim final rule titled ''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 ended on June 1, 2009. CBP has conducted a structured review of data elements for which CBP provided certain flexibilities for compliance in the interim final rule and is analyzing the comments in light of the structured review. 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 Consolidated 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 Guam 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.

Definition of Form I–94 To Include Electronic Format. On March 27, 2013, CBP published an interim final rule titled ''Definition of Form I–94 to Include Electronic Format.'' DHS issues the Form I–94 to certain aliens and uses the Form I–94 for various purposes such as documenting status in the United States, the approved length of stay, and departure. DHS generally issues the Form I–94 to aliens at the time they lawfully enter the United States. The rule amended the DHS regulations to add a new definition of the term ''Form I–94,'' which includes the collection of arrival/departure and admission or parole information by DHS, whether in paper or electronic format. The definition also clarified various terms that are associated with the use of the Form I–94 to accommodate an electronic version of the Form I–94. The rule also added a valid, unexpired nonimmigrant DHS admission or parole stamp in a foreign passport to the list of documents designated as evidence of alien registration. These revisions to the regulations will enable DHS to transition to an automated process whereby DHS will create a Form I–94 in an electronic format based on passenger, passport and visa information DHS currently obtains electronically from air and sea carriers and the Department of State as well as through the inspection process. CBP intends to publish 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 U.S. 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 2014, 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 (FEMA) does not have any significant regulatory actions planned for fiscal year 2014.

Federal Law Enforcement Training Center

The Federal Law Enforcement Training Center (FLETC) does not have any significant regulatory actions planned for fiscal year 2014.

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 2014, 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; enabling Libyan nationals, who were previously barred from doing so, to engage in aviation or nuclear-related studies in the United States; 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 DHS 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 final standards will reflect existing ICE and other DHS detention policies.

This regulation is in response to the President's May 17, 2012 Memorandum titled ''Implementing the Prison Rape Elimination Act.'' The President issued the Memorandum on the same day that 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 and institute rules or procedures necessary to satisfy the requirements of PREA. Additionally, the Violence Against Women Reauthorization Act of 2013 (VAWA), which was enacted on March 7, 2013, included a section addressing sexual abuse in custodial settings. On December 19, 2012, DHS issued a proposed rule, which proposed standards for preventing, detecting, and responding to sexual abuse and assault in DHS confinement facilities. DHS intends to issue the final rule during fiscal year 2014.

Enabling Libyan Nationals To Engage in Aviation or Nuclear-Related Studies in the United States. ICE is considering regulatory action that would rescind the regulatory provisions promulgated in 1983 that terminated the nonimmigrant status and barred the granting of certain immigration benefits to Libyan nationals and foreign nationals acting on behalf of Libyan entities who are engaging in or seeking to obtain studies or training in aviation maintenance, flight operations, or nuclear-related fields. As the U.S. and U.N. have lifted most of the restrictions and sanctions that had been imposed toward Libya, the U.S. Government and the Government of Libya have normalized their relationship and are working to establish robust diplomatic, military, and economic ties. The rescission of this regulation would permit DHS and other agencies of the U.S. Government to continue to improve outreach to Libyan counterparts. This rulemaking would rescind the restrictions that deny nonimmigrant status and benefits to a specific group of Libyan nationals. DHS intends to issue a rulemaking on this matter in fiscal year 2014.

Updating and Enhancing Limitations on Designated School Official Assignment and Study by F–2 and M–2 Nonimmigrants. ICE is working on revising 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. In addition, ICE is working to modify the regulatory 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 National Protection and Programs Directorate's (NPPD) vision is a *safe, secure, and resilient infrastructure where the American way of life can thrive. NPPD leads the national effort to protect and enhance the resilience of the nation's physical and cyber infrastructure.*

Ammonium Nitrate Security Program. Recognizing both the economic importance of ammonium nitrate and the fact that ammonium nitrate is susceptible to use by terrorists in explosive devices, Congress granted DHS 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 section 563 of the Fiscal Year 2008 DHS Appropriations Act, which amended the Homeland Security Act of 2002. This authority is contained in a new Secure Handling of Ammonium Nitrate subtitle of the Homeland Security Act (HSA) (Subtitle J, 6 U.S.C. 488–488i).

The Secure Handling of Ammonium Nitrate provisions of the HSA direct DHS to promulgate regulations requiring potential buyers and sellers of ammonium nitrate to register with DHS, in order to obtain ammonium nitrate registration numbers from DHS. The HSA also requires DHS to screen each applicant against the Terrorist Screening Database. The statute also requires sellers of ammonium nitrate to verify the identities of those individuals seeking to purchase ammonium nitrate; to record certain information about each sale or transfer of ammonium nitrate; and to report thefts and losses of ammonium nitrate to federal authorities.

On October 29, 2008, DHS published an Advance Notice of Proposed Rulemaking (ANPRM) for a Secure Handling of Ammonium Nitrate Program. DHS received a number of public comments. DHS reviewed those comments and published a notice of proposed rulemaking (NPRM) on August 3, 2011. DHS accepted public comments concerning the NPRM until December 1, 2011, and is now reviewing and adjudicating the public comments as the Department moves forward in developing a final rule for an Ammonium Nitrate Security Program.

The final rule is intended to aid the Federal Government in its efforts to prevent the misappropriation of ammonium nitrate for use in acts of terrorism and to limit terrorists' abilities to threaten the Nation's critical infrastructure and key resources. By securing the Nation's supply of ammonium nitrate through the implementation of this rule, it will be more difficult for terrorists to obtain ammonium nitrate materials for use in terrorist acts.

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 2014, 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 intends to issue a final rule to amend its civil aviation regulations to address whether 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). TSA published an NPRM on March 26, 2012, 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). 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. On November 18, 2009, TSA issued a notice of proposed rulemaking (NPRM). 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 2014.

DHS Regulatory Plan for Fiscal Year 2014

A more detailed description of the priority regulations that comprise DHS's fall 2013 regulatory plan follows.

DHS—OFFICE OF THE SECRETARY (OS)

Final Rule Stage

68. Ammonium Nitrate Security Program

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: 2008 Consolidated Appropriations Act, sec 563, subtitle J—Secure Handling of Ammonium Nitrate, Pub. L. 110–161

CFR Citation: 6 CFR 31

Legal Deadline: NPRM, Statutory, May 26, 2008, Publication of Notice of Proposed Rulemaking. Final, Statutory, December 26, 2008, Publication of Final Rule.

Abstract: This rulemaking will implement the December 2007 amendment to the Homeland Security Act entitled ''Secure Handling of Ammonium Nitrate.'' The amendment requires the Department of Homeland Security 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.''

Statement of Need: Pursuant to section 563 of the 2008 Consolidated Appropriations Act, subtitle J—Secure Handling of Ammonium Nitrate, Public Law 110–161, the Department of Homeland Security is required to promulgate a rulemaking to create a registration regime for certain buyers and sellers of ammonium nitrate. This rule would create that regime, and 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 could 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 should be much more difficult for terrorists to obtain ammonium nitrate materials for use in improvised explosive devices. As a result, there is a direct value in the deterrence of a catastrophic terrorist attack using ammonium nitrate, such as the Oklahoma City attack that killed over 160 and injured 853 people.

Summary of Legal Basis: Section 563 of the 2008 Consolidated Appropriations Act, subtitle J—Secure Handling of Ammonium Nitrate, Public Law 110–161, authorizes and requires this rulemaking.

Alternatives: The Department considered several alternatives when developing the Ammonium Nitrate Security Program proposed rule. The alternatives considered were: (a) Register individuals applying for an AN Registered User Number using a paper application (via facsimile or the U.S. mail) rather than through in person application at a local Cooperative Extension office or only through a web-based portal; (b) verify AN Purchasers through both an Internet based verification portal and call center rather than only a verification portal or call center; (c) communicate with applicants for an AN Registered User Number through U.S. Mail rather than only through email or a secure web-based portal; (d) establish a specific capability within the Department to receive, process, and respond to reports of theft or loss rather than leverage a similar capability which already exists with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF); (e) require AN Facilities to maintain records electronically in a central database provided by the Department rather than providing flexibility to the AN Facility to maintain their own records either in paper or electronically; (f) require agents to register with the Department prior to the sale or transfer of ammonium nitrate involving an agent rather than allow oral confirmation of the agent with the AN Purchaser on whose behalf the agent is working; and (g) exempt explosives from this regulation rather than not exempting them. As part of its notice of proposed rulemaking, the Department sought public comment on the numerous alternative ways in which the Department could carry out the requirements of the Secure Handling of Ammonium Nitrate provisions of the Homeland Security Act.

Anticipated Cost and Benefits: In its proposed rule, the Department estimated the number of entities that purchase ammonium nitrate to range from 64,950 to 106,200. These purchasers include farms, fertilizer mixers, farm supply wholesalers and cooperatives (co-ops), golf courses, landscaping services, explosives distributors, mines, retail garden centers, and lab supply wholesalers. The Department estimated the number of entities that sell ammonium nitrate to be between 2,486 and 6,236, many of which are also purchasers. These sellers include ammonium nitrate fertilizer and explosive manufacturers, fertilizer mixers, farm supply wholesalers and co-ops, retail garden centers, explosives distributors, fertilizer applicator services, and lab supply wholesalers. Individuals or firms that provide transportation services within the distribution chain may be categorized as sellers, agents, or facilities depending upon their business relationship with the other parties to the transaction. The total number of potentially regulated farms and other businesses ranges from 64,986 to 106,236 (including overlap between the categories).

The cost of the proposed rule ranges from $300 million to $1,041 million over 10 years at a 7 percent discount rate. The primary estimate is the mean which is $670.6 million. For comparison, at a 3 percent discount rate, the cost of the program ranges from $364 million to $1.3 billion with a primary (mean) estimate of $814 million. The average annualized cost for the program ranges from $43 million to $148 million (with a mean of $96 million), also employing a 7 percent discount rate.

Because the value of the benefits of reducing risk of a terrorist attack is a function of both the probability of an attack and the value of the consequence, it is difficult to identify the particular risk reduction associated with the implementation of this rule. These elements and related qualitative benefits include point of sale identification requirements and requiring individuals to be screened against the Terrorist Screening Database (TSDB), resulting in known bad actors being denied the ability to purchase ammonium nitrate.

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 preventing the misappropriation or use of ammonium nitrate in acts of terrorism, this rulemaking will support the Department's efforts to prevent terrorist attacks and reduce the Nation's vulnerability to terrorist attacks. This rulemaking is complementary to other

Department programs seeking to reduce the risks posed by terrorism, including the Chemical Facility Anti-Terrorism Standards program (which seeks in part to prevent terrorists from gaining access to dangerous chemicals) and the Transportation Worker Identification Credential program (which seeks in part to prevent terrorists from gaining access to certain critical infrastructure), among other programs.

Risks: Explosives containing ammonium nitrate are commonly used in terrorist attacks. Such attacks have been carried out both domestically and internationally. The 1995 Murrah Federal Building attack in Oklahoma City claimed the lives of 167 individuals and demonstrated firsthand to America how ammonium nitrate could be misused by terrorists. In addition to the Murrah Building attack, the Provisional Irish Republican Army used ammonium nitrate as part of its London, England bombing campaign in the early 1980s. More recently, ammonium nitrate was used in the 1998 East African Embassy bombings and in the November 2003 bombings in Istanbul, Turkey. Additionally, since the events of 9/11, stores of ammonium nitrate have been confiscated during raids on terrorist sites around the world, including sites in Canada, England, India, and the Philippines.

Timetable:

Action	Date	FR Cite
ANPRM	10/29/08	73 FR 64280
Correction	11/05/08	73 FR 65783
ANPRM Comment Period End.	12/29/08	
NPRM	08/03/11	76 FR 46908
Notice of Public Meetings.	10/07/11	76 FR 62311
Notice of Public Meetings.	11/14/11	76 FR 70366
NPRM Comment Period End.	12/01/11	
Final Rule	03/00/14	

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.

URL For More Information: www.regulations.gov.

URL For Public Comments: www.regulations.gov.

Agency Contact: Jon MacLaren, Chief, Rulemaking Section, Department of Homeland Security, Office of the Secretary, Infrastructure Security Compliance Division (NPPD/ISCD), Mail Stop 0610, 245 Murray Lane SW., Arlington, VA 20598–0610, *Phone:* 703 235–5263, *Email: jon.m.maclaren@hq.dhs.gov.*

RIN: 1601–AA52

DHS—U.S. CITIZENSHIP AND IMMIGRATION SERVICES (USCIS)

Proposed Rule Stage

69. 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 2; 8 CFR 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.'' Before DHS publishes a new proposed rule, DHS will consider 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	06/00/14	

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 6030, Washington, DC 20259, *Phone:* 202 272–1614, *Fax:* 202 272–1994, *Email: ted.h.kim@uscis.dhs.gov.*

RIN: 1615–AA41

DHS—USCIS

70. 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 1; 8 CFR 207; 8 CFR 208; 8 CFR 240; 8 CFR 244; 8 CFR 1001; 8 CFR 1208; 8 CFR 1240.

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 when the applicant's actions were taken when the applicant was under duress.

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 individuals who engaged in persecution of others under duress. 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	09/00/14	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Agency Contact: Ronald W. Whitney, Deputy Chief, Refugee and Asylum Law Division, Department of Homeland Security, U.S. Citizenship and Immigration Services, Office of Chief Counsel, 20 Massachusetts Avenue NW., Washington, DC 20529, *Phone:* 415 293–1244, *Fax:* 202 272–1411, *Email: ronald.w.whitney@uscis.dhs.gov.*

RIN: 1615–AB89

DHS—USCIS

71. 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 certain H–4 dependent spouses of principal H–1B nonimmigrants who have begun the process of seeking lawful permanent resident status through employment. 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: DHS believes that 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. Congress has expressed concern 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.

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	01/00/14	

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

72. Application of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 to Unaccompanied Alien Children Seeking Asylum

Priority: Other Significant.

Unfunded Mandates: Undetermined.

Legal Authority: Pub. L. 110–457

CFR Citation: Not Yet Determined.

Legal Deadline: None.

Abstract: This rule implements the provisions of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), Public Law 110–457, 122 Stat. 5074 (Dec. 23, 2008) relating to unaccompanied alien children seeking asylum. Specifically, the rule proposes to amend Department of Homeland Security (DHS) and Department of Justice (DOJ) regulations relating to asylum applications filed by unaccompanied alien children. The rule will amend both DHS and DOJ regulations to reflect that U.S. Citizenship and Immigration Services (USCIS) has initial jurisdiction over any asylum application filed by an unaccompanied alien child. The rule will also add new special procedures for all children in interviews before USCIS officers and for unaccompanied alien children in proceedings before immigration judges in the Executive Office for Immigration Review.

Statement of Need: The TVPRA mandated promulgation of regulations taking into account the specialized needs of unaccompanied alien children and addressing both procedural and substantive aspects of handling unaccompanied alien children's cases. This rule will replace existing agency guidance on the specialized needs of unaccompanied alien children. The rule will also incorporate policies in agency guidance implementing the TVPRA. Such guidance has been in effect since March 2009 and, based on experience gained in following the guidance, will be revised in the rule.

Summary of Legal Basis: The purpose of this rule is to comply with the TVPRA mandate to promulgate regulations taking into account the specialized needs of unaccompanied alien children and addressing both procedural and substantive aspects of handling unaccompanied alien children's cases.

Alternatives: N/A.

Anticipated Cost and Benefits: This rule will codify existing agency

guidance on the specialized needs of unaccompanied alien children in accordance with implementing the TVPRA. In addition, the regulation will codify improvements that DHS has implemented over the passage of time since TVPRA to incorporate lessons learned and operational efficiencies for USCIS and EOIR. DHS anticipates that this rule would result in benefits both to the Federal Government by streamlining the processing of cases for asylum by unaccompanied children, and to the public by ensuring that DHS regulations are transparent in the eligibility and application requirements for this vulnerable population. DHS anticipates that any costs associated with establishing eligibility for asylum under the TVPRA would be outweighed by the benefits of this rulemaking.

Risks: N/A.

Timetable:

Action	Date	FR Cite
NPRM	09/00/14	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Federal.

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 6030, Washington, DC 20259, *Phone:* 202 272–1614, *Fax:* 202 272–1994, *Email: ted.h.kim@uscis.dhs.gov.*

RIN: 1615–AB96

DHS—USCIS

73. Administrative Appeals Office: Procedural Reforms To Improve Efficiency

Priority: Other Significant.

Legal Authority: 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; 6 U.S.C. 112

CFR Citation: 8 CFR 103; 8 CFR 204; 8 CFR 205; 8 CFR 210; 8 CFR 214; 8 CFR 245a; 8 CFR 320; 8 CFR 105 (new); . . .

Legal Deadline: None.

Abstract: This proposed rule revises the requirements and procedures for the filing of motions and appeals before the Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services, and its Administrative Appeals Office. The proposed changes are intended to streamline the existing processes for filing motions and appeals and will reduce delays in the review and appellate process. This rule also proposes additional changes necessitated by the establishment of DHS and its components.

Statement of Need: This rule proposes to make numerous changes to streamline the current appeal and motion processes which: (1) Will result in cost savings to the Government, applicants, and petitioners; and (2) will provide for a more efficient use of USCIS officer and clerical staff time, as well as more uniformity with Board of Immigration Appeals appeal and motion processes.

Summary of Legal Basis: 5 U.S.C. 301; 5 U.S.C 552; 5 U.S.C. 552a; 8 U.S.C. 1101 and notes 1102, 1103, 1151, 1153, 1154, 1182, 1184, 1185 note (sec. 7209 of Pub. L. 108–458; title VII of Pub. L. 110–229), 1186a, 1187, 1221,1223, 1225 to 1227, 1255a, and 1255a note, 1281, 1282, 1301 to 1305, 1324a, 1356, 1372, 1379, 1409(c), 1443 to 1444, 1448, 1452, 1455, 1641, 1731 to 1732; 31 U.S.C. 9701; 48 U.S.C. 1901, 1931 note; section 643, Public Law 104–208, 110, Stat. 3009–708; section 141 of the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands, and with the Government of Palau; title VII of Public Law 110–229; Public Law 107–296, 116 Stat. 2135 (6 U.S.C. 1 *et seq.*); Public Law 82–414, 66 Stat. 173, 238, 254, 264; title VII of Public Law 110–229; E.O. 12356.

Alternatives: The alternative to this rule would be to continue under the current process without change.

Anticipated Cost and Benefits: As a result of streamlining the appeal and motion process, DHS anticipates quantitative and qualitative benefits to DHS and the public. We also anticipate cost savings to DHS and applicants as a result of the proposed changes.

Timetable:

Action	Date	FR Cite
NPRM	09/00/14	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Governmental Jurisdictions.

Government Levels Affected: None.

Additional Information: Previously 1615–AB29 (CIS 2311–04), which was withdrawn in 2007.

Agency Contact: William K. Renwick, Supervisory Citizenship and Immigration Appeals Officer, Department of Homeland Security, U.S. Citizenship and Immigration Services, Administrative Appeals Office, Washington, DC 20529–2090, *Phone:* 703 224–4501, *Email: william.k.renwick@uscis.dhs.gov.*

Related RIN: Duplicate of 1615–AB29.

RIN: 1615–AB98

DHS—USCIS

74. Enhancing Opportunities for H–1B1, CW–1, 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 204; 8 CFR 214; 8 CFR 248; 8 CFR 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 and researchers. Additionally, it proposes to amend regulations regarding continued employment authorization for nonimmigrant workers in the Commonwealth of the Northern Mariana Islands (CNMI)—Only Transitional Worker (CW–1) classification. DHS proposes changes that would harmonize the regulations for E–3, H–1B1, and CW–1 nonimmigrant classifications with existing regulations for other similarly situated nonimmigrant classifications. DHS is proposing these changes to the regulations to benefit these high-skilled workers and CW–1 transitional workers by removing unnecessary hurdles that place such workers at a disadvantage when compared to similarly situated workers in other visa classifications.

Statement of Need: DHS proposes changes to harmonize the regulations for E–3, H–1B1, and CW–1 nonimmigrant classifications with the existing regulations for other, similarly situated nonimmigrant classifications. These changes to the regulations would benefit these highly skilled workers and CW–1 transitional workers by removing unnecessary hurdles that place such workers at a disadvantage when compared to similarly situated workers in other visa classifications.

Anticipated Cost and Benefits: The portion of the proposed rule addressing E–3 and H–1B1, and CW–1 nonimmigrant classifications would extend the period of authorized employment while requests for an

extension of stay for these employment-based nonimmigrant visa classifications are being reviewed. The regulations at 8 CFR 274a.12(b)(20) generally provide aliens in specific nonimmigrant classifications with authorization to continue employment with the same employer for a 240-day period beyond the period specified on the Arrival-Departure Record, Form I–94, as long as a timely application for an extension of stay is filed on an alien's behalf. This provision applies only to the classifications specified in the regulation which does not currently include the E–3, H–1B1, and CW–1 nonimmigrant classifications. By harmonizing the regulations for E–3, H–1B1, and CW–1 nonimmigrants with the other listed nonimmigrant classifications, this proposed rule would provide equity for these nonimmigrants relative to other nonimmigrant classifications.

The proposed rule also would help employers of E–3, H–1B1, and CW–1 nonimmigrants avoid potential interruptions of employment for E–3, H–1B1, and CW–1 employees during the period that requests for an extension of these employment-based nonimmigrant visa classifications are being reviewed. These disruptions could result in lost wages for an employee and lost productivity for an employer. DHS does not have data on the number of employers or E–3, H–1B1, and CW–1 nonimmigrants experiencing disruption in employment by not receiving an approval of the extension before the expiration date specified on the Arrival-Departure Record or the duration (length of time) of any disruption. 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) through (F) to establish that the EB–1 professor or researcher is recognized internationally as outstanding in his or her academic field. Similar to the benefits of harmonizing E–3, H–1B1, and CW–1 provisions, the harmonization of the evidentiary requirements for EB–1 outstanding professors and researchers with other comparable employment-based immigrant classifications would provide equity for EB–1 outstanding professors and researchers relative to those other employment-based visa categories. The proposed rule may also facilitate petitioners' recruitment of the EB–1 outstanding professors and researchers by expanding the range of evidence that may be adduced to support their petitions.

Timetable:

Action	Date	FR Cite
NPRM	04/00/14	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Businesses, Organizations.

Government Levels Affected: None.

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RIN: 1615–AC00

DHS—USCIS

Final Rule Stage

75. 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; Pub. L. 113–4

CFR Citation: 8 CFR 103; 8 CFR 212; 8 CFR 214; 8 CFR 274a; 8 CFR 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 streamlines 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. Several reauthorizations, including the Violence Against Women Act (VAWA) of 2013, Public Law 113–4, have made amendments to the T nonimmigrant status provisions of the Immigration and Naturalization Act. This rule implements those amendments.

Statement of Need: T nonimmigrant status is available to eligible victims of severe forms of trafficking in persons who: (1) Are victims of a severe form of trafficking in persons (defined by section 103 of the TVPA), (2) are physically present in the United States, American Samoa, Commonwealth of the Northern Mariana Islands, or at a port of entry, on account of trafficking (including the alien having been allowed entry into the United States for participation in investigative or judicial processes associated with an act or perpetrator of trafficking), (3) have complied with any reasonable request for assistance in the investigation or prosecution of acts of trafficking in persons (or are under 18 years of age or are unable to cooperate due to physical or psychological trauma), and (4) 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 and implements statutory amendments to these elements, streamlines 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 provide immigration relief 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 provide victims with immigration benefits and services, keeping in mind the purpose of the T visa also being a law enforcement tool, DHS is considering and using suggestions from stakeholders in developing this regulation. These suggestions came in the form of public comment to the 2002 interim final rule as well as from over ten years of experience with the T nonimmigrant status program, including regular meetings with stakeholders and regular outreach events.

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; and (3) Streamlining the application process for victims.

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	12/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Federal, Local, State.

Additional Information: Transferred from RIN 1115–AG19.

Agency Contact: Maureen A. Dunn, Chief, Family Immigration and Victim Protection Division, Department of Homeland Security, U.S. Citizenship and Immigration Services, Office of Policy and Strategy, 20 Massachusetts Avenue NW., Suite 1200, Washington, DC 20529, *Phone:* 202 272–1470, *Fax:* 202 272–1480, *Email: maureen.a.dunn@uscis.dhs.gov.*

RIN: 1615–AA59

DHS—USCIS

76. 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; Pub. L. 113–4

CFR Citation: 8 CFR 103; 8 CFR 204; 8 CFR 212; 8 CFR 214; 8 CFR 299.

Legal Deadline: None.

Abstract: This rule sets forth application and eligibility requirements for U 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 fiscal year. This rule establishes the procedures to be followed 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 file a petition and evidentiary guidance to assist in the petitioning process. Eligible victims will be allowed to remain in the United States if granted U nonimmigrant status. The Trafficking Victims Protection Reauthorization Act of 2008, Public Law 110–457, and the Violence Against Women Act (VAWA) of 2013, Public Law 113–4, made amendments to the U nonimmigrant status provisions of the Immigration and Nationality Act. The Department of Homeland Security had issued an interim final rule in 2007. DHS will issue another interim final rule to make the changes required by the legislation.

Statement of Need: This regulation is necessary to allow alien victims of certain crimes to petition for U nonimmigrant status. U nonimmigrant status is available to eligible victims of certain qualifying criminal activity who: (1) Has suffered substantial physical or mental abuse as a result of the qualifying criminal activity; (2) the alien possesses information about the crime; (3) the alien has been, is being, or is likely to be helpful in the investigation or prosecution of the crime; and (4) the criminal activity took place in the United States, including military installations and Indian country, or the territories or possessions of the United States. This rule addresses the eligibility requirements that must be met for classification as a U nonimmigrant alien and implements statutory amendments to these requirements, streamlines the procedures to petition for U nonimmigrant status, and provides evidentiary guidance to assist in the petition process.

Summary of Legal Basis: Congress created the U nonimmigrant classification in the Battered Immigrant Women Protection Act of 2000 (BIWPA) to provide immigration relief for alien victims of certain qualifying criminal activity and who are helpful to law enforcement in the investigation or prosecution of these crimes.

Alternatives: To provide victims with immigration benefits and services and keeping in mind the purpose of the U visa as a law enforcement tool, DHS is considering and using suggestions from stakeholders in developing this regulation. These suggestions came in the form of public comment from the 2007 interim final rule as well as USCIS' six years of experience with the U nonimmigrant status program, including regular meetings and outreach events with stakeholders and law enforcement.

Anticipated Cost and Benefits: DHS estimated the total annual cost of this interim rule to petitioners to be $6.2 million in the interim final rule 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 and cost of traveling to visit a USCIS Application Support Center. DHS is currently in the process of updating our cost estimates since U nonimmigrant visa petitioners are no longer required to pay the biometric services fee.

The anticipated benefits of these expenditures include assistance to victims of qualifying criminal activity and their families and increases in arrests and prosecutions of criminals nationwide. Additional benefits include heightened awareness by law enforcement of victimization of aliens in their community, and streamlining the petitioning process so that victims may benefit from this immigration relief.

Risks: There is a statutory cap of 10,000 principal U nonimmigrant visas that may be granted per fiscal year at INA 214(p)(2). Eligible petitioners who are not granted principal U–1 nonimmigrant 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 U–1 petitioners and their families, USCIS will use various means to prevent the removal of U–1 petitioners and their eligible family members on the waiting list, including exercising its authority to allow deferred action, parole, and stays of removal, in cooperation with other DHS components.

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	09/00/14	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Federal, Local, State.

Additional Information: Transferred from RIN 1115–AG39.

URL for More Information: www.regulations.gov.

URL for Public Comments: www.regulations.gov.

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RIN: 1615–AA67

DHS—USCIS

77. Application of Immigration Regulations to the Commonwealth of the Northern Mariana Islands

Priority: Other Significant.

Legal Authority: Pub. L. 110–229

CFR Citation: 8 CFR 208 and 209; 8 CFR 214 and 215; 8 CFR 217; 8 CFR 235; 8 CFR 248; 8 CFR 264; 8 CFR 274a.

Legal Deadline: Final, Statutory, November 28, 2009, Consolidated Natural Resources Act (CNRA) of 2008.

Abstract: This final rule amends the Department of Homeland Security (DHS) and the Department of Justice (DOJ) regulations to comply with the Consolidated Natural Resources Act of 2008 (CNRA). The CNRA extends the immigration laws of the United States to the Commonwealth of the Northern Mariana Islands (CNMI). This rule finalizes the interim rule and implements conforming amendments to their respective regulations.

Statement of Need: This rule finalizes the interim rule to conform existing regulations with the CNRA. Some of the changes implemented under the CNRA affect existing regulations governing both DHS immigration policy and procedures and proceedings before the immigration judges and the Board. Accordingly, it is necessary to make amendments both to the DHS regulations and to the DOJ regulations. The Secretary and the Attorney General are making conforming amendments to their respective regulations in this single rulemaking document.

Summary of Legal Basis: Congress extended the immigration laws of the United States to the CNMI. The stated purpose of the CNRA is to ensure effective border control procedures, to properly address national security and homeland security concerns by extending U.S. immigration law to the CNMI (phasing-out the CNMI's nonresident contract worker program while minimizing to the greatest extent practicable the potential adverse economic and fiscal effects of that phase-out), to maximize the CNMI's potential for future economic and business growth, and to assure worker protections from the potential for abuse and exploitation.

Anticipated Cost and Benefits: Costs: The interim rule established basic provisions necessary for the application of the INA to the CNMI and updated definitions and existing DHS and DOJ regulations in areas that were confusing or in conflict with how they are to be applied to implement the INA in the CNMI. As such, that rule made no changes that had identifiable direct or indirect economic impacts that could be quantified.

Benefits: This final rule makes additional regulatory changes in order to lessen the adverse impacts of the CNRA on employers and employees in the CNMI and assist the CNMI in its transition to the INA.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/28/09	74 FR 55725
Interim Final Rule Comment Period End.	11/27/09	
Correction	12/22/09	74 FR 67969
Final Action	09/00/14	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Additional Information: CIS 2460–08.

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.*

Related RIN: Related to 1615–AB76, Related to 1615–AB75.

RIN: 1615–AB77

DHS—U.S. COAST GUARD (USCG)

Final Rule Stage

78. 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. 71; 46 U.S.C. 73; DHS Delegation No. 0170.1

CFR Citation: 46 CFR 10; 46 CFR 11; 46 CFR 12; 46 CFR 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 NPRMs (SNPRM) on March 23, 2010 and August 1, 2011.

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	11/00/13	

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 EO 13563.

URL for More Information: *www.regulations.gov.*

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

Agency Contact: Mark Gould, Project Manager, CG–OES–1, Department of Homeland Security, U.S. Coast Guard, 2703 Martin Luther King Jr. Avenue SE., STOP 7509, Washington, DC 20593–7509, *Phone:* 202 372–1409, *Email: mark.c.gould@uscg.mil.*

RIN: 1625–AA16

DHS—USCG

79. 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 62; 33 CFR 66; 33 CFR 160; 33 CFR 161; 33 CFR 164; 33 CFR 165; 33 CFR 101; 33 CFR 110; 33 CFR 117; 33 CFR 151; 46 CFR 4; 46 CFR 148.

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 The 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	06/00/14	

Regulatory Flexibility Analysis Required: Yes.

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.

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Related RIN: Related to 1625–AA93, Related to 1625–AB28.

RIN: 1625–AA99

DHS—USCG

80. 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.

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. In an ANPRM, published in March of 2009, and NPRM, published in April of 2013, the Coast Guard 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. We considered several alternatives in the formulation of this proposal. These alternatives were based on risk analysis of different combinations of facility and vessel populations facing TWIC reader requirements. The preferred alternative selected allowed the Coast Guard to target the highest risk entities while minimizing the overall burden.

Anticipated Cost and Benefits: The main cost drivers of this rule are the acquisition and installation of TWIC readers and the maintenance of the affected entity's TWIC reader system. Initial Costs, which we would distribute over a phased-in implementation period, consist predominantly of the costs to purchase, install, and integrate approved TWIC readers into their current physical access control system. Recurring annual costs will be driven by costs associated with canceled card list updates, opportunity costs associated with delays and replacement of TWICs that cannot be read, and maintenance of the affected entity's TWIC reader system. As reported in the NPRM Regulatory Analysis, the total 10-year total industry and government cost for the TWIC is $234.3 million undiscounted and $186.1 discounted at 7 percent. The benefits of the rulemaking include the enhancement of the security of vessel ports and other facilities by ensuing that only individuals who hold valid TWICs are granted unescorted access to secure areas at those locations. Rule We estimate the annualized cost of this rule to industry to be $26.5 million at a 7 percent discount rate.

Risks: USCG used risk-based decision-making to develop this rulemaking. Based on this analysis, the Coast Guard has proposed requiring higher-risk vessels and facilities to meet the requirements for electronic TWIC inspection, while continuing to allow lower-risk vessels and facilities to use TWIC as a visual identification credential.

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	03/22/13	78 FR 20558
NPRM Comment Period Extended.	05/10/13	78 FR 27335
NPRM Comment Period Extended End.	06/20/13	
Final Rule	04/00/14	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses, Governmental Jurisdictions.

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), 2703 Martin Luther King Jr. Avenue SE., STOP 7501, Washington, DC 20593–7501, *Phone:* 202 372–1133, *Email: loan.t.o'brien@uscg.mil.*

Related RIN: Related to 1625–AB02.

RIN: 1625–AB21

DHS—USCG

81. 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	02/00/14	

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: LCDR Heather Mattern, Program Manager (CG–ENG–1), Department of Homeland Security, U.S. Coast Guard, 2703 Martin Luther King Jr. Avenue SE., STOP 7509, Washington, DC 20593–7509, *Phone:* 202 372–1361, *Email: heather.r.mattern@uscg.mil.*

RIN: 1625–AB62

DHS—U.S. CUSTOMS AND BORDER PROTECTION (USCBP)

Final Rule Stage

82. Importer Security Filing and Additional Carrier Requirements (Section 610 Review)

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: Pub. L. 109–347, sec 203; 5 U.S.C. 301; 19 U.S.C. 66; 19 U.S.C. 1431; 19 U.S.C. 1433 to 1434; 19 U.S.C. 1624; 19 U.S.C. 2071 (note); 46 U.S.C. 60105

CFR Citation: 19 CFR 4; 19 CFR 12.3; 19 CFR 18.5; 19 CFR 103.31a; 19 CFR 113; 19 CFR 123.92; 19 CFR 141.113; 19 CFR 146.32; 19 CFR 149; 19 CFR 192.14.

Legal Deadline: None.

Abstract: This final rule implements the provisions of section 203 of the Security and Accountability for Every Port Act of 2006. On November 25, 2008, CBP published an interim final rule (CBP Dec. 08–46) in the **Federal Register** (73 FR 71730), that finalized most of the provisions proposed in the NPRM. The interim final rule did not finalize six data elements that were identified as areas of potential concern for industry during the rulemaking process and, for which, CBP provided some type of flexibility for compliance with those data elements. CBP solicited public comment on these six data elements, conducted a structured review, and also invited comments on the revised Regulatory Assessment and Final Regulatory Flexibility Analysis. [See 73 FR 71782–85 for regulatory text and 73 CFR 71733–34 for general discussion.] The remaining requirements of the rule were adopted as final. CBP plans to issue a final rule after CBP completes a structured review of the flexibilities and analyzes the comments.

Statement of Need: This rule improves CBP's risk assessment and targeting capabilities and enables the agency to facilitate the prompt release of legitimate cargo following its arrival in the United States. The information will assist CBP in increasing the security of the global trading system and, thereby, reducing the threat to the United States and world economy.

Summary of Legal Basis: Pursuant to section 203 of the Security and Accountability for Every Port Act of 2006 (Pub. L. 109–347, 6 U.S.C. 943) (SAFE Port Act), the Secretary of Homeland Security, acting through the Commissioner of CBP, must promulgate regulations to require the electronic transmission of additional data elements for improved high-risk targeting, including appropriate security elements of entry data for cargo destined to the United States by vessel prior to loading of such cargo on vessels at foreign seaports.

Alternatives: CBP is considering whether to maintain the flexibilities on the data elements that were not finalized in the interim final rule.

Anticipated Cost and Benefits: CBP is currently developing a regulatory impact analysis based on the comments and the structured review of the data elements not finalized in the interim final rule.

Risks: No risks.

Timetable:

Action	Date	FR Cite
NPRM	01/02/08	73 FR 90
NPRM Comment Period End.	03/03/08	
NPRM Comment Period Extended.	02/01/08	73 FR 6061
NPRM Comment Period End.	03/18/08	
Interim Final Rule	11/25/08	73 FR 71730
Interim Final Rule Effective.	01/26/09	
Interim Final Rule Comment Period End.	06/01/09	
Correction	07/14/09	74 FR 33920
Correction	12/24/09	74 FR 68376
Final Action	08/00/14	

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.

URL for More Information: *www.regulations.gov.*

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

Agency Contact: Craig Clark, Program Manager, Vessel Manifest & Importer Security Filing, Office of Cargo and Conveyance Security, Department of Homeland Security, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Washington, DC 20229, *Phone:* 202 344–3052, *Email: craig.clark@cbp.dhs.gov.*

RIN: 1651–AA70

DHS—USCBP

83. 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 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 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: The rule fulfills the requirements of section 711 of the 9/11 Act to develop and implement a fully automated electronic travel authorization system in advance of travel for VWP travelers. The advance information allows CBP to determine before their departure whether VWP travelers are eligible to travel to the United States and to determine 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. ESTA increases national security by allowing for vetting of subjects of potential interest before they depart for the United States. It promotes legitimate travel to the United States by providing for greater efficiencies in the screening of travelers thereby 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 (Pub. L. 110–53) and section 217 of the Immigration and Nationality Act (INA), 8 U.S.C. 1187.

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 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	01/00/14	

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—USCBP

84. Implementation of the Guam-CNMI Visa Waiver Program (Section 610 Review)

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

Legal Authority: Pub. L. 110–229, sec 702

CFR Citation: 8 CFR 100.4; 8 CFR 212.1; 8 CFR 233.5; 8 CFR 235.5; 19 CFR 4.7b; 19 CFR 122.49a.

Legal Deadline: Final, Statutory, November 4, 2008, Pub. L. 110–229.

Abstract: This rule amends Department of Homeland Security (DHS) regulations to implement section 702 of the Consolidated Natural Resources Act of 2008 (CNRA). This law extends the immigration laws of the United States to the Commonwealth of the Northern Mariana Islands (CNMI) and provides for a joint visa waiver program for travel to Guam and the CNMI. This rule implements section 702 of the CNRA by amending the regulations to replace the current Guam Visa Waiver Program with a new Guam-CNMI Visa Waiver Program. 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. This rule also establishes six ports of entry in the CNMI for purposes of administering and enforcing the Guam-CNMI Visa Waiver Program. Section 702 of the Consolidated Natural Resources Act of 2008 (CNRA), subject to a transition period, extends the immigration laws of the United States to the Commonwealth of the Northern Mariana Islands (CNMI) and provides for a visa waiver program for travel to Guam and/or the CNMI. On January 16, 2009, the Department of Homeland Security (DHS), through CBP, issued an interim final rule in the **Federal Register** replacing the then-existing Guam Visa Waiver Program with the Guam-CNMI Visa Waiver Program and setting forth the requirements for nonimmigrant visitors seeking admission into Guam and/or the CNMI under the Guam-CNMI Visa Waiver Program. As of November 28, 2009, the Guam-CNMI Visa Waiver Program is operational. This program allows nonimmigrant visitors from eligible countries to seek admission for business or pleasure for entry into Guam and/or the CNMI without a visa for a period of authorized stay not to exceed forty-five days. This rulemaking would finalize the January 2009 interim final rule.

Statement of Need: Previously, aliens who were citizens of eligible countries could apply for admission to Guam at a Guam port of entry as nonimmigrant visitors for a period of fifteen (15) days or less, for business or pleasure, without first obtaining a nonimmigrant visa, provided that they are otherwise eligible for admission. Section 702(b) of the CNRA, supersedes the Guam visa waiver program by providing for a visa waiver program for Guam and the Commonwealth of the Northern Mariana Islands (Guam-CNMI Visa Waiver Program). Section 702(b) required DHS to promulgate regulations within 180 days of enactment of the CNRA to allow nonimmigrant visitors from eligible countries to apply for admission into Guam and the CNMI, for business or pleasure, without a visa, for a period of authorized stay of no longer than forty-five (45) days.

Under the interim final rule, a visitor seeking admission under the Guam-CNMI Visa Waiver Program must be a national of an eligible country and must meet the requirements enumerated in the current Guam visa waiver program as well as additional requirements that bring the Guam-CNMI Visa Waiver Program into soft alignment with the U.S. Visa Waiver Program provided for in 8 CFR 217. The country eligibility requirements take into account the intent of the CNRA and ensure that the regulations meet current border security needs. The country eligibility requirements are designed to: (1) Ensure effective border control procedures, (2) properly address national security and homeland security concerns in extending U.S. immigration law to the CNMI, and (3) maximize the CNMI's potential for future economic and business growth. This interim rule also provided that visitors from the People's Republic of China and Russia have provided a significant economic benefit to the CNMI. However, nationals from those countries cannot, at this time, seek admission under the Guam-CNMI Visa Waiver Program due to security concerns. Pursuant to section 702(a) of the CNRA, which extends the immigration laws of the United States to the CNMI, this rule also establishes six ports of entry in the CNMI to enable the Secretary of Homeland Security (the Secretary) to administer and enforce the Guam-CNMI Visa Waiver Program.

Summary of Legal Basis: The Guam-CNMI Visa Waiver Program is based on congressional authority provided under 702(b) of the Consolidated Natural Resources Act of 2008 (CNRA).

Alternatives: None.

Anticipated Cost and Benefits: CBP is currently evaluating the costs and benefits associated with finalizing the interim final rule. The most significant change for admission to the CNMI as a result of the rule was for visitors from those countries who are not included in either the existing U.S. Visa Waiver Program or the Guam-CNMI Visa Waiver Program established by the rule. These visitors must apply for U.S. visas, which require in-person interviews at U.S. embassies or consulates and higher fees than the CNMI assessed for its visitor entry permits. These are losses associated with the reduced visits from foreign travelers who no longer visited the CNMI upon implementation of this rule. The anticipated benefits of the rule were enhanced security that would result from the federalization of the immigration functions in the CNMI.

Risks: No risks.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/16/09	74 FR 2824
Interim Final Rule Effective.	01/16/09	
Interim Final Rule Comment Period End.	03/17/09	
Technical Amendment; Change of Implementation Date.	05/28/09	74 FR 25387
Final Action	06/00/14	

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.

URL for More Information: *www.regulations.gov.*

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

Agency Contact: Paul Minton, CBP Officer (Program Manager), Department of Homeland Security, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Washington, DC 20229, *Phone:* 202 344–2723, *Email:* *paul.a.minton@cbp.dhs.gov.*

Related RIN: Related to 1651–AA81.
RIN: 1651–AA77

DHS—USCBP

85. Definition of Form I–94 to Include Electronic Format

Priority: Other Significant.

Legal Authority: 8 U.S.C. 1101; 8 U.S.C. 1103; 8 U.S.C. 1201; 8 U.S.C. 1301; 8 U.S.C. 1303 to 1305; 5 U.S.C. 301; Pub. L. 107–296, 116 stat 2135; 6 U.S.C. 1 *et seq.*

CFR Citation: 8 CFR 1.4; 8 CFR 264.1(b).

Legal Deadline: None.

Abstract: Currently, CBP generally issues the Form I–94 to aliens at the time they lawfully enter the United States. CBP is transitioning to an automated process whereby it will create a Form I–94 in an electronic format based on passenger, passport, and visa information currently obtained electronically from air and sea carriers and the Department of State as well as through the inspection process. The Form I–94 is issued by DHS to certain aliens upon arrival in the United States or when changing status in the United States. The Form I–94 is used to document arrival and departure and provides evidence of the terms of admission or parole. Prior to this rule, the Form I–94 was solely a paper form that was completed by the alien upon arrival. After the implementation of the Advance Passenger Information System (APIS) following 9/11, CBP began collecting information on aliens traveling by air or sea to the United States electronically from carriers in advance of arrival. For aliens arriving in the United States by air or sea, CBP obtains almost all of the information contained on the paper Form I–94 electronically and in advance via APIS. The few fields on the Form I–94 that are not collected via APIS are either already collected by the Department of State and transmitted to CBP or can be collected by the CBP Officer from the individual at the time of inspection. This means that CBP no longer needs to collect Form I–94 information as a matter of course directly from aliens traveling to the United States by air or sea. At this time, the automated process will apply only to aliens arriving at air and sea ports of entry.

Statement of Need: This rule makes the necessary changes to the regulations to enable CBP to transition to an automated process whereby CBP will create an electronic Form I–94 based on the information in its databases.

Summary of Legal Basis: Section 103(a) of the Immigration and Nationality Act (INA) generally authorizes the Secretary of Homeland Security to establish such regulations and prescribe such forms of reports, entries, and other papers necessary to carry out his or her authority to administer and enforce the immigration and nationality laws and to guard the borders of the United States against illegal entry of aliens.

Alternatives: CBP considered two alternatives to this rule: eliminating the paper Form I–94 in the air and sea environments entirely and providing the paper Form I–94 to all travelers who are not B–1/B–2 travelers. Eliminating the paper Form I–94 option for refugees, applicants for asylum, parolees, and those travelers who request one would not result in a significant cost savings to CBP and would harm travelers who have an immediate need for an electronic Form I–94 or who face obstacles to accessing their electronic Form I–94. A second alternative to the rule is to provide a paper Form I–94 to any travelers who are not B–1/B–2 travelers. Under this alternative, travelers would receive and complete the paper Form I–94 during their inspection when they arrive in the United States. The electronic Form I–94 would still be automatically created during the inspection, but the CBP Officer would need to verify that the information appearing on the form matches the information in CBP's systems. In addition, CBP would need to write the Form I–94 number on each paper Form I–94 so that their paper form matches the electronic record. As noted in the analysis, 25.1 percent of aliens are non-B–1/B–2 travelers. Filling out and processing this many paper Forms I–94 at airports and seaports would increase processing times considerably. At the same time, it would only provide a small savings to the individual traveler.

Anticipated Cost and Benefits: With the implementation of this rule, CBP will no longer collect Form I–94 information as a matter of course directly from aliens traveling to the United States by air or sea. Instead, CBP will create an electronic Form I–94 for foreign travelers based on the information in its databases. This rule makes the necessary changes to the regulations to enable CBP to transition to an automated process.

Both CBP and aliens would bear costs as a result of this rule. CBP would bear costs to link its data systems and to build a Web site so aliens can access their electronic Forms I–94. CBP estimates that the total cost for CBP to link data systems, develop a secure Web site, and fully automate the Form I–94 fully will equal about $1.3 million in calendar year 2012. CBP will incur costs of $0.09 million in subsequent years to operate and maintain these systems. Aliens arriving as diplomats and students would bear costs when logging into the Web site and printing electronic I–94s. The temporary workers and aliens in the ''Other/Unknown'' category bear costs when logging into the Web site, traveling to a location with public internet access, and printing a paper copy of their electronic Form I–94. Using the primary estimate for a traveler's value of time, aliens would bear costs between $36.6 million and $46.4 million from 2013 to 2016. Total costs for this rule for 2013 would range from $34.2 million to $40.1 million, with a primary estimate of costs equal to $36.7 million.

CBP, carriers, and foreign travelers would accrue benefits as a result of this rule. CBP would save contract and printing costs of $15.6 million per year of our analysis. Carriers would save a total of $1.3 million in printing costs per year. All aliens would save the eight-minute time burden for filling out the paper Form I–94 and certain aliens who lose the Form I–94 would save the $330 fee and 25-minute time burden for filling out the Form I–102. Using the primary estimate for a traveler's value of time, aliens would obtain benefits between $112.6 million and $141.6 million from 2013 to 2016. Total benefits for this rule for 2013 would range from $110.7 million to $155.6 million, with a primary estimate of benefits equal to $129.5 million.

Overall, this rule results in substantial cost savings (benefits) for foreign travelers, carriers, and CBP. CBP anticipates a net benefit in 2013 of between $59.7 million and $98.7 million for foreign travelers, $1.3 million for carriers, and $15.5 million for CBP. Net benefits to U.S. entities (carriers and CBP) in 2013 total $16.8 million. CBP anticipates the total net benefits to both domestic and foreign entities in 2013 range from $76.5 million to $115.5 million. In our primary analysis, the total net benefits are $92.8 million in 2013. For the primary estimate, annualized net benefits range from $78.1 million to $80.0 million, depending on the discount rate used.

Risks: N/A.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/27/13	78 FR 18457
Interim Final Rule Comment Period End.	04/26/13	

Action	Date	FR Cite
Interim Final Rule Effective.	04/26/13	
Final Action	10/00/14	

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: Includes Retrospective Review under E.O. 13563.

URL for More Information: *www.regulations.gov.*

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

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RIN: 1651–AA96

DHS—TRANSPORTATION SECURITY ADMINISTRATION (TSA)

Proposed Rule Stage

86. 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 1520; 49 CFR 1570; 49 CFR 1580; 49 CFR 1582 (new); 49 CFR 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 address 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 (9/11 Act). As required by the 9/11 Act, the rulemaking will propose that certain railroads, public transportation agencies, and over-the-road bus companies provide security training to their frontline employees in the areas of security awareness, operational security, incident prevention and response, and security exercises that test effectiveness of training. The rulemaking will also propose extending 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 and over-the-road buses. The regulation will take into consideration any current security training requirements or best practices.

Statement of Need: Employee training is an important and effective tool for averting or mitigating potential terrorist attacks by terrorists or others with malicious intent who may target surface transportation and plan or perpetrate actions that may cause significant injuries, loss of life, or economic disruption.

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 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 surface mode transportation employees.

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	08/00/14	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: Local.

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

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Related RIN: Related to 1652–AA56, Merged with 1652–AA57, Merged with 1652–AA59.

RIN: 1652–AA55

DHS—TSA

87. 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, 5103A, 44903 and 44936; 46 U.S.C. 70105; 6 U.S.C. 469; Pub. L. 110–53, secs. 1411, 1414, 1520, 1522 and 1602

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. The scope of the rulemaking will include transportation workers from all modes of transportation who are required to undergo an STA, including surface maritime and aviation workers. In accordance with the Implementing Recommendations of the 9/11 Commission Act of 2007 (9/11 Act), the notice of proposed rulemaking (NPRM) will address STAs for frontline employees for public transportation agencies and railroads.

In addition, TSA will propose fees to cover the cost of all STAs. 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 reduce reliance on appropriations for certain vetting services; minimize redundant background checks; and increase transportation security by enhancing identification and immigration verification standards.

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 assess security in all modes of transportation and minimize threats to national and transportation security. TSA is required to vet certain aviation workers pursuant to 49 U.S.C. 44903 and 44936. TSA is required to vet individuals with unescorted access to maritime facilities pursuant to 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.

Pursuant to 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) for commercial drivers licensed 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 in the field of transportation 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 for applicants to receive credentials through the mail rather than returning to the enrollment center. These alternatives are discussed in detail in the proposed 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 benefits of the NPRM are that it would reduce reliance on appropriations to cover certain vetting services; improve security by requiring new and enhanced vetting; reduce the need for redundant background checks; and improve TSA's vetting product, process, and structure. TSA estimates that the NPRM would result in a cost savings to the alien flight student program. The estimated total savings for alien flight students, over a 5-year period is approximately $18 million at 7 percent discount rate.

Timetable:

Action	Date	FR Cite
NPRM	08/00/14	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: Undetermined.

Federalism: Undetermined.

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

URL for Public Comments: www.regulations.gov.

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Related RIN: Related to 1652–AA35.

RIN: 1652–AA61

DHS—TSA

Final Rule Stage

88. 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 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: Pursuant to the requirements of section 611 of Vision 100—Century of Aviation Reauthorization Act and section 1616 of the 9/11 Commission Act of 2007, the Transportation Security Administration (TSA) is developing a regulation to improve the security of domestic and foreign aircraft repair stations. TSA published a notice of proposed rulemaking (NPRM) on November 18, 2009, and requested public comment by January 19, 2010. At the request of the stakeholders, TSA extended the comment period to February 19, 2010; this provided the aviation industry and other interested entities and individuals additional time to submit comments. The NPRM proposed to require certain repair stations that are certificated by the Federal Aviation Administration (FAA) to adopt and carry out a security program. TSA is working on a final rule that would finalize this rulemaking project. Throughout the development of this rulemaking, TSA has coordinated its efforts with the FAA to ensure that the rulemaking 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) proposed 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 NPRM proposed to 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 that TSA 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 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: In the NPRM, TSA anticipated costs to aircraft repair stations mainly related to the establishment of security programs. The NPRM estimated total cost of the program is $344.4 million (10-year, undiscounted) and $241 million (discounted at 7 percent). 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 also used a break-even analysis to assess the trade-off between the beneficial effects and the costs of implementing the rulemaking. The NPRM break-even analysis used three attack scenarios to determine the degree to which the rule must reduce the overall risk of a terrorist attack in order for the expected benefits to justify the estimated rule costs. TSA is revising the NPRM costs and benefits estimates for the final rule.

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. In the regulation, 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	11/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

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

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RIN: 1652–AA38

DHS—TSA

89. 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: None

Abstract: The Transportation Security Administration (TSA) intends to issue a final rule to address whether 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). The NPRM was published on March 26, 2012, to comply with the decision rendered by the U.S. Court of Appeals for the District of 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.

Statement of Need: TSA is issuing a final rule 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

(D.C. 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: As alternatives to the preferred regulatory proposal presented in the NPRM, TSA examined three other options. These alternatives include a continuation of the screening environment prior to 2008 (no action), increased use of physical pat-down searches that supplements primary screening with walk through metal detectors (WTMDs), and increased use of explosive trace detection (ETD) screening that supplements primary screening with WTMDs. These alternatives, and the reasons why TSA rejected them in favor of the proposed rule, are discussed in detail in Chapter 3 of the AIT NPRM Regulatory Evaluation.

Anticipated Cost and Benefits: TSA reports that the net cost of AIT deployment from 2008–2011 has been $841.2 million (undiscounted) and that TSA has borne over 99 percent of all costs related to AIT deployment. TSA projects that from 2012–2015 net AIT related costs will be approximately $1.5 billion (undiscounted), $1.4 billion at a three percent discount rate, and $1.3 billion at a seven percent discount rate. During 2012–2015, TSA estimates it will also incur over 98 percent of AIT-related costs with equipment and personnel costs being the largest categories of expenditures.

The operations described in this rule produce benefits by reducing security risks through the deployment of AIT that is capable of detecting both metallic and non-metallic weapons and explosives. Terrorists continue to test our security measures in an attempt to find and exploit vulnerabilities. The threat to aviation security has evolved to include the use of non-metallic explosives. AIT is a proven technology based on laboratory testing and field experience and is an essential component of TSA's security screening because it provides the best opportunity to detect metallic and nonmetallic anomalies concealed under clothing.

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	03/26/13	78 FR 18287
NPRM Comment Period End.	06/24/13	
Final Rule	09/00/14	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

URL for Public Comments: www.regulations.gov.

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RIN: 1652–AA67

DHS—U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (USICE)

Proposed Rule Stage

90. Adjustments to Limitations on Designated School Official Assignment and Study by F–2 and M–2 Nonimmigrants

Priority: Other Significant.

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 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	11/00/13	

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.

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Related RIN: Previously reported as 1615–AA19.

RIN: 1653–AA63

DHS—USICE

Final Rule Stage

91. 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 115.

Legal Deadline: Final, Statutory, September 3, 2013, VAWA Reauthorization Act.

VAWA Reauthorization Act.

Abstract: The Department of Homeland Security (DHS) proposes to issue final regulations setting detention standards to prevent, detect, and respond to sexual abuse and assault in DHS confinement facilities. These regulations address and respond to public comments received on the notice of proposed rulemaking published December 19, 2012, at 77 FR 75300.

Statement of Need: The purpose of this rulemaking is to finalize regulations setting standards to prevent, detect, and respond to sexual abuse in Department of Homeland Security (DHS) confinement facilities. The standards build on current U.S. Immigration and Customs Enforcement (ICE) Performance Based National Detention Standards (PBNDS) and other DHS detention policies. Also, this rulemaking is a response to the President's May 17, 2012 Memorandum, ''Implementing the Prison Rape Elimination Act,'' which directs all agencies with Federal confinement facilities to propose rules or procedures setting standards to prevent, detect, and respond to sexual abuse in confinement facilities. In addition, the Violence Against Women Reauthorization Act of 2013 requires DHS to publish a final rule adopting national standards for the detection, prevention, reduction, and punishment of rape and sexual assault in immigration detention and holding facilities. See Public Law 113–4 (Mar. 7, 2013).

Anticipated Cost and Benefits: The final rule will 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 standards will 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 rule will 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 regulation and the costs of implementing the rule. The break-even analysis uses the monetized estimates of incidents avoided to determine the degree to which the regulation 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 rule will include a Regulatory Impact Assessment.

Timetable:

Action	Date	FR Cite
NPRM	12/19/12	77 FR 75300
NPRM Comment Period Extended.	02/07/13	78 FR 8987
NPRM Comment Period End.	02/19/13	
NPRM Extended Comment Period End.	02/26/13	
Final Action	11/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Governmental Jurisdictions.

Government Levels Affected: Federal, Local, State.

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RIN: 1653–AA65

DHS—USICE

92. • Rescinding Suspension of Enrollment for Certain F and M Nonimmigrant Students From Libya and Third Country Nationals Acting on Behalf of Libyan Entities

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

Legal Authority: 8 U.S.C. 1101; 8 U.S.C. 1102; 8 U.S.C. 1103; 8 U.S.C. 1182; 8 U.S.C. 1184; 8 U.S.C. 1186a; 8 U.S.C. 1187; 8 U.S.C. 1221; 8 U.S.C. 1281; 8 U.S.C. 1282; 8 U.S.C. 1301 to 1305; 8 U.S.C. 1372; 48 U.S.C. 1806

CFR Citation: 8 CFR 214.5.

Legal Deadline: None.

Abstract: The Department of Homeland Security (DHS) is amending its regulations by rescinding the regulatory provisions promulgated in 1983 that terminated the nonimmigrant status and barred the granting of certain immigration benefits to Libyan nationals and foreign nationals acting on behalf of Libyan entities who are engaging in or seeking to obtain studies or training in aviation maintenance, flight operations, or nuclear-related fields. The United States Government and the Government of Libya have normalized their relationship and most of the restrictions and sanctions imposed by the United States and the United Nations toward Libya have been lifted. Therefore, DHS, after consultation with the Department of State and the Department of Defense, is considering rescinding the restrictions that deny nonimmigrant status and benefits to a specific group of Libyan nationals.

Statement of Need: The Department of Homeland Security (DHS) will amend its regulations by rescinding the regulatory provisions promulgated in 1983 that terminated the nonimmigrant status and barred the granting of certain immigration benefits to Libyan nationals and foreign nationals acting on behalf of Libyan entities who are engaging in or seeking to obtain studies or training in aviation maintenance, flight operations, or nuclear-related fields. The United States Government and the Government of Libya have normalized their diplomatic relations and most of the restrictions and sanctions imposed by the United States and the United Nations toward Libya have been lifted. Therefore, DHS, after consultation with the Department of State and the Department of Defense, finds it necessary to rescind the restrictions that deny nonimmigrant status and benefits to a specific group of Libyan nationals.

Anticipated Cost and Benefits: The regulatory action will rescind the regulation which prohibits Libyan

nationals, or any other foreign nationals acting on behalf of Libyan entities, from engaging in aviation maintenance, flight operation, or nuclear-related studies or training in the United States. The rescission would permit DHS and other agencies of the U.S. government to provide training and technical assistance in the justice, defense, and border security sectors to the new Libyan government. This will contribute to the growing relationship between the two governments.

Timetable:

Action	Date	FR Cite
Final Action	03/00/14	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: 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.

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RIN: 1653–AA69

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) 2014 highlights some of 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.

The rules highlighted in the Regulatory Plan for FY 2014 focus on the following elements of establishing sustainable communities: promoting energy efficiency in construction and rehabilitation of housing assisted with HUD funds, and planning for and implementing pre-disaster and adaptative mitigation strategies to establish disaster-resilient communities. The focus on energy efficiency is consistent with President Obama's call, in his State of the Union Address, for Federal, State and local Governments and the American public to focus on investments in energy efficiency.

Promoting Energy Efficiency. Given the scale and scope of HUD's expenditures on utilities, at a time of shrinking Federal budgets, this is a critical fiscal issue as well as one that has significant implications for housing affordability and the financial security of the HUD-assisted housing market. The level of expenditures on energy-related rental costs by HUD is substantial, both in relation to HUD's annual budget and total energy-related expenditures by the Federal Government. In the marketplace, energy costs are also a significant cost burden for lower-income families. This burden, especially when added to housing and transportation costs, can create difficulties for these families in covering other household expenses. Energy costs can also affect the financial stability of multifamily housing. Secretary Donovan's direction that energy efficiency be prioritized in HUD programs and this Regulatory Plan is consistent with these realities.

Establishing Disaster-Resilient Communities. The devastation caused by Hurricane Sandy reminded the nation of the importance of establishing building codes to help ensure that housing is located and built to withstand the impacts of existing risks and those associated with future climate change, in hard hit regions and across the country. HUD's strategic plan focuses on promoting the use of climate-resilient and disaster resistant development patterns, building siting, design, and construction. Such focus should help facilitate the establishment of disaster-resilient and sustainable communities.

Priority: Promoting Energy Efficiency While Maintaining Affordability

Much of HUD's portfolio of public and assisted housing was built before the advent of modern energy codes, creating both environmental and affordability challenges for building owners, residents, and the Federal Government. Toward that end, HUD has been reviewing energy-efficiency standards across the Department to work toward standardizing energy efficiency and green goals and establishing uniform tracking and reporting systems. One of the concerns in applying energy efficiency standards to HUD's public and assisted housing or to new HUD-assisted housing construction or rehabilitation is that it could potentially affect the affordability of such housing. In the regulatory action described herein, HUD (together with the U.S. Department of Agriculture (USDA)) proposes to bring HUD programs into compliance with the most recent energy efficiency codes required by the Energy Independence and Security Act of 2007 (EISA) and to present an analysis that the compliance with the updated codes would not negatively affect the availability or affordability of new construction of single and multifamily housing covered by EISA.

Regulatory Action: HUD-USDA Joint Notice on Affordability Determination—Energy Efficiency Standards

The Energy Independence and Security Act of 2007 (EISA) establishes procedures for HUD and the USDA to adopt revisions to the 2006 International Energy Conservation Code (IECC) and ASHRAE 90.1–2004, subject to (1) a determination that the revised codes do not negatively affect the availability or affordability of new construction of single and multifamily housing covered by the Act, and (2) a determination by the Secretary of Energy that the revised codes ''would improve energy efficiency.'' This action would announce HUD's and USDA's preliminary determination that the 2009 IECC and (with the exception of Hawaii) ASHRAE 90.1–2007 will not negatively affect the affordability and availability of housing covered by the Act.

As required by the Energy Conservation and Production Act, the Department of Energy (DOE) has published Final Determinations that the 2009 IECC and ASHRAE 90.1–2007 standards would improve energy efficiency. This Notice therefore announces the results of HUD and USDA's analysis of housing impacted by the 2009 IECC and ASHRAE 90.1–2007.

In this notice, HUD submits that ''affordability'' is a measure of whether a home built to the updated energy code is affordable to potential home buyers or renters and ''availability'' of housing is a measure associated with whether builders will make such housing available to consumers at the higher

code level—i.e., whether the higher cost per unit as a result of complying with the revised code will impact whether that unit is likely to be built or not.

Based on DOE findings on improvements in energy efficiency and energy savings, and HUD and USDA determinations on housing affordability and availability presented in the notice, HUD and USDA submit for comment that HUD and USDA have determined that adoption of the codes will not adversely impact the affordability or the availability of the covered housing.

Priority: Assessing Energy and Physical Needs of Public Housing

HUD's energy strategy is designed to address the issue of residential energy costs, an aging public and assisted housing stock, and growing fiscal demands on HUD's budget to cover household and rental property utility costs. HUD also hopes to address the disproportionate energy cost burden on low- and moderate-income families, and improve the health and quality of HUD-assisted housing for building residents. Toward that end, through the Recovery Act Management and Performance System, work has begun to enable the collection of energy-efficient unit data and establish a baseline for tracking energy investments made through the Public Housing Capital Fund grant program.

Regulatory Action: Public Housing Energy Audits and Physical Needs Assessments

This final rule updates and enhances HUD's requirements for energy audits and physical needs assessments (PNA's) conducted by housing authorities in order to assess the energy needs and physical needs of their projects. The revisions to the energy audit requires the performance of substantially more useful energy audits than the current regulation and lays the foundation for potential future incentives or other tools for implementing energy conservation measures or green measures. Also, the rule facilitates greater synchronization between the energy audit and the PNA, so that energy audit data can be better integrated into the PNA and allow for future capital planning activities which take into consideration possible energy savings. By requiring greater coordination between the PNA and the energy audit, the rule ensures that energy-saving recommendations from the energy audit may result in work items to address physical needs.

Priority: Building for Resiliency While Maintaining Affordability

As communities begin to recover from the devastating effects of Hurricane Sandy, HUD has determined that it is important to recognize lessons learned and employ mitigation actions that ensure that structures located in floodplains are built or rebuilt stronger, safer, and less vulnerable to future flooding events.

Regulatory Action: Floodplain Management and Protection of Wetlands; Building at Base Flood Elevations Plus 1

This proposed rule would require that new construction and substantial improvements to structures in a floodplain be elevated or flood-proofed to a base flood elevation of best available data of the Federal Emergency Management Agency (FEMA) plus one foot. HUD's experience in the wake of Hurricane Sandy indicates that unless structures in floodplains are properly designed, constructed and elevated, they may not withstand future severe flooding events. Building to FEMA's best available data plus one foot will reduce property damage, economic loss, and loss of life, and will also benefit homeowners by reducing flood insurance rates. The best available data plus one foot standard proposed by this rule was made after considering the last ten years of FEMA flood mitigation efforts and provides, in HUD's view, the best assessment of risk. This higher elevation provides an extra buffer of one foot above the best available data to ensure the long term resilience of communities. It also takes into account projected sea level rise, which is not considered in current FEMA maps and flood insurance costs. Building to this standard will, consistent with the executive order, reduce the risk of flood loss, minimize the impact of floods on human safety, health, and welfare, and promote sound, sustainable, long-term planning informed by a more accurate evaluation of risk and take into account possible sea level rise.

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 2014. HUD expects that the neither the total economic costs nor the total efficiency gains will exceed $100 million.

Priority Regulations in HUD's FY 2014 Regulatory Plan

HUD—OFFICE OF THE SECRETARY

Proposed Rule Stage

Affordability Determination—Energy Efficiency Standards

Priority: Significant.

Legal Authority: 42 U.S.C. 12709; 42 U.S.C. 6833; 42 U.S.C. 3535(d)

CFR Citation: 24 CFR Chapter 1.

Legal Deadline: None.

Abstract: The Energy Independence and Security Act of 2007 (EISA) establishes procedures for the U.S. Department of Housing and Urban Development (HUD) and the U.S. Department of Agriculture (USDA) to adopt revisions to the 2006 International Energy Conservation Code (IECC) and ASHRAE 90.1–2004, subject to (1) a determination that the revised codes do not negatively affect the availability or affordability of new construction of single and multifamily housing covered by the Act, and (2) a determination by the Secretary of Energy that the revised codes ''would improve energy efficiency.'' [1] This Notice announces HUD and USDA's preliminary determination that the 2009 IECC and (with the exception of Hawaii) ASHRAE 90.1–2007 will not negatively affect the affordability and availability of housing covered by the Act. As of July 2013, 32 States plus the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and Guam have already adopted the 2009 IECC, its equivalent or a higher standard for single family homes, and 38 States plus the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and Guam have adopted ASHRAE 90.1–2007, its equivalent or a higher standard for multifamily buildings. The remaining States committed to adopting these codes under provisions of the American Recovery and Reinvestment Act (ARRA) of 2009. For those States that have not yet adopted either of these standards, this Notice relies on several studies that show that these codes are overwhelmingly cost effective, in that the incremental cost of the 2009 IECC code is typically less than 0.5% of total construction costs, and those costs pay for themselves very quickly through energy savings. According to one study, simple paybacks for the 2009 IECC average 3.45 years, and ''mortgage paybacks'' on these additional

[1] Energy Independence and Security Act of 2007, Section 481(d).

investments are typically less than 1 year (on average 10.25 months).

Statement of Need: Section 481 of the Energy Independence and Security Act of 2007 (EISA) amends the energy code provisions contained in Section 109 of Cranston-Gonzalez National Affordable Housing Act of 1990 (Cranston-Gonzalez). Section 109(a) of Cranston-Gonzalez, as amended by EISA, allowed for HUD and USDA to collaborate and develop their own energy efficiency building standards for statutorily specified HUD and USDA programs if the agencies developed standards met or exceeded the 2006 IECC or ASHRAE 90.1–2004. However, if the two agencies did not act on this option, EISA specifies that the 2006 IECC and ASHRAE 90.1–2004 would apply.

The two agencies did not develop independent energy efficiency building standards, and therefore the 2006 IECC or ASHRAE 90.1–2004 currently apply to covered HUD and USDA programs. Section 109(d) of Cranston-Gonzalez establishes procedures for updating agency standards following revisions to the 2006 IECC and ASHRAE 90.1–2004 code standards. Section 109(d) provides that revisions to the IECC or ASHRAE codes will apply to HUD and/or USDA's programs if (1) either agency ''make(s) a determination that the revised codes do not negatively affect the availability or affordability'' of new construction housing covered by the Act, and (2) the Secretary of the Department of Energy (DOE) has made a determination under section 304 of the Energy Conservation and Production Act (42 U.S.C. 6833) that the revised codes would improve energy efficiency (see 42 U.S.C. 12709(d)). Since DOE has made its determination of improved efficiency, HUD and USDA must assess the impact of the more recent codes on the affordability and availability of HUD- and USDA-funded new construction is currently being assessed by the two agencies. This notice presents that assessment.

Summary of Legal Basis: In the absence of HUD and USDA developing their own energy efficiency codes, EISA provides for the automatic application of 2006 IECC and ASHRAE 90.1–2004. As revised IECC and ASHRAE codes are produced, under EISA, HUD and USDA must, following DOE's determination of revised codes improving energy efficiency (if that is in fact DOE's determination), provide an assessment of the impact of the revised codes on the affordability and availability of housing under the covered programs. If HUD and USDA determine no negative impact, the revised codes then become the applicable codes.

Alternatives: The alternative provided to HUD and USDA under EISA was to develop their own energy efficiency codes. HUD and USDA did not exercise that option. IECC and ASHRAE are familiar energy codes, revised codes, as required by statute, are reviewed by DOE as a measure to determine improved or enhanced energy efficiency. A new energy efficiency code developed by HUD and USDA would have introduced a new code with which builders would have to comply. As the joint HUD-USDA notice states, well over 30 States have adopted IECC and ASHRAE as governing building codes.

Anticipated Cost and Benefits: In its assessment of improved efficiency, which includes a cost-benefit analysis, for each of the 35 States and the District of Columbia examined by DOE, DOE identified every building element that would change as a result of adopting the 2009 IECC in that State. Assuming a standard reference house, DOE used a computer model to assess building energy savings that would be achieved under the new code. DOE's model assumed a 2,400 square foot house with regional modifications to foundation systems that reflect local building practices. After analyzing the impact for each state, DOE found that, on a national basis, compliance with the 2009 IECC will yield an annual median cost savings of $243.37, ranging from a high of $468 in Kansas to a low of $200.50 in Massachusetts.

With respect to costs, and based on studies that DOE relied upon it was determined that the weighted average incremental cost of complying with the 2009 IECC over existing state codes would be $840.77, yielding a median annual energy cost savings of $243.37, for a simple payback of 3.45 years. This weighted average incremental cost of $840.77 represents less than 0.32 percent of the average cost of a new home estimated by BCAP in 2009 ($267,451).

Risks: This rule poses no risk to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	11/00/13	
NPRM Comment Period End		
Final Action		

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: No.

Agency Contact: Michael Freedberg, Office of Sustainable Housing and Communities, U.S. Department of Housing and Urban Development, *Phone:* 202–402–4366.

RIN: 2501–ZA01

BILLING CODE–P

HUD—OFFICE OF PUBLIC AND INDIAN HOUSING

Final Rule Stage

Public Housing Energy Audits and Physical Needs Assessments

Priority: Significant.

Legal Authority: 42 U.S.C. 1437g, 42 U.S.C. 1437z–2, 42 U.S.C. 1437z-7, and 3535(d)

CFR Citation: 24 CFR Parts 905, 965.

Legal Deadline: None.

Abstract: This final rule revises: (1) HUD's energy audit requirements applicable to HUD's public housing program for the purpose of clarifying such requirements, as well as identifying energy conservation measures (ECMs) that need to be addressed in the audit and procedures for improved coordination with physical needs assessments; and (2) HUD's existing codified regulations governing a physical needs assessment (PNA) undertaken by a public housing agency (PHA). A PNA identifies all of the work that a PHA would need to undertake to bring each of its projects up to the applicable modernization and energy conservation standards.

With respect to the energy audit requirements, the final rule distinguishes between ''core ECMs'' that must be addressed and ''advanced ECMs'' that may be addressed. The rule establishes minimum requirements for energy auditors. With respect to the PNA, this rule would require PHAs to project the current modernization and life-cycle replacement repair needs of its projects over a 20-year period, rather than a 5-year period, because the 20-year period coincides better with the useful life of individual properties and their building components and systems to ensure the long-term viability of the property. Additionally, this rule provides for integration of the performance of the PNA with the performance of an energy audit, and basic qualifications for PNA providers.

Statement of Need: In an environment of competing priorities, managers need tools to prioritize needs and to model alternative strategies. A PNA an energy audit are essential tools to a long term strategy for the proactive management of property to move away from inefficient and reactionary management that contributes to property deterioration and obsolescence. Strategies to reduce

energy costs are key to HUDs mission of providing long term affordable housing to those most in need—funds spent on utilities are not spent on property improvements and reduce the proportion of tenant rent payments that are used more usefully for physical maintenance and improvement. Energy audits reveal strategies for saving limited resources that can be recycled into more improvements than would otherwise occur.

Summary of Legal Basis: The Energy Policy Act of 2005, Pub. L. 109–58 (Approved August 8, 2005), amended section 9(d)(1) of the U.S. Housing Act of 1937, 42 U.S.C. 1437g(d)(1), to add at subparagraphs (K) and (L), as two of the capital and management activities under the capital fund, improvement of energy use and water efficiency, and ''integrated utility management and capital planning to maximize energy conservation and efficiency measures.'' This rule provides for the integrated utility management and capital planning necessary to fulfill this mandate.

Alternatives: HUD determined that its primary alternative was to not revise its regulations concerning physical needs assessment and energy audits. Other than inaction, there is not an alternative to: Extending the requirement to perform a physical needs assessment to all PHAs to provide the data needed for better management of the Capital Fund; to changing the current 5-year term of the required PNA to a 20-year term to create a useful strategic planning tool for authorities, and to provide HUD with longer term visibility of needs in the housing portfolio; or to implementing provisions of the Energy Policy Act of 2005 requiring ''integrated utility management and capital planning to maximize energy conservation and efficiency measures.'' However, the current lack of integration between energy audits and the PNA, as well as the overly short life-cycle planning period, make inaction a non-viable approach when it comes to assuring that HUD's requirements for the capital fund are in compliance with the Energy Policy Act of 2005, that the PHA's capital needs will be met, and that actions taken to meet those needs will be integrated with necessary energy improvements.

Anticipated Cost and Benefits: With respect to the energy audit, there are minor costs to the extent that the requirements for the energy audit in this rule exceed the current requirements. HUD's analysis suggests that using conservative assumptions, the economic burden of energy audits to PHAs would be $39,864,536 ($32.86× 1,213,163) every 5 years, or $7,972,907 annually. A mitigating adjustment of 50 percent to account for the existing burden is not an unreasonable assumption. Such an adjustment would reduce the 5-year and annual additional burden to $19,932,268 and $3,986,453, respectively.

With respect to PNAs, HUD estimates that full compliance with the rule will cost PHAs, collectively, up to $29 million once every 5 years or an average of $5.9 million annually. The rule will not have any budgetary impact to the Federal Government, as costs to implement the PNA will be accommodated within HUD's existing budget authority.

There are also benefits to this rule. With respect to energy audits, for example, if this rule resulted in a 10 percent increase in efficiency, that would translate into significant savings for PHAs, which often pay for utilities in the form of a utility allowance for residents. With respect to PNAs, benefits include identifying capital expenses far enough in advance to allow for consideration of the most efficient method of payment; identifying synergies in the timing and intensity of capital improvements, and avoiding duplicative or wasteful expenditures; making possible a preventive maintenance strategy to maximize the useful life of property components; encouraging the implementation of energy efficiency measures; and increased occupancy and enhanced health and safety as a result of more habitable units.

Risks: This rule poses no risk to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	11/17/11	
NPRM Comment Period End.	1/18/12	
Final Action	3/00/14	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: No.

Agency Contact: Jeffrey Riddel, Director, Office of Capital Improvements, Office of Public and Indian Housing, U.S. Department of Housing and Urban Development, *Phone:* 202 402–7378.

RIN: RIN 2577–AC84, RIN–2577–AC81

BILLING CODE–P

HUD—OFFICE OF COMMUNITY PLANNING AND DEVELOPMENT

Proposed Rule Stage

Floodplain Management and Protection of Wetlands; Building at Base Flood Elevations Plus 1

Priority: Significant.

Legal Authority: 42 U.S.C. 3535(d) and 4332; and Executive Order 11991, 3 CFR, 1977 Comp., p.123

CFR Citation: 24 CFR Parts 50 and 55.

Legal Deadline: None.

Abstract: As communities begin to recover from the devastating effects of Hurricane Sandy, HUD has determined that it is important to recognize lessons learned to employ mitigation actions that ensure that structures located in floodplains are built or rebuilt stronger, safer, and less vulnerable to future flooding events. As a result, this proposed rule would require that new construction and substantial improvements to structures in a floodplain be elevated or flood-proofed to the base flood elevation of the best available data of the Federal Emergency Management Agency (FEMA) plus one foot. For non-residential structures that are not critical actions,, HUD is also proposing that grantees may, as an alternative to designing and building at base flood elevation plus one foot, design and construct projects such that below the flood level, using the best available flood data plus one foot, the structure is flood-proofed. HUD would, except for changing ''base flood level'' to ''base flood elevation plus one foot,'' adopt the Federal Emergency Management Agency's definition of flood-proofing. Building to this standard will, consistent with Executive Order 11988 (Floodplain Management), reduce the risk of flood loss, minimize the impact of floods on human safety, health, and welfare, and promote sound, sustainable, long-term planning informed by a more accurate evaluation of risk and take into account possible sea level rise.

Statement of Need: HUD's experience in the wake of Hurricane Sandy is that unless structures in floodplains are properly designed, constructed and elevated, they may not withstand future severe flooding events. Building to FEMA's best available data plus one foot will reduce property damage, economic loss, and loss of life, and will also benefit homeowners by reducing flood insurance rates. The best available data plus one foot standard proposed by this rule was made after considering the last ten years of FEMA flood mitigation efforts and provides, in HUD's view, the best assessment of risk. This higher

elevation provides an extra buffer of one foot above the best available data to ensure the long term resilience of communities. It also takes into account projected sea level rise, which is not considered in current FEMA maps and flood insurance costs.

Summary of Legal Basis: Executive Order 11988 (E.O. 11988) entitled, ''Floodplain Management'' issued May 24, 1977 (published on May 25, 1977 at 42 FR 26951) requires Federal agencies to avoid to the extent possible the long and short-term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct and indirect support of floodplain development wherever there is a practicable alternative. A floodplain refers to the lowland and relatively flat areas adjoining inland and coastal waters including flood-prone areas of offshore islands that, at a minimum, are subject to a one percent or greater chance of flooding in any given year (often referred to as the ''100-year'' flood or ''base flood''). Consistent with E.O. 11988, when no practicable alternative exists to floodplain development, HUD requires the design or modification of the proposed action to minimize potential adverse impact to and from the floodplain. HUD has implemented E.O. 11988 and its 8 step review process through regulations at 24 CFR part 55.

Alternatives: Two alternatives exist that would produce the same effect as the current rule, an actuarially fair flood insurance program and complete prohibition of new construction or substantial rehabilitation in areas below an equivalent flood plain level, which as mentioned below in the discussion of an anticipated costs and benefits, averages to approximately the 250-year level. The actuarially fair flood insurance program would need to be established by legislation and the complete prohibition of new construction or substantial rehabilitation in areas below and equivalent flood plain level is action that would likely need to be taken by State and/or local jurisdictions and likely not to occur. Therefore this rule is undertaken to help ensure that HUD funds are used prudently in connection with any new construction or substantial rehabilitation in areas below flood plain level.

Anticipated Cost and Benefits: Increasing the base elevation of a structure in a floodplain will increase the construction cost and decrease the annual flood insurance premium. The additional cost for each additional foot of vertical elevation varies from 0.3 percent–0.5 percent of the base building cost.[1] The construction cost for multifamily properties averages $100,000 per unit for new construction. The average size of HUD-assisted properties in 100-year floodplains is approximately 100 units. [2] Thus, construction costs per property total approximately $10.0 million. Applying the midpoint of the cost range stated above, 0.4 percent, construction costs would increase by $40,000 per property. HUD estimates that approximately 75 properties are placed in service annually in 100-year floodplains and therefore would be affected by this rule. It is not clear, however, how many of these are built to BFE+1, so these estimates should be considered an upper bound. The aggregate annual cost of adding this increase to an owners mortgage at 3.5 percent, would increase costs $3.264 million assuming a 3 percent discount rate and $2.146 million assuming a 7 percent discount rate.

The benefits of this rule include decreased flood insurance premiums for property owners and decreased costs to tenants to avoided search costs for temporary replacement housing and lost wages. The annual premium for the maximum multifamily coverage of $250,000 at the 100-year flood level is $1,359. This decreases to $660 at one foot above the 100-year flood plain level for an annual savings of $699. Assuming a 30-year useful life and returns to these savings to the owner of 3.5 percent annually, the discounted savings for a property totals $23,303, and $1.748 million in aggregate assuming a 3 percent discount rate, and $13,962 per property or $1.047 million in aggregate assuming a 7 percent discount rate.

The significant benefits also accrue to tenants who avoid costs of moving from a flooded property. The family cost of moving a two-bedroom apartment costs approximately $800 plus lost wages. This analysis uses the national median hourly wage reported by BLS of $16.71. If an affected households' wage earners are unable to work for a combined 40 hours each due to a flood-related apartment search and move, a family would lose $668. Combined, a flood would cost each tenant $1,468. There is a 1 percent chance each year that a 100-year flood will occur. Increasing the base elevation by one foot would place the building, on average, to a 250-year flood plane, which has a 0.4 percent probability of occurring each year. Thus, this rule decreases the annual risk by 0.6 percent. The discounted value of decreased expected tenant costs is $8.81 per tenant ($1,468 * 0.6%). The discounted 30-year value of these avoided costs is $178 per tenant assuming a 3 percent discount rate and $117 per tenant assuming a 7 percent discount rate. Aggregating over 100 tenants per property and 75 properties, the total benefit to tenants is $1.334 million assuming a 3 percent discount rate and $0.877 million assuming a 7 percent discount rate.

There are also unvalued benefits to tenants of avoiding relocation. Being forced to relocate on short notice creates considerable stress and uncertainty for families. Further, some families may not be able to find affordable housing in their immediate area and will be forced to move far, sometimes out of State. Long distance moves removes a family from their local social network leads and adds additional stress not only on adults, but also on children who may be forced to enroll in difference schools.

Finally, this rule also eliminates renovations and replacements that are paid for by FEMA insurance claims. Flood damage could require various internal renovations and replacement of necessary building utility systems, including electrical and heating systems. Although flood insurance covers $250,000, this analysis assumes approximately $50,000 in damage per property. This damage represents a cost to society that would otherwise not have occurred in the presence of actuarially fair insurance rates. The discounted value of this cost for 100 properties totals $0.454 million assuming a 3 percent discount rate and $0.299 million assuming a 7 percent discount.

Valued benefits of this rule total $3.536 million assuming a 3 percent discount rate and $2.223 million assuming a 7 percent discount.

Risks: This rule poses no risk to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	01/01/14	
NPRM Comment Period End		
Final Action		

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: No.

[1] In 2012, Congress passed the Flood Insurance Reform Act which calls on the Federal Emergency Management Agency (FEMA), and other agencies, to make a number of changes to the way the National Flood Insurance Program (NFIP) is run. Key provisions of the legislation will require the NFIP to raise rates to reflect true flood risk. Depending on when actuarially fair rates are applied, the impact of this rule would significantly decrease as the market failure, which this rule addresses, is eliminated.

Agency Contact: Danielle Schopp, Director Office of Environment and Energy, Office of Community Planning and Development, U.S. Department of Housing and Urban Development, *Phone:* 202–708–1201.

RIN: 2501

HUD—OFFICE OF THE SECRETARY (HUDSEC)

Proposed Rule Stage

93. • Floodplain Management and Protection of Wetlands; Building Elevation (FR–5717)

Priority: Other Significant.

Legal Authority: 42 U.S.C. 3535(d); ; 42 U.S.C. 3001, *et seq.,* EO 11990; EO 11988

CFR Citation: 24 CFR 50; 24 CFR 55.

Legal Deadline: None.

Abstract: As communities begin to recover from the devastating effects of Hurricane Sandy, HUD has determined that it is important to recognize lessons learned to employ mitigation actions that ensure that structures located in floodplains are built or rebuilt stronger, safer, and less vulnerable to future flooding events. As a result, this proposed rule would require, as part of the decisionmaking process established to ensure compliance with Executive Order 11988 (Floodplain Management) that new construction or substantial improvement in a floodplain be elevated or floodproofed to the base flood elevation of the Federal Emergency Management Agency's best available data plus one foot. Building to this standard will, consistent with the executive order, reduce the risk of flood loss, minimize the impact of floods on human safety, health, and welfare, and promote sound, sustainable, long-term planning informed by a more accurate evaluation of risk and take into account possible sea level rise. This rule also proposes to revise a categorical exclusion available when HUD performs the environmental review by making it consistent with changes to a similar categorical exclusion that is available to HUD grantees or other responsible entities when they perform the environmental review. This change will make the review standard identical regardless of whether HUD or a grantee is performing the review.

Statement of Need: HUD's experience in the wake of Hurricane Sandy is that unless structures in floodplains are properly designed, constructed and elevated, they may not withstand future severe flooding events. Building to FEMA's best available data plus one foot will reduce property damage, economic loss, and loss of life, and will also benefit homeowners by reducing flood insurance rates. The best available data plus one foot standard proposed by this rule was made after considering the last ten years of FEMA flood mitigation efforts and provides, in HUD's view, the best assessment of risk. This higher elevation provides an extra buffer of one foot above the best available data to ensure the long term resilience of communities. It also takes into account projected sea level rise, which is not considered in current FEMA maps and flood insurance costs.

Summary of Legal Basis: Executive Order 11988 (E.O. 11988) entitled, ''Floodplain Management'' issued May 24, 1977 (published on May 25, 1977 at 42 FR 26951) requires Federal agencies to avoid to the extent possible the long and short-term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct and indirect support of floodplain development wherever there is a practicable alternative. A floodplain refers to the lowland and relatively flat areas adjoining inland and coastal waters including flood-prone areas of offshore islands that, at a minimum, are subject to a one percent or greater chance of flooding in any given year (often referred to as the ''100-year'' flood or ''base flood''). Consistent with E.O. 11988, when no practicable alternative exists to floodplain development, HUD requires the design or modification of the proposed action to minimize potential adverse impact to and from the floodplain. HUD has implemented E.O. 11988 and its 8 step review process through regulations at 24 CFR part 55.

Alternatives: Two alternatives exist that would produce the same effect as the current rule, an actuarially fair flood insurance program and complete prohibition of new construction or substantial rehabilitation in areas below an equivalent flood plain level, which as mentioned below in the discussion of an anticipated costs and benefits, averages to approximately the 250-year level. The actuarially fair flood insurance program would need to be established by legislation and the complete prohibition of new construction or substantial rehabilitation in areas below and equivalent flood plain level is action that would likely need to be taken by State and/or local jurisdictions and likely not to occur. Therefore this rule is undertaken to help ensure that HUD funds are used prudently in connection with any new construction or substantial rehabilitation in areas below flood plain level.

Anticipated Cost and Benefits: Increasing the base elevation of a structure in a floodplain will increase the construction cost and decrease the annual flood insurance premium. The additional cost for each additional foot of vertical elevation varies from 0.3 percent–0.5 percent of the base building cost. The construction cost for multifamily properties averages $100,000 per unit for new construction. The average size of HUD-assisted properties in 100-year floodplains is approximately 100 units. [2] Thus, construction costs per property total approximately $10.0 million. Applying the midpoint of the cost range stated above, 0.4 percent, construction costs would increase by $40,000 per property. HUD estimates that approximately 75 properties are placed in service annually in 100-year floodplains and therefore would be affected by this rule. It is not clear, however, how many of these are built to BFE+1, so these estimates should be considered an upper bound. The aggregate annual cost of adding this increase to an owners mortgage at 3.5 percent, would increase costs $3.264 million assuming a 3 percent discount rate and $2.146 million assuming a 7 percent discount rate.

The benefits of this rule include decreased flood insurance premiums for property owners and decreased costs to tenants to avoided search costs for temporary replacement housing and lost wages. The annual premium for the maximum multifamily coverage of $250,000 at the 100-year flood level is $1,359. This decreases to $660 at one foot above the 100-year flood plain level for an annual savings of $699. Assuming a 30-year useful life and returns to these savings to the owner of 3.5 percent annually, the discounted savings for a property totals $23,303, and $1.748 million in aggregate assuming a 3 percent discount rate, and $13,962 per property or $1.047 million in aggregate assuming a 7 percent discount rate.

The significant benefits also accrue to tenants who avoid costs of moving from a flooded property. The family cost of moving a two-bedroom apartment costs approximately $800 plus lost wages. This analysis uses the national median hourly wage reported by BLS of $16.71. If an affected households' wage earners are unable to work for a combined 40 hours each due to a flood-related apartment search and move, a family would lose $668. Combined, a flood would cost each tenant $1,468. There is a 1 percent chance each year that a 100-year flood will occur. Increasing the base elevation by one foot would place the building, on average, to a 250-year

flood plane, which has a 0.4 percent probability of occurring each year. Thus, this rule decreases the annual risk by 0.6 percent. The discounted value of decreased expected tenant costs is $8.81 per tenant ($1,468 * 0.6%). The discounted 30-year value of these avoided costs is $178 per tenant assuming a 3 percent discount rate and $117 per tenant assuming a 7 percent discount rate. Aggregating over 100 tenants per property and 75 properties, the total benefit to tenants is $1.334 million assuming a 3 percent discount rate and $0.877 million assuming a 7 percent discount rate.

There are also unvalued benefits to tenants of avoiding relocation. Being forced to relocate on short notice creates considerable stress and uncertainty for families. Further, some families may not be able to find affordable housing in their immediate area and will be forced to move far, sometimes out of state. Long distance moves removes a family from their local social network leads and adds additional stress not only on adults, but also on children who may be forced to enroll in difference schools.

Finally, this rule also eliminates renovations and replacements that are paid for by FEMA insurance claims. Flood damage could require various internal renovations and replacement of necessary building utility systems, including electrical and heating systems. Although flood insurance covers $250,000, this analysis assumes approximately $50,000 in damage per property. This damage represents a cost to society that would otherwise not have occurred in the presence of actuarially fair insurance rates. The discounted value of this cost for 100 properties totals $0.454 million assuming a 3 percent discount rate and $0.299 million assuming a 7 percent discount.

Valued benefits of this rule total $3.536 million assuming a 3 percent discount rate and $2.223 million assuming a 7 percent discount.

Risks: This rule poses no risk to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	02/00/14	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Agency Contact: Jerimiah Sanders, Environmental Review Division, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, *Phone:* 202 402–4571.

RIN: 2501–AD62

HUD—HUDSEC

94. • Affordability Determination—Energy Efficiency Standards (FR–5647–N–01)

Priority: Other Significant.

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined.

Legal Deadline: None.

Abstract: The Energy Independence and Security Act of 2007 (EISA) requires the U.S. Department of Housing and Urban Development (HUD) and the U.S. Department of Agriculture (USDA) to adopt the most recent revisions to the 2006 International Energy Conservation Code (IECC) and ASHRAE 90.1–2004, subject to (1) a determination that the revised codes do not negatively affect the availability or affordability of new construction of single and multifamily housing covered by the Act, and (2) a determination by the Secretary of Energy that the revised codes ''would improve energy efficiency.'' This Notice announces HUD and USDA's preliminary determination that the 2009 IECC and (with the exception of Hawaii) ASHRAE 90.1–2007 will not negatively affect the affordability and availability of housing covered by the Act. As of November 2012, 32 States plus the District of Columbia have already adopted the 2009 IECC for single family homes, and 35 States plus the District of Columbia have adopted ASHRAE 90.1–2007 for multifamily buildings. The remaining States are committed to adopting these codes under provisions of the American Recovery and Reinvestment Act (ARRA) of 2009. For those States that have not yet adopted either of these standards, this Notice relies on several studies that show that these codes are overwhelmingly cost effective, in that the incremental cost of the 2009 IECC code is typically less than 0.5 percent of total construction costs, and those costs pay for themselves very quickly through energy savings. According to one study, simple paybacks for the 2009 IECC average 3.45 years, and ''mortgage paybacks'' on these additional investments are typically less than 1 year (on average 10.25 months).

Statement of Need: Section 481 of the Energy Independence and Security Act of 2007 (EISA) amends the energy code provisions contained in Section 109 of Cranston-Gonzalez National Affordable Housing Act of 1990 (Cranston-Gonzalez). Section 109(a) of Cranston-Gonzalez, as amended by EISA, allowed for HUD and USDA to collaborate and develop their own energy efficiency building standards for statutorily specified HUD and USDA programs if the agencies developed standards met or exceeded the 2006 IECC or ASHRAE 90.1–2004. However, if the two agencies did not act on this option, EISA specifies that the 2006 IECC and ASHRAE 90.1–2004 would apply.

The two agencies did not develop independent energy efficiency building standards, and therefore the 2006 IECC or ASHRAE 90.1–2004 currently apply to covered HUD and USDA programs. Section 109(d) of Cranston-Gonzalez establishes procedures for updating agency standards following revisions to the 2006 IECC and ASHRAE 90.1–2004 code standards. Section 109(d) provides that revisions to the IECC or ASHRAE codes will apply to HUD and/or USDA's programs if (1) either agency ''make(s) a determination that the revised codes do not negatively affect the availability or affordability'' of new construction housing covered by the Act, and (2) the Secretary of the Department of Energy (DOE) has made a determination under section 304 of the Energy Conservation and Production Act (42 U.S.C. 6833) that the revised codes would improve energy efficiency (see 42 U.S.C. 12709(d)). Since DOE has made its determination of improved efficiency, HUD and USDA must assess the impact of the more recent codes on the affordability and availability of HUD- and USDA-funded new construction is currently being assessed by the two agencies. This notice presents that assessment.

Summary of Legal Basis: In the absence of HUD and USDA developing their own energy efficiency codes, EISA provides for the automatic application of 2006 IECC and ASHRAE 90.1–2004. As revised IECC and ASHRAE codes are produced, under EISA, HUD and USDA must, following DOE's determination of revised codes improving energy efficiency (if that is in fact DOE's determination), provide an assessment of the impact of the revised codes on the affordability and availability of housing under the covered programs. If HUD and USDA determine no negative impact, the revised codes then become the applicable codes.

Alternatives: The alternative provided to HUD and USDA under EISA was to develop their own energy efficiency codes. HUD and USDA did not exercise that option. IECC and ASHRAE are familiar energy codes, revised codes, as required by statute, are reviewed by DOE as a measure to determine improved or enhanced energy

efficiency. A new energy efficiency code developed by HUD and USDA would have introduced a new code with which builders would have to comply. As the joint HUD–USDA notice states, well over 30 States have adopted IECC and ASHRAE as governing building codes.

Anticipated Cost and Benefits: In its assessment of improved efficiency, which includes a cost-benefit analysis, for each of the 35 States and the District of Columbia examined by DOE, DOE identified every building element that would change as a result of adopting the 2009 IECC in that State. Assuming a standard reference house, DOE used a computer model to assess building energy savings that would be achieved under the new code. DOE's model assumed a 2,400 square foot house with regional modifications to foundation systems that reflect local building practices. After analyzing the impact for each State, DOE found that, on a national basis, compliance with the 2009 IECC will yield an annual median cost savings of $243.37, ranging from a high of $468 in Kansas to a low of $200.50 in Massachusetts.

With respect to costs, and based on studies that DOE relied upon it was determined that the weighted average incremental cost of complying with the 2009 IECC over existing state codes would be $840.77, yielding a median annual energy cost savings of $243.37, for a simple payback of 3.45 years. This weighted average incremental cost of $840.77 represents less than 0.32 percent of the average cost of a new home estimated by BCAP in 2009 ($267,451).

Risks: This rule poses no risk to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	11/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Undetermined.

Federalism: Undetermined.

Agency Contact: Michael Freedberg, Department of Housing and Urban Development, Office of the Secretary, 451 7th St. SW., Washington, DC 20410, *Phone:* 202 402–4366.

RIN: 2501–AD64

HUD—OFFICE OF PUBLIC AND INDIAN HOUSING (PIH)

Final Rule Stage

95. Public Housing Energy Audits and Physical Needs Assessments (FR–5507)

Priority: Other Significant.

Legal Authority: 42 U.S.C. 3535(d)

CFR Citation: 24 CFR 905.300.

Legal Deadline: NPRM, Statutory, December 2011.

Abstract: This final rule consolidates the Physical Needs Assessment (PNA) rule (FR–5361) with the Public Housing Energy Audit rule (FR–5507). With respect to the energy audit, the rule would distinguish between ''core energy conservation measures'' (ECMs) that must be addressed and ''advanced ECMs'' that may be addressed. The rule would also establish minimum requirements for energy auditors and moves the energy audit requirements to a different part of HUD's title of the Code of Federal Regulations. With respect to the PNA, the rule would require public housing agencies to project current modernization and life-cycle replacement repair needs of its projects over a 20-year period, rather than a 5-year period, to better coincide with the useful life of individual properties and their building components and systems to ensure the long-term viability of the property. HUD would consolidate these two rules to facilitate greater synchronization between the energy audit and the PNA, so that energy audit data can be better integrated into the PNA and allow for future capital planning activities that take into consideration possible energy savings.

Statement of Need: In an environment of competing priorities, managers need tools to prioritize needs and to model alternative strategies. A PNA an energy audit are essential tools to a long-term strategy for the proactive management of property to move away from inefficient and reactionary management that contributes to property deterioration and obsolescence. Strategies to reduce energy costs are key to HUDs mission of providing long-term affordable housing to those most in need—funds spent on utilities are not spent on property improvements and reduce the proportion of tenant rent payments that are used more usefully for physical maintenance and improvement. Energy audits reveal strategies for saving limited resources that can be recycled into more improvements than would otherwise occur.

Summary of Legal Basis: The Energy Policy Act of 2005, Public Law 109–58 (Approved August 8, 2005), amended section 9(d)(1) of the U. S. Housing Act of 1937, 42 U.S.C. 1437g(d)(1), to add at subparagraphs (K) and (L), as two of the capital and management activities under the capital fund, improvement of energy use and water efficiency, and ''integrated utility management and capital planning to maximize energy conservation and efficiency measures.'' This rule provides for the integrated utility management and capital planning necessary to fulfill this mandate.

Alternatives: HUD determined that its primary alternative was to not revise its regulations concerning physical needs assessment and energy audits. Other than inaction, there is not an alternative to: extending the requirement to perform a physical needs assessment to all PHAs to provide the data needed for better management of the Capital Fund; to changing the current 5 year term of the required PNA to a 20 year term to create a useful strategic planning tool for authorities, and to provide HUD with longer term visibility of needs in the housing portfolio; or to implementing provisions of the Energy Policy Act of 2005 requiring ''integrated utility management and capital planning to maximize energy conservation and efficiency measures''. However, the current lack of integration between energy audits and the PNA, as well as the overly short life-cycle planning period, make inaction a non-viable approach when it comes to assuring that HUD's requirements for the capital fund are in compliance with the Energy Policy Act of 2005, that the PHA's capital needs will be met, and that actions taken to meet those needs will be integrated with necessary energy improvements.

Anticipated Cost and Benefits: With respect to the energy audit, there are minor costs to the extent that the requirements for the energy audit in this rule exceed the current requirements. HUD's analysis suggests that using conservative assumptions, the economic burden of energy audits to PHAs would be $39,864,536 ($32.86 × 1,213,163) every 5 years, or $7,972,907 annually. A mitigating adjustment of 50 percent to account for the existing burden is not an unreasonable assumption. Such an adjustment would reduce the 5-year and annual additional burden to $19,932,268 and $3,986,453, respectively.

With respect to PNAs, HUD estimates that full compliance with the rule will cost PHAs, collectively, up to $29 million once every 5 years or an average of $5.9 million annually. The rule will not have any budgetary impact to the Federal Government, as costs to

implement the PNA will be accommodated within HUD's existing budget authority.

There are also benefits to this rule. With respect to energy audits, for example, if this rule resulted in a 10 percent increase in efficiency, that would translate into significant savings for PHAs, which often pay for utilities in the form of a utility allowance for residents. With respect to PNAs, benefits include identifying capital expenses far enough in advance to allow for consideration of the most efficient method of payment; identifying synergies in the timing and intensity of capital improvements, and avoiding duplicative or wasteful expenditures; making possible a preventive maintenance strategy to maximize the useful life of property components; encouraging the implementation of energy efficiency measures; and increased occupancy and enhanced health and safety as a result of more habitable units.

Risks: This rule poses no risk to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	11/17/11	76 FR 71287
NPRM Comment Period End.	01/18/12	
Final Action	04/00/14	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: None.

Agency Contact: Jeffrey Riddel, Director, Capital Program Division, Department of Housing and Urban Development, Office of Public and Indian Housing, 451 7th Street SW., Washington, DC 20410, *Phone:* 202 402–7378.

RIN: 2577–AC84

BILLING CODE 4210–67–P

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 401 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.

In implementing these priorities through its regulations, the Department

will 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 FWS establishes migratory bird hunting seasons in partnership with flyway councils composed of State fish and wildlife agencies. 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, BLM uses Resource Advisory Councils to advise on management of public lands and resources. These citizen-based groups allow individuals from all backgrounds and interests to have a voice in management of public lands.

In June 2013, NPS published the final rule revising the 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.

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 into DOI's annual regulatory plan.[1]

In examining its existing regulations, 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. 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.

Under section 6 of Executive Order 13563 ''Improving Regulation and Regulatory Review'' (Jan. 18, 2011), the following Regulation Identifier Numbers (RINs) have been identified as associated with retrospective review and analysis in the Department's final retrospective review of regulations plan.

Bureau	Title & RIN	Description	Reduces burdens on small business?
Office of Natural Resources Revenue.	Oil and Gas Royalty Valuation. 1012–AA13	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.
Fish and Wildlife Service	ESA Section 7 Consultation Process; Incidental Take Statements. 1018–AX85	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. A proposed rule published on September 4, 2013. The proposed regulatory changes 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.

[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	Title & RIN	Description	Reduces burdens on small business?
Fish and Wildlife Service	Regulations Governing Designation of Critical Habitat Under Section 4 of the ESA. 1018–AX86	The proposed rule would amend existing regulations governing the designation of critical habitat under section 4 of the Endangered Species Act. The proposed amendments would make minor edits to the scope and purpose, add and remove some definitions, and clarify the criteria for designating critical habitat. A number of factors, including litigation and FWS's 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.
Fish and Wildlife Service	Policy Regarding Implementation of Section 4(b)(2) of the Endangered Species Act. 1018–AX87	This draft policy would articulate our position on how we consider partnerships and conservation plans, habitat conservation plans, tribal lands, military lands, and Federal lands in the exclusion process. This draft policy is meant to complement the proposed amendments to our regulations regarding exclusions from critical habitat and is intended to clarify expectations regarding critical habitat and provide for a credible, predictable, and simplified critical-habitat-exclusion process. This policy would foster 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.
Fish and Wildlife Service	ESA Section 7 Consultation Regulations; Definition of ''Destruction or Adverse Modification'' of Critical Habitat. 1018–AX88	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. The revised definition will provide the Services and Federal agencies with greater clarity in how to ensure that any action they authorize, fund, or carry out is not likely to result in the destruction or adverse modification of critical habitat, consistent with section 7(a)(2) of the ESA. 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	Procedures for Establishing that an Indian Group Exists as an Indian Tribe. 1076–AF18	The Department is examining its regulations governing the process and criteria by which Indian groups are federally acknowledged as Indian tribes to determine how regulatory changes could increase transparency, timeliness, efficiency, and flexibility, while maintaining the integrity of the acknowledgment process.	No.
National Park Service, Fish and Wildlife Service, Bureau of Land Mgt), Bureau of Reclamation, and Bureau of Indian Affairs.	Commercial Filming on Public Lands. 1024–AD30	This joint effort between the National Park Service, Fish and Wildlife Service, Bureau of Land Management, Bureau of Reclamation, and Bureau of Indian Affairs has created consistent regulations and a unified DOI fee schedule for commercial filming and still photography on public land. It provides the commercial filming industry with a predictable fee for using Federal lands, while earning the Government a fair return for the use of the land. The final regulation was published on August 22, 2013. The proposed fee schedule with request for public comment was published on the same date. Following comment analyses a final fee schedule will be published.	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 sections give an overview of some of the major regulatory priorities of DOI bureaus and offices.

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. BIA's mission is to enhance the quality of life, promote economic opportunity, and 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 standards; the review will determine whether a uniform standard would better meet the needs of students at Bureau-funded schools. With regard to undergraduate education, the Bureau of Indian Education 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. 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.

- 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. In the coming year, the Bureau also plans to revise regulations regarding rights-of-way (25 CFR 169); Indian Reservation Roads (25 CFR 170); and certain regulations specific to the Osage Nation.

Bureau of Land Management

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, 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, 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 20 years ago and do not reflect modern technology. In seeking to modernize its requirements and ensure the protection of our Nation's public lands, BLM has proposed a rule that would disclose to the public 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.

- Creating a competitive process for offering lands for solar and wind energy development.

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 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.

- Preventing waste of produced oil and gas and regulating use for beneficial purposes.

A proposed rule would cover the prevention of waste by minimizing the amount of venting and flaring that takes place on oil and gas production facilities on Federal and Indian lands. It would also delineate which activities qualify for 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.

- Seeking public input on managing waste mine methane.

BLM plans to issue an advance notice of proposed rulemaking (ANPRM) requesting information from the public that might assist the bureau in the establishment of a program to capture, use, or destroy waste mine methane from Federal coal leases and Federal leases for other solid minerals.

- Ensuring a fair return to the American taxpayer for oil shale development.

The rule would encourage responsible development of federal oil shale resources and evaluate necessary safeguards to protect scarce water resources and important wildlife habitat while assuring a fair royalty to the American people.

Bureau of Ocean Energy Management (BOEM)

The Bureau of Ocean Energy Management (BOEM) promotes energy independence, environmental protection and economic development through responsible, science-based management of offshore conventional and renewable energy resources. It is dedicated to fostering the development of both conventional and renewable energy and mineral resources on the Outer Continental Shelf (OCS) in an

efficient and effective manner, balancing the need for economic growth with the protection of the environment and conservation of the nation's scarce resources. The Bureau is committed to fostering the expansion of domestic energy production, domestic energy independence and providing essential revenues to support the economic development of the country. BOEM thoughtfully considers and balances the potential environmental impacts involved in exploring and extracting these resources. BOEM's near-term regulatory agenda will focus on a number of issues, including:

• Expanding renewable energy resources.

As part of President Obama's comprehensive plan to move our economy toward domestic clean energy sources, BOEM is holding offshore renewable energy lease sales for the first time in U.S. history. BOEM is preparing to develop a number of standards and criteria to facilitate the more effective use of wind turbine technology on the OCS. The Bureau is completing a rulemaking to provide additional time for applicants for renewable projects to submit certain plans for which BOEM found the regulatory timeline to be unreasonable. This is designed to provide an appropriate balance between ensuring diligent progress on our renewable energy leases and accounting for the needs of renewable energy developers.

Two proposed rulemakings address recommendations submitted to BOEM by the Transportation Research Board of the National Academies and its stakeholders. Specifically, these include recommendations to: Develop and incorporate state of the art wind turbine design standards and to clarify the role of Certified Verification Agents as part of the process of designing, fabricating, and installing offshore wind energy facilities for the OCS.

• Promoting safe drilling activities on the Alaska Outer Continental Shelf.

BOEM, jointly with the Bureau of Safety and Environmental Enforcement (BSEE), is developing proposed rules to promote safe, responsible, and effective drilling activities on the Alaska Outer Continental Shelf, while also ensuring the protection of Alaska's coastal communities and the marine environment.

• Protecting the Environment.

In a continuing effort to minimize the risk that oil spills will occur and that the effects of any future potential spills can be minimized and fully mitigated, BOEM is raising the limits of liability associated with future spills up to the statutory maximum. BOEM is also revising its regulations designed to oversee the Oil Spill Financial Responsibility process for which it is responsible. In addition, working in close conjunction with the U.S. Coast Guard and the Department of Justice, BOEM is making a concerted effort to make sure that all necessary resources will be made available to address all potential contingencies of an oil spill and associated damages.

• Updating BOEM's Air Quality Program.

Until recently, the Department of the Interior (DOI) has exercised jurisdiction for air quality only for OCS sources operating in the Gulf of Mexico. In fiscal year 2012, Congress expanded DOI's authority by transferring to it responsibility for monitoring OCS air quality off the north coast of Alaska. In light of this change, BOEM is undertaking a thorough review of its air quality program. BOEM intends to exercise its mandate by ensuring the responsible development of natural resources in both regions by ensuring that regulations are developed to appropriately balance environmental needs and requirements against the needs for economic development. In doing this, BOEM is consulting and coordinating its efforts with the U.S. Fish and Wildlife Service, the National Park Service and the Environmental Protection Agency.

• Protecting OCS Sand, Gravel, and Shell Resources.

In light of the continuing need to provide resources to protect the coast from natural disasters like Hurricane Sandy, BOEM is developing policies and goals to formally address the use of OCS sand, gravel, or shell resources funded by the Federal government. These policies are intended to ensure that necessary sand and gravel resources remain available to help communities that have been harmed by hurricanes and other disasters, so that beaches and other natural resources can effectively be restored, without adversely impacting the development of transmission lines and pipelines needed for energy development projects. Taken together, these policies will ensure that the development of renewable and conventional energy resources continues to take place in areas adjacent to key sand and gravel resource zones and that sand and gravel resources continue to be available for construction projects, shore protection, beach replenishment, or wetlands restoration purposes.

Bureau of Safety and Environmental Enforcement

BSEE's mission is to regulate 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 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.

BSEE has identified the following four areas of regulatory priorities: (1) Compliance; (2) Oil Spill Response; (3) Alaska; 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.

• Alaska.

BSEE is working with BOEM on a joint proposed rule to promote safe, responsible, and effective drilling activities on the Alaska OCS while ensuring protection of Alaska's communities and marine environment.

• Managing and Mitigating Risk.

BSEE will develop a proposed rule containing requirements on blowout preventers and critical reforms in the areas of well design, well control, casing, cementing, real-time monitoring, and subsea containment. This proposed rule will address and implement multiple recommendations resulting from various investigations from the Macondo blowout.

Office of Natural Resources Revenue

The Office of Natural Resources Revenue (ONRR) will continue to collect, account for, and disburse 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:

• Simplifying 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.

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:

• Critical habitat regulations under the Endangered Species Act (ESA).

FWS will issue rules 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.

• Bald and Golden Eagle Protection Act regulatory reform.

In an effort to promote renewable energy while carrying out our responsibility to protect certain species of birds, 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.

• Protecting 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.

• Making regulations more user-friendly.

We will issue rules to amend the format of the ESA 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.

National Park Service

NPS preserves unimpaired the natural and cultural resources and values within more than 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. 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 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.

NPS' regulatory priorities for the coming year include:

• Managing Off Road Vehicle Use

(1) Curecanti National Recreation Area: A proposed rule published in July of 2013. The rule would 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 would provide 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) Fire Island National Seashore: The rule would define applicable terms, designates driving routes, driving conditions, and establishes permit conditions for ORV use within Fire Island National Seashore.

(3) Wrangell St.-Elias National Preserve: The rule would (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.

(4) Lake Meredith NRA: The rule would designate ORV routes, addresses required safety equipment, speed limits and clarifies ORV use for the benefit of NPS personnel and the public.

(5) Glen Canyon NRA: The rule would authorize ORV use, designate routes and areas, and establish criteria for operation of ORVs.

• Managing Bicycling

NPS rules would authorize and manage designate bicycles routes and allow for management of bicycle use on designated routes at Cuyahoga Valley National Park, New River Gorge National River, Chattahoochee NRA, Sleeping Bear Dunes National Lakeshore, and Lake Meredith National Recreation Area.

• Implementing 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.

(21) A new rule would establish a process for disposition of Unclaimed Human Remains and Funerary Objects discovered after November 16, 1990, on Federal or Indian Lands.

(2) A rule revising the existing regulations would describe the NAGPRA process in plain language with clear time parameters, eliminate ambiguity, clarify terms, and include Native Hawaiians in the process. The rule would eliminate unnecessary requirements for museums and would not add process or new information collection.

• Regulating Non-Federal Oil and Gas Activity on NPS Land

The rule would account for new technology and industry practices, eliminate regulatory exemptions, update new legal requirements, remove caps on bond amounts, and allow the NPS to recover compliance costs associated with administering the regulations.

Bureau of Reclamation

The Bureau of Reclamation's mission is to manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American public. To accomplish this mission, we employ management, engineering, and science to achieve effective and environmentally sensitive solutions.

Reclamation projects provide: Irrigation water service, municipal and industrial water supply, hydroelectric power generation, water quality improvement, groundwater management, fish and wildlife enhancement, outdoor recreation, flood control, navigation, river regulation and control, system optimization, and related uses. We have continued to focus on increased security at our facilities. As we undertake our responsibilities, we are continually reviewing the regulations and policies that govern our work and considering potential improvements to streamline our processes while protecting our nation's water resources and the environment.

BILLING CODE 4310–10–P

DEPARTMENT OF JUSTICE (DOJ)—FALL 2013

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 foreign and domestic threats, to provide Federal leadership in preventing and controlling crime, to seek just punishment for those guilty of unlawful behavior, and to ensure the 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 law enforcement 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 Division

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 fiscal year 2015. 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. The Department will also be revising its regulations for Coordination of Enforcement of Non-Discrimination in Federally Assisted Programs.

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 early fiscal year 2014, the Department plans to propose amendments to both its title II and title III ADA regulations and the Department plans to propose amendments to its section 504 regulations to implement the ADA Amendments Act of 2008 in the last quarter of fiscal year 2014.

Captioning and Audio 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 audio description in movie theaters. In the movie theater context, ''closed captioning'' refers to captions that only the patron requesting the closed captions can see because the captions are delivered to the patron at or near the patron's seat. Audio description is a technology that enables individuals who are blind or have low vision to enjoy movies by providing a spoken narration of key visual elements of a visually delivered medium, such as actions, settings, facial expressions, costumes, and scene changes.

Since 1991, there have been many technological advances in the area of closed captioning and audio 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 would either replace or augment digital cinema or make any regulatory requirements for captioning and audio description more difficult or expensive to implement. The Department received approximately 1171 public comments in response to its movie captioning and audio description ANPRM. The Department is in the process of completing its review of these comments and expects to publish an NPRM addressing captioning and audio description in movie theaters in early fiscal year 2014.

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 early fiscal year 2014 with the publication of the title III NPRM to follow towards the middle of fiscal year 2014.

The final rulemaking initiatives from the 2010 ANPRMs are included in the Department's long-term priorities projected for fiscal year 2015:

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 that people with communication disabilities 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 fiscal year 2015.

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 early fiscal year 2015 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 fiscal year 2015.

Coordination of Enforcement of Non-Discrimination in Federally Assisted Programs. In addition to the foregoing disability-related regulatory initiatives, the Department is planning to revise the co-ordination regulations implementing title VI of the Civil Rights Act, which have not been updated in over 30 years. Among other things, the updates will revise outdated provisions, streamline procedural steps, streamline and clarify provisions regarding information and data collection, promote opportunities to encourage public engagement, and incorporate current law regarding meaningful access for individuals who are limited English proficient.

Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)

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 explosives, and to assist State, local, and other Federal law enforcement agencies in reducing crime and violence. The Department is including one rulemaking initiative from ATF in its Regulatory Plan. The Department is planning to finalize a proposed rule to amend ATF's regulations regarding the making or transferring of a firearm under the National Firearms Act. As proposed, this rule would (1) add a definition for the term ''responsible person''; (2) require each responsible person of a corporation, trust or legal entity to complete a specified form, and to submit photographs and fingerprints; and (3) modify the requirements regarding the certificate of the chief law enforcement officer.

ATF will continue, as a priority during fiscal year 2014, to seek modifications to its regulations governing commerce in firearms and explosives. ATF plans to issue regulations to finalize the current interim rules 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). 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. In addition, ATF also has several other rulemaking initiatives as part of the Department's rulemaking agenda.

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.

Drug Enforcement Administration (DEA)

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 2014, 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 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.

Bureau of Prisons

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.

Executive Office for Immigration Review (EOIR)

On March 1, 2003, pursuant to the Homeland Security Act of 2002 (HSA), the responsibility for immigration enforcement and border security and for providing immigration-related services and benefits, such as naturalization, immigrant petitions, and work authorization, was transferred from the Justice Department's former Immigration and Naturalization Service (INS) to the Department of Homeland Security (DHS). However, the immigration judges and the Board of Immigration Appeals (Board) in EOIR remain part of the Department of Justice. The immigration judges adjudicate approximately 400,000 cases each year to determine whether aliens should be ordered 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 conducting 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, including, but not limited to: a joint regulation with DHS to provide guidance on a number of issues central to the adjudication of applications for asylum and withholding of removal; a joint regulation with DHS to provide, with respect to applicants who are found to have engaged in persecution of others, a limited exception for actions taken by the applicant under duress; a joint regulation with DHS to implement procedures that address the specialized needs of unaccompanied alien children in removal proceedings pursuant to the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008; a proposed regulation to establish procedures for the filing and adjudication of motions to reopen removal, deportation, and exclusion proceedings based upon a claim of ineffective assistance of counsel; and a proposed regulation to improve the recognition and accreditation process for organizations and representatives that appear in immigration proceedings before EOIR. 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

96. Implemenation of the ADA Amendments Act of 2008 (Title II and TitleE 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 35; 28 CFR 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: In order to ensure consistency in application of the ADA Amendments Act across titles I, II and III of the ADA, this rule is intended to be consistent with the language of the EEOC's rule implementing the ADA Amendments Act with respect to title I of the ADA (employment). The Department will, however, consider alternative regulatory language suggested by commenters so long as it maintains that consistency.

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. According to the Department's preliminary analysis, it is anticipated that the rule will cost between $36.32 million and $61.8 million in the first year (the year with the highest costs). The Department estimates that in the first year of the implementation of the proposed rule, approximately 142,000 students will take advantage of additional testing accommodations than otherwise would have been able to without the changes made to the definition of disability to conform to the ADA Amendments Act. The Department believes that this will result in benefits for many of these individuals in the form of significantly higher earnings potential. The Department expects that the rule will also have significant non-quantifiable benefits to persons with newly covered disabilities in other contexts, such as benefits of non-exclusion from the programs, services and activities of state and local governments and public accommodations, and the benefits of access to reasonable modifications of policies, practices and procedures to meet their needs in a variety of contexts. 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	11/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Businesses, Governmental Jurisdictions.

Government Levels Affected: Local, State.

Agency Contact: Rebecca B. Bond, Chief, Department of Justice, Civil Rights Division, Disability Rights Section, 950 Pennsylvania Ave. NW., Washington, DC 20530, *Phone:* 800 514–0301.

RIN: 1190–AA59

DOJ—CRT

97. 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 39; 28 CFR 41; 28 CFR 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's preliminary assessment in this early stage of the rulemaking process is that this rule will 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. The Department's Section 504 rule will incorporate the same changes made by the ADA Amendments Act to the definition of disability as are included in the proposed changes to the ADA title II and title III rules (1190–AA59), which will be published in the **Federal Register** in the near future. Therefore, we do not believe that the revisions to the Department's existing Section 504 federally assisted regulations will have any additional economic impact, because public and private entities that receive federal financial assistance from the Department are also likely to be subject to titles II or III of the ADA. The Department expects to consider further the economic impact of the proposed rule on the Department's existing Section 504 federally conducted regulations, but anticipates that the rule will not be economically significant within the meaning of Executive Order 12866. This is because the revisions to these regulations will only apply to the Department's programs and activities and how those programs and activities are operated so as to ensure compliance with the nondiscrimination requirements of Section 504. In the NPRM, the Department will be soliciting public comment in response to its initial assessment of the impact of the proposed rule.

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	09/00/14	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Businesses, Governmental Jurisdictions.

Government Levels Affected: Local, State.

Federalism: Undetermined.

Agency Contact: Rebecca B. Bond, Chief, Department of Justice, Civil Rights Division, Disability Rights Section, 950 Pennsylvania Ave. NW., Washington, DC 20530, *Phone:* 800 514–0301.

RIN: 1190–AA60

DOJ—CRT

98. Nondiscrimination on the Basis of Disability; Accessibility of Web Information and Services of Public Accommodations

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

Legal Authority: 42 U.S.C. 12101, *et seq.*

CFR Citation: 28 CFR 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 disabilities 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 with disabilities 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 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 disabilities 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, including alternative implementation schedules and technical requirements applicable to certain Web features or based on a covered entity's size. The Department will solicit public comment addressing its proposed 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 services 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. At this stage in the process, the Department is not yet able to provide a preliminary estimate of costs and benefits .

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	04/00/14	

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: Rebecca B. Bond, Chief, Department of Justice, Civil Rights Division, Disability Rights Section, 950 Pennsylvania Ave. NW., Washington, DC 20530, *Phone:* 800 514–0301.

RIN: 1190–AA61

DOJ—CRT

99. Nondiscrimination on the Basis of Disability; Movie Captioning and Audio Description

Priority: Other Significant.

Legal Authority: 42 U.S.C. 12101, *et seq.*

CFR Citation: 28 CFR 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	12/00/13	

Regulatory Flexibility Analysis Required: Undetermined.

Small Entities Affected: Businesses.

Government Levels Affected: None.

Agency Contact: Rebecca B. Bond, Chief, Department of Justice, Civil Rights Division, Disability Rights Section, 950 Pennsylvania Ave. NW., Washington, DC 20530, *Phone:* 800 514–0301.

RIN: 1190–AA63

DOJ—CRT

100. 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 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	12/00/13	

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: Rebecca B. Bond, Chief, Department of Justice, Civil Rights Division, Disability Rights Section, 950 Pennsylvania Ave. NW., Washington, DC 20530, *Phone:* 800 514–0301.

RIN: 1190–AA65

DOJ—BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES (ATF)

Proposed Rule Stage

101. Machine Guns, Destructive Devices and Certain Other Firearms; Background Checks for Responsible Persons of a Corporation, Trust, or Other Legal Entity With Respect To Making or Transferring a Firearm

Priority: Other Significant.

Legal Authority: 26 U.S.C. 7805

CFR Citation: 27 CFR 479

Legal Deadline: None.

Abstract: The Department of Justice is planning to finalize a proposed rule to amend the regulations of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) regarding the making or transferring of a firearm under the National Firearms Act. As proposed, the rule would (1) add a definition for the term ''responsible person''; (2) require each responsible person of a corporation, trust or legal entity to complete a specified form, and to submit photographs and fingerprints; and (3) modify the requirements regarding the certificate of the chief law enforcement officer (CLEO).

Statement of Need: The current firearms regulations permit a corporation, partnership, trust or other legal entity to submit applications to ATF to acquire firearms registered under the National Firearms Act (NFA) without a responsible person of such an entity having to meet requirements currently in place for individuals that seek to ensure that prohibited persons do not gain access to NFA firearms (i.e., undergo a background check, provide a certificate of a CLEO).

Summary of Legal Basis: This rulemaking is in response to a petition for rulemaking. No aspect of this rulemaking is required by statute or court order.

Alternatives: The Agency is soliciting public comment on how the application process can be made more efficient and effective.

Anticipated Cost and Benefits: Total annual costs are estimated at $14.9 million and encompass costs to legal entities associated with the application, ATF processing costs, and costs to local and State agencies in providing the CLEO certificate. There will be public safety benefits as the provisions will enable ATF to ensure that responsible persons within legal entities are not prohibited from possessing NFA firearms under Federal, State, or local law.

Risks: This proposed rule may prevent a prohibited person, who is a responsible person in a legal entity, from obtaining an NFA firearm and using it to commit a violent crime.

Timetable:

Action	Date	FR Cite
NPRM	09/09/13	78 FR 55014
NPRM Comment Period End.	12/09/13	
Final Action	06/00/14	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

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RIN: 1140–AA43

BILLING CODE 4410–BP–P

DEPARTMENT OF LABOR

Fall 2013 Statement of Regulatory Priorities

For over 100 years, the Labor Department has been central to safe guarding and expanding the American Dream for American working families. The Department's Fall 2013 Regulatory Agenda supports that mission—specifically, Secretary Perez's goal to develop and implement policies that create opportunity for everyone who wants it. These include policies that provide the opportunities for:

- Workers to acquire the skills they need to succeed;
- Employers to have the skilled workforce required to compete in a global economy;
- Employees to earn a fair day's pay for a fair day's work;
- Veterans to thrive in the civilian economy;
- Persons with disabilities to contribute productively to the workforce;
- Improved health benefits and a dignified retirement; and,
- Safe and healthy work environments, fully protected by anti-discrimination laws.

This narrative describes several of the Department's *Plan/Prevent/Protect, Openness and Transparency, Risk Reduction,* and *Regulatory Review and Burden Reduction* initiatives. The Fall 2013 Regulatory Agenda utilizes this combination of approaches as one piece of the strategy to advance the Department's mission and the Secretary's goal.

Plan/Prevent/Protect. The regulatory actions that comprise the Department's Plan/Prevent/Protect approach are designed to ensure employers and other regulated entities are in full compliance with the law every day, not just when the Department of Labor engages an employer. First announced with the Spring 2010 Regulatory Agenda, this strategy shifts the burden of ensuring compliance from the Department—which cannot and does not want to inspect every workplace—to the regulated entity itself. Employers, unions, and others who follow the Department's Plan/Prevent/Protect strategy will assure compliance with employment laws before Labor Department enforcement personnel ever have to arrive at their doorsteps. Most important, rules published under this strategy will continue to assure that workers get the safe, healthy, diverse, family-friendly, and fair workplaces they deserve. In the Fall 2013 Regulatory Agenda, the Occupational Safety and Health Administration (OSHA) and the Mine Safety and Health Administration (MSHA) will propose regulatory actions furthering the Department's implementation of the Plan/Prevent/Protect strategy.

Openness and Transparency. Greater openness and transparency also continue to be central to the Department's compliance and regulatory strategies. The Fall 2013 Regulatory Plan demonstrates the Department's continued commitment to these two goals, not only as stakeholder engagement strategies, but also an important means to achieve compliance in the regulated community. The Department believes that when employers, workers, advocates, and members of the public have greater access to information concerning workplace conditions and expectations, achieving compliance is not only possible but often also becomes a cooperative exercise. Openness and transparency encourage greater levels of compliance by the regulated community, enhance awareness among workers of their rights and benefits, and provide employers with clear expectations, actionable data, and a level playing field on which to build their businesses.

Risk Reduction. 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 2013 Regulatory Agenda includes risk reduction initiatives to address such specific concerns, many of which are discussed in this document.

Regulatory Review and Burden Reduction. 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 protecting the health, welfare, safety, and the environment for all Americans—a goal at the core of the Labor Department's mission—while fostering economic growth, job creation, and competitiveness. The Department's Fall 2013 Regulatory Agenda also aims to achieve more efficient and less burdensome regulations through a retrospective review of the Labor Department regulations.

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.'' The plan identified several burden-reducing regulatory projects. Projects such as OSHA's Standard Improvement Project—Phase IV (SIP IV) and OSHA's Revising to Record Requirements in the Mechanical Power Presses Standard are both expected to produce savings for the covered community.

The Department is also taking action to eliminate regulations that are no longer effective or enforceable. This effort has included the removal of obsolete ETA's Job Training Partnership Act program regulations. The effort will continue with the removal of attestation requirements for facilities using nonimmigrant aliens as registered nurses in the H–1A program (authorized by the Immigration Nursing Relief Act of 1999); removal of attestation requirements for employers using F–1 students in off-campus work (authorized by the Immigration Act of 1990); and removal of remove obsolete regulations regarding labor certification process requirements for logging employment and non-H–2A agricultural employment. This agenda includes 13 retrospective review projects.

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 each subsequent update 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–AC67	Standard Improvement Project—Phase IV (SIP IV)	Yes.
1218–AC74	Review/Lookback of OSHA Chemical Standards	To Be Determined.
1218–AC80	Revising Record Requirements in the Mechanical Power Presses Standard	No.
1218–AC81	Cranes and Derricks in Construction: Amendments	No.
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.
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–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.

The Department's *Plan/Prevent/Protect, Openness and Transparency,* and *Risk Reduction* initiatives work in concert with its implementation of E.O. 13563. These regulations strengthen protections for workers while maintaining flexibility for businesses to comply. By requiring employers and other regulated entities to take full ownership of their compliance with clearly defined Department regulations; by promoting greater openness and transparency for employers and workers alike; and by encouraging regulated entities to adopt a strategy that includes planning and prevention, the Labor Department believes it can increase compliance with its regulations across all regulated entities. The increased effectiveness of this compliance strategy will enable the Department to create opportunity—both for businesses to comply in the way that is most efficient, least burdensome, and in line with their existing business practices, and for workers to labor in safe and healthy environments. A discussion of several of these initiatives follows.

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 that place American workers at risk of serious injury, illness, and death are the focus of several initiatives on OSHA's regulatory agenda. In addition to targeting specific hazards, OSHA is focusing on proposing changes to systematic processes that would modernize the culture of safety in America's workplaces. OSHA continues work on its retrospective review projects that when completed will both update outdated regulations and reduce burdens on regulated employers. OSHA's retrospective review projects include consideration of the Bloodborne Pathogens standard, updating consensus standard references in OSHA standards, phase IV of OSHA's standard improvement project (SIP IV), and reviewing Permissible Exposure Limits of various hazardous chemicals.

OSHA Plan/Prevent/Protect Initiatives

• *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. 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.

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 routes of transmission.) 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 and 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 on this topic.

• *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 four well attended stakeholder meetings across the country. 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 who have implemented similar injury and illness prevention programs have reduced significantly 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.

OSHA Openness and Transparency Initiatives

• *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. Under the proposed rule, OSHA will explore requiring employers to submit electronically to the Agency data required by its part 1904 regulations governing the Recording and Reporting of Occupational Injuries. OSHA learned from stakeholders that most large employers already maintain their part 1904 data electronically. As a result, electronic submission will constitute only a minimal additional 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 would not add to or change the recording criteria or definitions in part 1904. The proposed rule would only modify 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 2013 Regulatory Agenda, OSHA proposes to issue procedural rules that will establish consistent and transparent procedures for the filing of whistleblower complaints under seven statutes. 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.

OSHA Risk Reduction Initiatives

• *Silica.* OSHA has announced a proposed rule aimed at curbing lung cancer, silicosis, chronic obstructive pulmonary disease and kidney disease in America's workers. The proposal seeks to lower worker exposure to crystalline silica, which kills hundreds of workers and sickens thousands more each year. Once the full effects of the rule are realized, OSHA estimates that the proposed rule would result in saving nearly 700 lives per year and prevent 1,600 new cases of silicosis annually. 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 work environments, MSHA will also utilize information provided by OSHA to undertake regulatory action related to silica exposure in mines.

• *Preventing Backover Injuries and Fatalities.* According to the Department's Bureau of Labor Statistics, backing accidents caused at least 75 occupational deaths in 2011. 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. OSHA is collecting information on this hazard and researching emerging technologies that may help reduce this risk. OSHA published an RFI on March 27, 2012 seeking information from the public; the comment period ended on July 27, 2012. The Agency has held stakeholder meetings in Washington, DC and Arlington, TX, and is also conducting site visits to employers.

• *Reinforced Concrete in Construction.* Currently, workers performing steel reinforcing suffer injuries caused by unsafe material handling, structural collapse, and impalement by protruding reinforcing steel dowels, among others. OSHA IMIS data indicates that 31 workers died while performing work on or near post-tensioning operations or reinforcing steel between 2000 and 2009. Current rules regarding reinforcing steel and post-tensioning activities may not adequately address hazards facing workers engaged in these activities. OSHA has published an RFI seeking information about the hazards associated with reinforcing operations in construction.

OSHA Regulatory Review and Burden Reduction Initiatives

• *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 implemented.

• *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 without diminishing employee protections. OSHA has published an RFI in the **Federal Register** asking the public for candidate ideas for improvements in its construction safety standards (77 FR 72781: December 6, 2012). Candidate ideas were presented to the Advisory Committee on Construction Safety and Health at its May and August 2013 meetings.

• *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 to reflect newer scientific data that indicate that significant occupational health risks exist at levels below OSHA's current 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.

Mine Safety and Health Administration (MSHA)

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. 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.

MSHA Plan/Prevent/Protect Initiatives

• *Proximity Detection Systems for Continuous Mining Machines in Underground Coal Mines.* From 1984 to 2012, there have been 33 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. MSHA published a proposed rule to address the danger that miners face when working near continuous mining machines in underground coal mines. 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 mine operators to equip certain mobile machines, with proximity detection systems. Miners working near mobile machines face pinning, crushing, and striking hazards that have resulted, and continue to result, in accidents involving life threatening injuries and death. Proximity detection technology can prevent these types of accidents by detecting the presence of personnel or equipment within a certain distance of the machine. The proposal would strengthen protections for miners by reducing the potential for pinning, crushing, or striking accidents in underground mines.

MSHA Risk Reduction Initiatives

• *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 National Institute for Occupational Safety and Health (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 at 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 to the explosion. The IR report also included recommendations for regulatory actions. In response to the recommendations, MSHA expects to 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 demonstrate its 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. 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 NIOSH, and other groups to address the exposure limit for respirable crystalline silica. As an 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.

MSHA Regulatory Review and Burden Reduction Initiative

• *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.

OFCCP Plan/Prevent/Protect Initiative

• *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 1980 based on 1970 Census data, the most current data available at the time. The goals for the utilization of women in construction occupations were issued in 1978, and extended indefinitely in 1980, were also developed using 1970 Census data. The proposed rule would remove these outdated goals and provide 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 Regulatory Review and Burden Reduction Initiative

• *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. 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. 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 141 million individuals covered by an estimated 701,000 private retirement plans, 2.3 million health plans, and similar numbers of other welfare benefit plans, which together hold $7.3 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 America's 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 also encourage greater levels of compliance by the regulated community and improve awareness among workers of their rights and benefits. EBSA's Fall 2013 agenda expands 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 the Abandoned Plan Program amendments.

EBSA Risk Reduction Initiative

• *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 129 million individuals in employer-sponsored plans. EBSA will continue its work to ensure a smooth implementation of the legislation's market reforms, minimize disruption to existing plans and practices, and strengthen America's health care system.

• *Enhancing Participant Protections by Reducing Conflicts of Interest.* EBSA plans to re-propose amendments to its regulations to reduce harmful conflicts of interest by clarifying the circumstances under which a person will be considered a ''fiduciary'' when providing investment advice to retirement plans and other employee benefit plans, to participants and beneficiaries of such plans, and to owners of individual retirement accounts (IRAs). The amendments would consider current practices of investment advisers and the expectations of plan officials and participants who receive investment advice, as well as changes that have occurred in the investment marketplace and in the ways advisers are compensated since the current regulation's issuance. These compensation arrangements frequently subject advisers to harmful conflicts of interest that can compromise the quality of advice given to plan participants and IRA owners. 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 and not to act on conflicts of interest when providing the investment advice relied upon by millions of plan sponsors and workers.

EBSA Openness and Transparency Initiative

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 1210–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.* In 2010 EBSA 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 that 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 published 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 (RIN 1210–AB20). In further support of this initiative, EBSA also is developing proposed amendments to a safe harbor regulation (29 CFR section 2550.404a–4) that will provide plan fiduciaries with more certainty that they have discharged their obligations under section 404(a)(1)(B) of ERISA in selecting an annuity plan provider and contract for benefit distributions from an individual account retirement plan (RIN: 1210–AB58).

EBSA Regulatory Review and Burden Reduction Initiative

• *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 has six years of experience with this program and believes certain changes would improve the 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 because of 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. 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 overall cost it would take to terminate and wind up such plans. This will result in larger benefit distributions to participants and beneficiaries in 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. 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.

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. OLMS also implements a federal transportation law by ensuring that workplace rights of mass transit employees will be protected whenever federal funds are used to acquire, improve, or operate a transit system.

OLMS 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 American Job Centers. The programs within ETA promote ladders of opportunity 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 sought in the 21st century's economy.

ETA Regulatory Review and Burden Reduction

• *Equal Employment Opportunity in Apprenticeship and Training, Amendment of Regulations.* The revision of the National Apprenticeship Act's Equal Opportunity in Apprenticeship and Training (EEO) regulations is a critical element in the Department's vision to promote and expand registered apprenticeship opportunities, and to meet the changing workforce, demographic and industry needs. The regulation will help eliminate much of the uncertainty around the current regulations; simplifying outdated procedures and requirements, while establishing clearer expectations with regard to EEO on behalf of apprenticeship sponsors. 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, and the proposed regulation will provide consistency with Federal EEO laws developed over the last 35 years. 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 Perez's vision to create more opportunities 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.

• *Federal-State Unemployment Compensation Program; Implementing the Total Unemployment Rate As An Extended Benefits Indicator and Amending For Technical Corrections.* This rule will update regulations to conform to existing law and State practice. It will benefit State Unemployment Insurance systems by removing any potential confusion between complying with guidance and current Federal 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 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).

BILLING CODE 4510–04–P

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 19 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 and 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 motorcoaches.

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–AJ90	Effective Tether System (Tether Rule) (RRR)	
2. 2120–AJ94	Enhanced Flight Vision System (EFVS) (RRR)	
3. 2120–AJ97	14 CFR Part 16; Rules of Practice for Federally-Assisted Airport Enforcement Proceedings (RRR).	Y
4. 2120–AK01	Combined Drug and Alcohol Testing Programs for Operators Conducting Commercial Air Tours (RRR).	Y
5. 2120–AK11	Minimum Altitudes for Use of Autopilots (RRR)	
6. 2120–AK28	Part 61 and 91 Recommended Rule Changes (RRR)	
7. 2120–AK32	Acceptance Criteria for Portable Oxygen Concentrators Used Onboard Aircraft (RRR)	
8. 2125–AF44	Administration of Engineering and Design Related Service Contracts (RRR)	
9. 2126–AB46	Inspection, Repair, and Maintenance; Driver-Vehicle Inspection Report (RRR)	Y
10. 2126–AB47	Electronic Signatures (E-Signatures) (RRR)	Y
11. 2126–AB49	Elimination of Redundant Maintenance Rule (RRR)	Y
12. 2127–AK99	Federal Motor Vehicle Standard No. 108; Lamps, reflective devices, and associated equipment—Color Boundaries (RRR).	Y
13. 2127–AL05	Amend FMVSS No. 210 to Incorporate the Use of a New Force Application Device (RRR)	Y
14. 2127–AL24	Rapid Tire Deflation Test in FMVSS No. 110 (RRR)	
15. 2130–AC27	Positive Train Control Systems Amendments (RRR)	Y
16. 2130–AC32	Positive Train Control Systems: De Minimis Exception, Yard Movements, En Route Failures; Miscellaneous Grade Crossing/Signal and Train Control Amendments (RRR).	Y
17. 2130–AC40	Qualification and Certification of Locomotive Engineers; Miscellaneous Revisions (RRR)	
18. 2130–AC41	Hours of Service Recordkeeping; Electronic Recordkeeping Amendments (RRR)	
19. 2130–AC43	Safety Glazing Standards; Miscellaneous Revisions (RRR)	
20. 2130–AC44	Revisions to Signal System Reporting Requirements (RRR)	
21. 2132–AB02	Major Capital Investment Projects (RRR)	
22. 2132–AB03	Environmental Impact and Related Procedures (RRR)	
23. 2133–AB79	Administrative Claims, Part 327 (RRR)	
24. 2137–AE38	Hazardous Materials: Compatibility With the Regulations of the International Atomic Energy Agency (IAEA) (RRR).	
25. 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
26. 2137–AE70	Hazardous Materials: Revision of Requirements for Fireworks Approvals (RRR)	Y
27. 2137–AE72	Pipeline Safety: Safety of Gas Transmission Pipelines(RRR)	Y
28. 2137–AE78	Hazardous Materials: Miscellaneous Amendments (RRR)	Y
29. 2137–AE79	Hazardous Materials: Miscellaneous Amendments; Petitions for Rulemaking (RRR)	Y
30. 2137–AE80	Hazardous Materials: Miscellaneous Pressure Vessel Requirements (DOT Spec Cylinders) (RRR).	Y
31. 2137–AE81	Hazardous Materials: Reverse Logistics (RRR)	Y
32. 2137–AE82	Hazardous Materials: Incorporation of Certain Special Permits and Competent Authorities into the HMR (RRR).	Y
33. 2137–AE85	Pipeline Safety: Periodic Updates of Regulatory References to Technical Standards and Miscellaneous Amendments (RRR).	
34. 2137–AE86	Hazardous Materials: Requirements for the Safe Transportation of Bulk Explosives (RRR)	
35. 2137–AE87	Hazardous Materials: Harmonization with International Standards (RRR)	
36. 2137–AE91	Hazardous Materials: Rail Petitions and Recommendations to Improve the Safety of Railroad Tank Car Transportation (RRR).	Y
37. 2137–AE94	Pipeline Safety: Operator Qualification, Cost Recovery and Other Pipeline Safety Proposed Changes 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)

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 2014, 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 Enhancing Airline Passenger Protections III
- Carrier-Supplied Medical Oxygen, Accessible In-Flight Entertainment Systems, Service Animals, and Accessible Lavatories on Single-Aisle Aircraft.

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 2014 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.
- Respond to recommendations from Part 23 Reorganization Aviation Rulemaking Aviation Rulemaking Committee (ARC) for improving safety and reducing certification costs for general aviation. The ARC recommendations include a broad range of policy and regulatory changes that it believes could significantly improve the safety of general aviation aircraft while simultaneously reducing certification and modification costs for these aircraft. Among the ARC's recommendations is a suggestion that compliance with part 23 requirements be performance-based, focusing on the complexity and performance of an aircraft instead of the current regulations based on weight and type of propulsion. In announcing the ARC's recommendations, the Transportation Secretary said ''Streamlining the design and certification process could provide a cost-efficient way to build simple airplanes that still incorporate the latest in safety initiatives. These changes have the potential to save money and maintain our safety standing—a win-win situation for manufacturers, pilots and the general aviation community as a whole.''
- 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 2013 through 2014 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 slot 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 has analyzed MAP–21 to identify congressionally directed rulemakings. These rulemakings will be the FHWA's top regulatory priorities for the coming year. 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.

During Fiscal Year 2014, FHWA will continue its focus on improving the quality and performance of our Nation's highway systems by creating national performance management measures and standards to be used by the States to meet the national transportation goals identified in section 1203 of MAP–21 under the following rulemaking initiatives:

• National Goals and Performance Management Measures (Safety) (RIN: 2125–AF49)

• National Goals and Performance Management Measures (Bridges and Pavement) (RIN: 2125–AF53)

• National Goals and Performance Management Measures (Congestion Reduction, CMAQ, Freight, and Performance of Interstate/Non-Interstate NHS) (RIN: 2125–AF54).

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, commercial drivers, commercial motor vehicles, and State agencies receiving certain motor carrier safety grants and issuing commercial drivers' licenses.

FMCSA's regulatory plan for FY 2014 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) Electronic Logging Devices (RIN 2126–AB20), (2) Carrier Safety Fitness Determination (RIN 2126–AB11), and (3) Commercial Driver's License Drug and Alcohol Clearinghouse (RIN 2126–AB18).

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 commercial drivers.

In FY 2014, FMCSA plans to issue a supplemental notice of proposed rulemaking on Electronic Logging Devices (RIN 2126–AB20) to establish: (1) minimum performance and design standards for hours-of-service (HOS) electronic logging devices (ELDs); (2) requirements for the mandatory use of these devices by drivers currently required to prepare HOS records of duty status (RODS); (3) requirements concerning HOS supporting documents; and (4) measures to address concerns about harassment resulting from the mandatory use of ELDs.

In FY 2014, FMCSA will continue its work on the Compliance, Safety, Accountability (CSA) program. The CSA program improves the way FMCSA identifies and conducts carrier compliance and enforcement operations. 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 interventions and an associated rulemaking to put into place a new safety fitness determination 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.

Also in FY 2014, FMCSA plans to issue a notice of proposed rulemaking on the Commercial Driver's License Drug and Alcohol Clearinghouse (RIN 2126–AB18). The rule proposes the establishment of a clearinghouse that would require employers and service agents to report information about current and prospective employees' drug and alcohol test results. It would also require employers and certain service agents to search the Clearinghouse for current and prospective employees' positive drug and alcohol test results as a condition of permitting those employees to perform safety-sensitive functions. This would provide FMCSA and employers the necessary tools to identify drivers who are prohibited from operating a CMV based on DOT drug and alcohol program violations and ensure that such drivers receive the required evaluation and treatment before resuming safety-sensitive functions.

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 safety issue of heavy vehicles and their occupants in fiscal year 2014, including combination truck tractors, large buses, and motorcoaches. The agency 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 motorcoaches 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 issue a notice that would propose promulgation of 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 motorcoaches. Together, these rulemaking actions will address thirteen recommendations issued by the National Transportation Safety Board related to motorcoach safety.

In fiscal year 2014, NHTSA will continue working toward 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 2014, 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.

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), and the Moving Ahead for Progress in the 21st Century Act (MAP–21), as well as actions under its general safety rulemaking authority and actions supporting the Department's High-Speed Rail Strategic Plan. RSIA08 alone has required 21 rulemaking actions, 12 of which have been completed. However, FRA continues to prioritize its rulemakings according to the greatest effect on safety while promoting economic growth, innovation, competitiveness, and job creation, 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, including developing requirements for rail integrity, critical incident stress plans, and employee training. 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, and an RSAC working group is developing recommendations for the fatigue management provisions related to both proceedings. FRA is also in the process of finalizing amendments to its unmandated November 2011 final rule on adjacent-track on-track safety for roadway workers and developing other RSAC-supported actions that advance high-speed passenger rail such as proposed rules on standards for alternative compliance with FRA's Passenger Equipment Safety Standards. Finally, FRA is drafting a final rule 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 implementing many of its public transportation programs authorized under MAP–21 through the regulatory 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 implementing many of its public transportation programs authorized under MAP–21 through the regulatory process. To that end, FTA's regulatory priorities include implementing certain requirements of the newly authorized Public Transportation Safety Program (49 U.S.C. 5329), such as the National Public Transportation Safety Plan, implementing requirements for Transit Asset Management Systems (49 U.S.C. 5326), amending the State Safety Oversight rule (49 CFR part 659), and amending the Major Capital Investments rule (49 CFR Part 611) to provide steps and evaluation criteria in the New and Small Starts process, and the new Core Capacity Program. Additionally, FTA plans to amend its joint regulations with FHWA that implement the National Environmental Policy Act (23 CFR part 771) in order to streamline the FTA environmental review process.

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 2014 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 increased PHMSA's ability to enforce civil penalties and other part 190 Code of Federal Regulations administration enforcement processes for Federal pipeline safety 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''. The Act reauthorizes the hazardous materials safety program and requires several regulatory actions by PHMSA. The Act places a great deal of emphasis on the procedures for issuing special permits and the incorporation of special permits into regulations. Persons who offer for transportation or transport hazardous materials in commerce must follow the hazardous materials regulations. A special permit sets forth alternative requirements, or variances, to the requirements in the HMR. Federal hazardous materials transportation law authorizes PHMSA to issue such variances in a way that achieves a safety level that is at least equal to the safety level required under Federal hazmat law or is consistent with the public interest if a required safety level does not exist. The Act requires a rulemaking within two years to set out procedures and criteria for evaluating applications for special permits and approvals. In addition, the Act requires PHMSA to conduct a review of nearly 1,200 existing special permits and issue another rulemaking within three years to incorporate special permits that have been in continuous effect for a ten-year period into the HMR.

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 while promoting economic growth, innovation, competitiveness, and job creation. We will concentrate on the prevention of high-risk incidents identified through the findings of the National Transportation Safety Board (NTSB) 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 evaluating, and analyze, and 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 aims to reduce the risks related to the transportation of hazardous materials by rail. Preventing tank car incidents and minimizing the consequences when an incident does occur are not only DOT priorities, but are also shared by the National Transportation Safety Board (NTSB), industry, and the general public. To this end, PHMSA will consider possible regulatory changes to enhance the standards for DOT Specification 111 tank cars used to transport certain hazardous materials and explore additional operational requirements to enhance the safe transportation of hazardous materials by rail.

PHMSA will be considering whether changes are needed to the regulations covering hazardous liquid onshore pipelines. In particular, PHMSA will be considering if other areas should be included as High Consequence Areas (HCAs) for integrity management (IM) protections, what the repair timeframes should be for areas outside the HCAs that are assessed as part of the IM program, whether leak detection standards are necessary, valve spacing requirements are needed on new construction or existing pipelines, and if PHMSA should extend regulation to certain pipelines currently exempt from regulation. The agency would also address the public safety and environmental aspects any new requirements, as well as the cost implications and regulatory burden.

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 training.

BILLING CODE–P

DOT—FEDERAL AVIATION ADMINISTRATION (FAA)

Proposed Rule Stage

102. +Slot Management and Transparency for Laguardia Airport, John F. Kennedy International Airport, and Newark Liberty International Airport

Priority: Other Significant.

Legal Authority: 49 U.S.C. 106(g); 49 U.S.C. 40103; 49 U.S.C. 40106; 49 U.S.C. 40109; 49 U.S.C. 40113; 49 U.S.C. 44502; 49 U.S.C. 44514; 49 U.S.C. 44701; 49 U.S.C. 44719; 49 U.S.C. 46301

CFR Citation: 14 CFR 93.

Legal Deadline: None.

Abstract: This rulemaking would replace the current temporary orders limiting scheduled operations at LaGuardia Airport, John F. Kennedy International Airport, and Newark Liberty International Airport with a more permanent rule to address the issues of congestion and delay at the New York area's three major commercial airports, while also promoting fair access and competition. The rulemaking would help ensure that congestion and delays are managed by limiting scheduled and unscheduled operations. The rulemaking would also establish a secondary market for U.S. and foreign air carriers to buy, sell, trade, and lease slots amongst each other at each of the three airports. This would allow carriers serving or seeking to serve the New York area airports to exchange slots as their business models and strategic goals require.

Statement of Need: This rulemaking would replace the current temporary orders limiting scheduled operations at LaGuardia Airport, John F. Kennedy International Airport, and Newark Liberty International Airport with a more permanent rule to address the issues of congestion and delay at the New York area's three major commercial airports, while also promoting fair access and competition. The rulemaking would help ensure that congestion and delays are managed by limiting scheduled and unscheduled operations. The rulemaking would also establish a secondary market for U.S. and foreign air carriers to buy, sell, trade, and lease slots amongst each other at each of the three airports. This would allow carriers serving or seeking to serve the New York area airports to exchange slots as their business models and strategic goals require.

Summary of Legal Basis: This rulemaking is promulgated under the authority described in subtitle VII, part A, subpart I, sections 40101, 40103, 40105, and 41712. The Secretary of Transportation (Secretary) is the head of the DOT and has broad oversight of significant FAA decisions. See 49 U.S.C. 102 and 106. In addition, under 49 U.S.C. 41712, the Secretary has the authority to investigate and prohibit unfair and deceptive practices and unfair methods of competition in air transportation or the sale of air transportation.

The FAA has broad authority under 49 U.S.C. 40103 to regulate the use of the navigable airspace of the United States. This section authorizes the FAA to develop plans and policy for the use of navigable airspace and to assign the use the FAA deems necessary for safe and efficient utilization. It further directs the FAA to prescribe air traffic rules and regulations governing the efficient utilization of navigable airspace. Not only is the FAA required to ensure the efficient use of navigable airspace, but it must do so in a manner that does not effectively shut out potential operators at the airport and in a manner that acknowledges competitive market forces.

These authorities empower the DOT to ensure the efficient utilization of airspace by limiting the number of scheduled and unscheduled aircraft operations at JFK, EWR, and LGA, while balancing between promoting competition and recognizing historical investments in the airport and the need to provide continuity. They also authorize the DOT to investigate the transfer of slots and to limit or prohibit anticompetitive transfers.

Alternatives: The FAA considered two alternatives. The first alternative was to simply extend the existing orders. This alternative was rejected because the FAA wanted to increase competition by making slots available to more operators. The FAA believes these operators are likely to be small entities. The second alternative was to remove the existing orders. This alternative results in unacceptable delay costs from the increase in operations.

Anticipated Cost and Benefits: Total benefits and costs are estimated at $74,696,596 ($65,242,900 Present Value at 7 percent) for benefits and $53,056,768 ($46,341,836 Present Value at 7 percent) for costs. This is a preliminary estimate that is subject to change based on further review and analysis.

Risks: There are no risks for this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	12/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Businesses.

Government Levels Affected: None.

Additional Information: This rulemaking is associated with an RRR action.

URL for More Information: *www.regulations.gov.*

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

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RIN: 2120–AJ89

DOT—FAA

Final Rule Stage

103. +Air Ambulance and Commercial Helicopter Operations; Safety Initiatives and Miscellaneous Amendments

Priority: Other Significant.

Legal Authority: 49 U.S.C. 106(g); 49 U.S.C. 1155; 49 U.S.C. 40101 to 40103; 49 U.S.C. 40120; 49 U.S.C. 41706; 49 U.S.C. 41721; 49 U.S.C. 44101; 49 U.S.C. 44106; 49 U.S.C. 44111; 49 U.S.C. 46306; 49 U.S.C. 46315; 49 U.S.C. 46316; 49 U.S.C. 46504; 49 U.S.C. 46506; 49 U.S.C. 46507; 49 U.S.C. 47122; 49 U.S.C. 47508; 49 U.S.C. 47528 to 47531; 49 U.S.C. 44701

CFR Citation: 14 CFR 1; 14 CFR 135; 14 CFR 91; 14 CFR 120.

Legal Deadline: Final, Statutory, June 1, 2012, 49 U.S.C. 44730(b), as enacted under Pub. L. 112–95, sec. 306(b) (Feb. 14, 2012).

Abstract: This rulemaking would change equipment and operating requirements for commercial helicopter operations, including many specifically for helicopter air ambulance operations. This rulemaking is necessary to increase crew, passenger, and patient safety. The intended effect is to implement National Transportation Safety Board, Aviation Rulemaking Committee, and internal FAA recommendations.

Statement of Need: Since 2002, there has been an increase in fatal helicopter air ambulance accidents. The FAA has undertaken initiatives to address common factors that contribute to helicopter air ambulance accidents including issuing notices, handbook bulletins, operations specifications, and advisory circulars (ACs). This rule would codify many of those initiatives, as well as several NTSB and Part 125/135 Aviation Rulemaking Committee recommendations. This rule would also satisfy the rulemaking requirements for helicopter air ambulance operations in Pub. L. 1112–95, section 306.

Summary of Legal Basis: This rulemaking is promulgated under the authority described in 49 U.S.C. 44701(a)(4), which requires the Administrator to promulgate regulations in the interest of safety for the maximum hours or periods of service of airmen and other employees of air carriers, and 49 U.S.C. 44701(a)(5), which requires the Administrator to promulgate regulations and minimum standards for other practices, methods,

and procedures necessary for safety in air commerce and national security.

Alternatives: Alternative One: The alternative would exclude the HTAWS (Helicopter Terrain Awareness and Warning System) unit from this proposal. Although the ratio of annualized cost to annual revenue would decrease from a range of between 1.80 percent and 1.87 percent to a range of between 1.61 percent and 1.68 percent would also be a reduction in safety. The HTAWS is an outstanding tool for situational awareness in all aspects of flying including day, night, and instrument meteorological conditions. Therefore the FAA believes that this equipment is a significant enhancement for safety.

Alternative Two: The alternative would increase the requirement of certificate holders from 10 to 15 helicopters or more that are engaged in helicopter air ambulance operations to have an Operations Control Center. The FAA believes that operators with 10 or more helicopters engaged in air ambulance operations would cover 83 percent of the total population of the air ambulance fleet in the U.S. The FAA believes that operators with 15 or more helicopters would decrease the coverage of the population to 78 percent. Furthermore, complexity issues arise and considerably increase with operators of more than 10 helicopters.

All alternatives above are not considered to be acceptable by the FAA in accordance with 5 U.S.C. 603(c).

Anticipated Cost and Benefits: The FAA estimated the rule would cost $309 million ($242 million 7 percent present value) over 10 years. The benefits were estimated to be $1030 million ($725 million 7 percent present value) over 10 years. This is a preliminary estimate that is subject to change based on further review and analysis.

Risks: Helicopter air ambulance operations have several characteristics that make them unique, including that they are not limited to airport locations for picking up and dropping off patients, but may pick up a person at a road side accident scene and transport him or her directly to a hospital. Helicopter air ambulance operations are also often time-sensitive. A helicopter air ambulance flight may be crucial to getting a donor organ or critically ill or injured patient to a medical facility as efficiently as possible. Additionally, patients generally are not able to choose the helicopter air ambulance company that provides them with transportation. Despite the fact that there are unique aspects to helicopter air ambulance operations, they remain, at their core, air transportation. Accordingly the FAA has the responsibility for ensuring the safety of these operations.

Timetable:

Action	Date	FR Cite
NPRM	10/12/10	75 FR 62640
NPRM Comment Period End.	01/10/11	
Final Rule	12/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Businesses.

Government Levels Affected: None.

URL for More Information: *www.regulations.gov.*

URL for Public Comments: www.regulations.gov.

Agency Contact: Gregory French, Department of Transportation, Federal Aviation Administration, 800 Independence Ave. SW., Washington, DC 20591, *Phone:* 202–493–5474, *Fax:* 202–267–5094, *Email: gregory.french@faa.gov.*

RIN: 2120–AJ53

DOT—FAA

104. +Safety Management Systems for Part 121 Certificate Holders (Section 610 Review)

Priority: Other Significant.

Legal Authority: 49 U.S.C. 106(g); 49 U.S.C. 40113; 49 U.S.C. 40119; 49 U.S.C. 41706; 49 U.S.C. 44101; 49 U.S.C. 44701; 49 U.S.C. 44702; 49 U.S.C. 44705; 49 U.S.C. 44709 to 44711; 49 U.S.C. 44713; 49 U.S.C. 44716; 49 U.S.C. 44717; 49 U.S.C. 44722; 49 U.S.C. 46105; Pub. L. 111–216, sec 215

CFR Citation: 14 CFR 121; 14 CFR 5.

Legal Deadline: NPRM, Statutory, October 29, 2010, NPRM. Final, Statutory, July 30, 2012, Final Rule.

Congress passed Public Law 111–216 that instructs FAA to conduct a rulemaking to require all part 121 air carriers to implement a Safety Management System (SMS). This Act further states that FAA shall consider at a minimum each of the following as part of the SMS rulemaking: (1) An Aviation Safety Action Program (ASAP); (2) a Flight Operations Quality Assurance Program (FOQA); (3) a Line Operations Safety Audit (LOSA); and (4) an Advance Qualifications Program.

Abstract: This rulemaking would require each certificate holder operating under 14 CFR part 121 to develop and implement a safety management system (SMS) to improve the safety of its aviation related activities. A safety management system is a comprehensive, process-oriented approach to managing safety throughout an organization. An SMS includes an organization-wide safety policy; formal methods for identifying hazards, controlling, and continually assessing risk and safety performance; and promotion of a safety culture. SMS stresses not only compliance with technical standards, but increased emphasis on the overall safety performance of the organization. This rulemaking is required under Public Law 111–216, sec. 215.

Statement of Need: This final rule requires each air carrier operating under 14 CFR part 121 to develop and implement a safety management system (SMS) to improve the safety of its aviation-related activities. SMS is a comprehensive, process-oriented approach to managing safety throughout an organization. SMS includes an organization-wide safety policy; formal methods for identifying hazards, controlling, and continually assessing risk and safety performance; and promotion of a safety culture. SMS stresses not only compliance with technical standards, but also increased emphasis on the overall safety performance of the organization.

Summary of Legal Basis: The Federal Aviation Administration's (FAA) authority to issue rules on aviation safety is found in Title 49 of the United States Code. This rulemaking is promulgated under the authority described in 49 U.S.C. 44701(a)(5), which requires the Administrator to promulgate regulations and minimum standards for other practices, methods, and procedures necessary for safety in air commerce and national security.

In addition, the Airline Safety and Federal Aviation Administration Extension Act of 2010 (the Act), Public Law 111–216, sec. 215 (August 1, 2010), required the FAA to conduct rulemaking to ''require all 14 CFR part 121 air carriers to implement a safety management system.'' The Act required the FAA to issue this final rule within 24 months of the passing of the Act (July 30, 2012).

Alternatives: To relieve the burden of this rule on small entities, the FAA considered extending the timeframe for development of SMS implementation plans. However, the FAA ultimately concluded that one year for the development and approval of implementation plans is appropriate. In making this determination, the FAA considered longer and shorter terms. However, it settled on one year based on information from the SMS Pilot Project, which showed that an average of one year was sufficient to develop and approve an implementation plan. As part of its analysis, the FAA noted that pilot project participants ultimately had

differing levels of SMS implementation. However, because all pilot project participants had initially developed (and received FAA validation on) an implementation plan that provided for full SMS implementation, the FAA was able to use this data to estimate how long it would take a certificate holder to develop such a plan and get the plan approved by the FAA.

Anticipated Cost and Benefits: The FAA estimates the total benefits to be $447.9 million ($263.1 million present value) and total costs to be $211.8 million ($144.9 million present value), with benefits exceeding costs.

Risks: While the commercial air carrier accident rate in the United States has decreased substantially over the past 10 years, the FAA has identified a recent trend involving hazards that were revealed during accident investigations. The FAA's Office of Accident Investigation and Prevention identified 128 accidents involving part 121 air carriers from fiscal year (FY) 2001 through FY 2010 for which identified causal factors could have been mitigated if air carriers had implemented an SMS to identify hazards in their operations and developed methods to control the risk. This type of approach allows air carriers to anticipate and mitigate the likely causes of potential accidents. This is a significant improvement over current ''reactive'' safety action emphasis, which focuses on discovering and mitigating the cause of an accident only after that accident has occurred. In order to bring about this change in accident mitigation, as well as the other reasons discussed throughout this document, the FAA is requiring part 121 air carriers to develop and implement an SMS.

SMS is a comprehensive, process-oriented approach to managing safety throughout an organization, and stresses not only compliance with technical standards, but increased emphasis on the overall safety performance of the organization.

The potential reduction of risks would be averted causalities, aircraft damage, and accident investigation costs by identifying safety issues and spotting trends before they result in a near-miss, incident, or accident.

Timetable:

Action	Date	FR Cite
NPRM	11/05/10	75 FR 68224
NPRM Comment Period Extended.	01/31/11	76 FR 5296
NPRM Comment Period End.	02/03/11	
Comment Period Extended.	03/07/11	
Final Rule	03/00/14	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Businesses.

Government Levels Affected: Federal.

URL for More Information: *www.regulations.gov*

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

Agency Contact: Scott VanBuren, Department of Transportation, Federal Aviation Administration, 800 Independence Ave. SW., Washington, DC 20591, *Phone:* 202 494–8417, *Email:* *scott.vanburen@faa.gov*.

Related RIN: Split from 2120–AJ15.

RIN: 2120–AJ86

DOT—FEDERAL HIGHWAY ADMINISTRATION (FHWA)

Proposed Rule Stage

105. +National Goals and Performance Management Measures (MAP–21)

Priority: Other Significant.

Legal Authority: 23 U.S.C. 150

CFR Citation: Not Yet Determined.

Legal Deadline: NPRM, Statutory, April 1, 2014, NPRM.

Section 1203 of MAP–21 requires the Secretary to promulgate a rulemaking within 18 months after the date of enactment.

Abstract: This rulemaking would create national performance management measures and standards to be used by the States to meet the national transportation goals identified in section 1203 of MAP–21. This rulemaking would also establish the process to be used by States to set performance targets that reflect their performance measures. The FHWA anticipates publishing up to three separate rulemakings to address the different areas covered by this section. This rulemaking, the first, will cover safety.

Statement of Need: The Moving Ahead for Progress in the 21st Century Act (MAP–21) transforms the Federal-aid highway program by establishing new requirements for performance management to ensure the most efficient investment of Federal transportation funds. Performance management refocuses attention on national transportation goals, increases the accountability and transparency of the Federal-aid highway program, and improves project decisionmaking through performance-based planning and programming. This rulemaking is the first of three that would propose the establishment of performance measures for State DOTs and MPOs to use to carry out Federal-aid highway programs and to assess performance in each of the 12 areas mandated by MAP–21. This rulemaking would establish performance measures to carry out the Highway Safety Improvement Program and to assess serious injuries and fatalities, both in number and expressed as a rate, on all public roads. In addition, this rulemaking would establish the process for State DOTs and MPOs to use to establish and report safety targets, and the process that FHWA will use to assess progress State DOTs have made in achieving safety targets.

Summary of Legal Basis: Section 1203 of MAP–21 requires the Secretary of Transportation to establish performance measures and standards through a rulemaking to assess performance in 12 areas.

Alternatives: N/A.

Anticipated Cost and Benefits: Preliminary estimates show that the total costs for a 10-year period is $66,695,260 (undiscounted), $53,873,609 (7 percent discount rate), and $60,504,205 (3 percent discount rate). The DOT performed a break-even analysis that estimates the number of fatalities and incapacitating injuries the rule would need to prevent for the benefits of the rule to justify the costs. Preliminary estimates show that the proposed rule would need to prevent approximately 7 fatalities over 10 years, or less than one avoided fatality per year nationwide, to outweigh the anticipated costs of the proposed rule. When the break-even analysis uses incapacitating injuries as the reduction metric, preliminary estimates show that the proposed rule must be responsible for reducing approximately 153 incapacitating injuries over 10 years, or approximately 15 per year, to outweigh the anticipated costs of the proposed rule. In other words, the proposed rule must result in approximately 7 fewer fatalities, which is equivalent to approximately 153 fewer incapacitating injuries, over 10 years, for the proposed rule to be cost-beneficial.

Risks: N/A.

Timetable:

Action	Date	FR Cite
NPRM	02/00/14	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: State.

URL for More Information: *www.regulations.gov.*

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

Agency Contact: Francine Shaw-Whitson, Department of Transportation, Federal Highway Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, *Phone:* 202–366–8028, *Email:* *francine.shaw-whitson@dot.gov.*

RIN: 2125–AF49

DOT—FHWA

106. +National Goals and Performance Management Measures (MAP–21)

Priority: Other Significant.

Legal Authority: Sec. 1203 Pub. L. 112–141; 49 CFR 1.85

CFR Citation: Not Yet Determined.

Legal Deadline: NPRM, Statutory, April 1, 2014, NPRM.

Section 1203 of MAP–21 requires the Secretary to promulgate a rulemaking within 18 months after the date of enactment.

Abstract: This rulemaking would create national performance management measures and standards to be used by the States to meet the national transportation goals identified in section 1203 of MAP–21. This rulemaking would also establish the process to be used by States to set performance targets that reflect their performance measures. The FHWA anticipates issuing up to three rulemakings in this area. This rulemaking, number two, will cover the bridges and pavement.

Statement of Need: The Moving Ahead for Progress in the 21st Century Act (MAP–21) transforms the Federal-aid highway program by establishing new requirements for performance management to ensure the most efficient investment of Federal transportation funds. Performance management refocuses attention on national transportation goals, increases the accountability and transparency of the Federal-aid highway program, and improves project decisionmaking through performance-based planning and programming. This rulemaking is the second of three that would propose the establishment of performance measures for State DOTs and MPOs to use to carry out Federal-aid highway programs and to assess performance in each of the 12 areas mandated by MAP–21. This rulemaking would establish performance measures for State DOTs to use to carry out the National Highway Performance Program (NHPP) and to assess: condition of pavements on the National Highways System (NHS) (excluding the Interstate System), condition of pavements on the Interstate System, and condition of bridges on the NHS. This rulemaking would also propose: the definitions that will be applicable to the new 23 CFR 490; the process to be used by State DOTs and MPOs to establish performance targets that reflect the measures proposed in this rulemaking; a methodology to be used to assess State DOTs compliance with the target achievement provision specified under 23 U.S.C. 119(e)(7); and the process to be followed by State DOTs to report on progress towards the achievement of pavement and bridge condition-related performance targets.

Summary of Legal Basis: Section 1203 of MAP–21 requires the Secretary of Transportation to establish performance measures and standards through a rulemaking to assess performance in 12 areas.

Alternatives: N/A.

Anticipated Cost and Benefits: Not Yet Determined.

Risks: N/A.

Timetable:

Action	Date	FR Cite
NPRM	03/00/14	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Federal, State.

URL for More Information: *www.regulations.gov.*

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

Agency Contact: Francine Shaw-Whitson, Department of Transportation, Federal Highway Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, *Phone:* 202–366–8028, *Email:* *francine.shaw-whitson@dot.gov.*

RIN: 2125–AF53

DOT—FHWA

107. +National Goals and Performance Management Measures (MAP–21)

Priority: Other Significant

Legal Authority: Sec. 1203, Pub. L. 112–141; 49 FR 1.85

CFR Citation: Not Yet Determined.

Legal Deadline: NPRM, Statutory, April 1, 2014, NPRM.

Section 1203 of MAP–21 requires the Secretary to promulgate a rulemaking within 18 months after the date of enactment.

Abstract: This rulemaking would create national performance management measures and standards to be used by the States to meet the national transportation goals identified in section 1203 of MAP–21. This rulemaking would also establish the process to be used by States to set performance targets that reflect their performance measures. The FHWA anticipates issuing up to three rulemakings in this area. This rulemaking covers Congestion Mitigation and Air Quality (CMAQ) and Freight issues.

Statement of Need: The Moving Ahead for Progress in the 21st Century Act (MAP–21) transforms the Federal-aid highway program by establishing new requirements for performance management to ensure the most efficient investment of Federal transportation funds. Performance management refocuses attention on national transportation goals, increases the accountability and transparency of the Federal-aid highway program, and improves project decisionmaking through performance-based planning and programming. This rulemaking is the third of three that would propose the establishment of performance measures for State DOTs and MPOs to use to carry out Federal-aid highway programs and to assess performance in each of the 12 areas mandated by MAP–21. This rulemaking would establish performance measures for State DOTs to use in the areas of Congestion Reduction, Congestion mitigation and air quality improvement program (CMAQ), Freight, and Performance of Interstate/Non-Interstate National Highway System.

Summary of Legal Basis: Section 1203 of MAP–21 requires the Secretary of Transportation to establish performance measures and standards through a rulemaking to assess performance in 12 areas.

Alternatives: N/A.

Anticipated Cost and Benefits: Not Yet Determined.

Risks: N/A.

Timetable:

Action	Date	FR Cite
NPRM	05/00/14	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Federal, State.

URL for More Information: *www.regulations.gov.*

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

Agency Contact: Francine Shaw-Whitson, Department of Transportation, Federal Highway Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, *Phone:* 202–366–8028, *Email:* *francine.shaw-whitson@dot.gov.*

RIN: 2125–AF54

DOT—FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION (FMCSA)

Proposed Rule Stage

108. +Carrier Safety Fitness Determination

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

Legal Authority: Sec 4009 of TEA–21.

CFR Citation:, 49 CFR 385.

Legal Deadline: None.

Abstract: FMCSA proposes to amend the Federal Motor Carrier Safety Regulations (FMCSRs) to adopt revised methodologies that would result in a safety fitness determination (SFD). The proposed methodologies would determine when a motor carrier is not fit to operate commercial motor vehicles (CMVs) in or affecting interstate commerce based on (1) the carrier's performance in relation to five of the Agency's Behavioral Analysis and Safety Improvement Categories (BASICs); (2) an investigation; or (3) a combination of on-road safety data and investigation information. The intended effect of this action is to reduce crashes caused by CMV drivers and motor carriers, resulting in death, injuries, and property damage on U.S. highways, by more effectively using FMCSA data and resources to identify unfit motor carriers and to remove them from the Nation's roadways.

Statement of Need: Because of the time and expense associated with the onsite compliance review, only a small fraction of carriers (approximately 12,000) receive a safety fitness determination each year. Since the current safety fitness determination process is based exclusively on the results of an onsite compliance review, the great majority of carriers subject to FMCSA jurisdiction do not receive a timely determination of their safety fitness.

The proposed methodology for determining motor carrier safety fitness should correct the deficiencies of the current process. In correcting these deficiencies, FMCSA has made a concerted effort to develop a ''transparent'' method for the Safety Fitness Determination (SFD) that would allow each motor carrier to understand fully how FMCSA established that carrier's specific SFD.

Summary of Legal Basis: This rule is based primarily on the authority of 49 U.S.C. 31144, which directs the Secretary of Transportation to ''determine whether an owner or operator is fit to operate a commercial motor vehicle'' and to ''maintain by regulation a procedure for determining the safety fitness of an owner or operator.'' This statute was first enacted as part of the Motor Carrier Safety Act of 1984, section 215, Public Law 98–554, 98 Stat. 2844 (Oct. 30, 1984).

The proposed rule also relies on the provisions of 49 U.S.C. 31133, which gives the Secretary ''broad administrative powers to assist in the implementation'' of the provisions of the Motor Carrier Safety Act now found in chapter 311 of title 49, U.S.C. These powers include, among others, authority to conduct inspections and investigations, compile statistics, require production of records and property, prescribe recordkeeping and reporting requirements, and to perform other acts considered appropriate. These powers are used to obtain the data used by the Safety Management System and by the proposed new methodology for safety fitness determinations.

Under 49 CFR 1.73(g), the Secretary has delegated the authority to carry out the functions in subchapters I, III, and IV of chapter 311, title 49, U.S.C., to the FMCSA Administrator. Sections 31133 and 31144 are part of subchapter III of chapter 311.

Alternatives: The Agency has been considering several alternatives.

Anticipated Cost and Benefits: The Agency is continuing to review the estimated costs and benefits of the proposed rule.

Risks: A risk of incorrectly identifying a compliant carrier as non-compliant—and consequently subjecting the carrier to unnecessary expenses—has been analyzed and has been found to be negligible under the process being proposed.

Timetable:

Action	Date	FR Cite
NPRM	05/00/14	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses, Organizations.

Government Levels Affected: Undetermined.

URL for More Information: *www.regulations.gov.*

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

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RIN: 2126–AB11

DOT—FMCSA

109. +Commercial Driver's License Drug and Alcohol Clearinghouse (MAP–21)

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

Unfunded Mandates: Undetermined.

Legal Authority: 49 U.S.C. 31306

CFR Citation: 49 CFR 382.

Legal Deadline: None.

Abstract: This rulemaking would create a central database for verified positive controlled substances and alcohol test results for commercial driver's license (CDL) holders and refusals by such drivers to submit to testing. This rulemaking would require employers of CDL holders and service agents to report positive test results and refusals to test into the Clearinghouse. Prospective employers, acting on an application for a CDL driver position with the applicant's written consent to access the Clearinghouse, would query the Clearinghouse to determine if any specific information about the driver applicant is in the Clearinghouse before allowing the applicant to be hired and to drive CMVs. This rulemaking is intended to increase highway safety by ensuring CDL holders, who have tested positive or have refused to submit to testing, have completed the U.S. DOT's return-to-duty process before driving CMVs in interstate or intrastate commerce. It is also intended to ensure that employers are meeting their drug and alcohol testing responsibilities. Additionally, provisions in this rulemaking would also be responsive to requirements of the Moving Ahead for Progress in the 21st Century (MAP–21) Act. MAP–21 requires creation of the Clearinghouse by 10/1/14.

Statement of Need: This rulemaking would improve the safety of the Nation's highways by ensuring that employers know when drivers test positive for drugs and/or alcohol and are not qualified to drive. It would also ensure that drivers who have tested positive and have not completed the return to duty process are not driving and ensure that all employers are meeting their drug and alcohol testing responsibilities.

Summary of Legal Basis: Section 32402 of the Moving Ahead for Progress in the 21st Century Act (MAP–21)) (Pub. L. 112–141, 126 stat. 405) directs the Secretary of Transportation to establish a national clearinghouse for controlled substance and alcohol test results of commercial motor vehicle operators. In addition, FMCSA has general authority to promulgate safety standards, including those governing drivers' use of drugs or alcohol while operating a

CMV. The Motor Carrier Safety Act of 1984 Public Law 98–554 (the 1984 Act) provides authority to regulate drivers, motor carriers, and vehicle equipment and requires the Secretary of Transportation to prescribe minimum safety standards for CMVs, including: (1) CMVs are maintained, equipped loaded, and operated safely; (2) the responsibilities imposed on CMV operators do not impair their ability to operate the vehicles safely; (30 the physical condition of CMV operators is adequate to enable them to operate the vehicles safely; and (40 CMV operation does not have a deleterious effect on physical condition of the operators (49 U.S.C. 31136(a)).

Alternatives: To be determined.

Anticipated Cost and Benefits: The Agency estimates $187 million in annual benefits from increased crash reduction from the rule. This is against an estimated $155 million in total annual costs for employers to complete the annual and pre-employment queries and to designate C/TPAs, for SAPs to input information from drivers undergoing the return-to-duty process, for various entities to report and notify positive tests and to register and become familiar with the rule, for drivers to consent to release of records, and for FMCSA to maintain and operate the Clearinghouse, and for drivers to go through the return-to-duty process. Total net benefits of the rule thus are $32 million annually.

Risks: A risk of not knowing when a driver has not completed the ''return to duty'' process and enabling job-hopping within the industry.

Timetable:

Action	Date	FR Cite
NPRM	12/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

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

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

Additional Information: MAP–21 included provisions for a Drug and Alcohol Test Clearinghouse that affect this rulemaking.

URL for More Information: www.regulations.gov.

URL for Public Comments: www.regulations.gov.

Agency Contact: Deborah Snider, Chief, Commercial Enforcement (MC–ECC), Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, *Phone:* 202 366–0916, *Email: deborah.snider@fmcsa.dot.gov.*

RIN: 2126–AB18

DOT—FMCSA

110. +Electronic Logging Devices and Hours of Service Supporting Documents (MAP–21)

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: 49 U.S.C. 31502; 31136(a); Pub. L 103.311; 49 U.S.C. 31137(a)

CFR Citation: 49 CFR 350; 49 CFR 385; 49 CFR 396; 49 CFR 395.

Legal Deadline: NPRM, Judicial, January 31, 2011, NPRM published.

Abstract: This SNPRM would establish: (1) Minimum performance and design standards for hours-of-service (HOS) electronic logging devices (ELDs); (2) requirements for the mandatory use of these devices by drivers currently required to prepare HOS records of duty status (RODS); (3) requirements concerning HOS supporting documents; and (4) measures to address concerns about harassment resulting from the mandatory use of ELDs. This rulemaking supplements the Agency's February 1, 2011, Notice of Proposed Rulemaking (NPRM) and addresses issues raised by the U.S. Court of Appeals for the Seventh Circuit in its 2011 decision vacating the Agency's April 5, 2010, final rule concerning ELDs as well as subsequent statutory developments. The proposed requirements for ELDs would improve compliance with the HOS rules.

Statement of Need: The Federal Motor Carrier Safety Administration (FMCSA) proposes amendments to the Federal Motor Carrier Safety Regulations (FMCSRs) to establish: (1) Minimum performance and design standards for hours-of-service (HOS) electronic logging devices (ELDs); (2) requirements for the mandatory use of these devices by drivers currently required to prepare HOS records of duty status (RODS); (3) requirements concerning HOS supporting documents; and (4) measures to address concerns about harassment resulting from the mandatory use of ELDs. This rulemaking supplements the Agency's February 1, 2011, Notice of Proposed Rulemaking (NPRM) and addresses issues raised by the U.S. Court of Appeals for the Seventh Circuit in its 2011 decision vacating the Agency's April 5, 2010, final rule concerning ELDs as well as subsequent statutory developments. The proposed requirements for ELDs would improve compliance with the HOS rules.

Summary of Legal Basis: Section 113 of the Hazardous Materials Transportation Authorization Act of 1994, Public Law 103–311, 108 Stat. 1673, 16776–1677, August 26, 1994, (HMTAA) requires the Secretary to prescribe regulations to improve compliance by CMV drivers and motor carriers with HOS requirements and the effectiveness and efficiency of Federal and State enforcement officers reviewing such compliance. Specifically, the Act addresses requirements for supporting documents.

Section 32301(b) of the Commercial Motor Vehicle Safety Enhancement Act, enacted as part of MAP–21 (Pub. L. 112–141, 126 Stat. 405, 786–788 (July 6, 2012)), mandated that the Secretary adopt regulations requiring that CMVs involved in interstate commerce, operated by drivers who are required to keep RODS, be equipped with ELDs.

Alternatives: FMCSA is considering several alternatives to the proposal, including alternate populations.

Anticipated Cost and Benefits: FMCSA has not yet fully assessed the costs and benefits that might be associated with this SNPRM. The 2011 NPRM estimated total costs and benefits. At a 7 percent discount, the total estimated cost over 10 years was $1,984 million, and the total estimated benefit over 10 years was $2,699 million.

Risks: FMCSA has not yet fully assessed the risks that might be associated with this activity.

Timetable:

Action	Date	FR Cite
NPRM	02/01/11	76 FR 5537
NPRM Comment Period End.	02/28/11	
Comment Period Extended.	03/10/11	76 FR 13121
Extended Comment Period End.	05/23/11	
Supplemental NPRM	12/00/13	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

Additional Information: The Agency previously published an NPRM on this subject under RIN 2126–AA76, ''Hours of Service of Drivers; Supporting Documents'' (63 FR 19457, Apr. 20, 1998) and an SNPRM, ''Hours of Service of Drivers: Supporting Documents'' (69 FR 63997, Nov. 3, 2004). The Agency withdrew the SNPRM on October 25,

2007, 72 FR 60614. The previous proceeding can be found in docket No. FMCSA–1998–3706.

URL for More Information: *www.regulations.gov.*

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

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Related RIN: Related to 2126–AA89, Related to 2126–AA76.

RIN: 2126–AB20

DOT—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION (NHTSA)

Proposed Rule Stage

111. +Motorcoach Rollover Structural Integrity (MAP–21)

Priority: Other Significant.

Legal Authority: 49 U.S.C. 30111; 49 U.S.C. 30115; 49 U.S.C. 30117; 49 U.S.C. 30166; 49 U.S.C. 322; delegation of authority at 49 CFR 1.95

CFR Citation: 49 CFR 571.

Legal Deadline: Final, Statutory, October 1, 2014, Publish Final Rule.

Abstract: This rulemaking would promulgate a new FMVSS for rollover structural integrity requirements for motorcoaches. In August 2007, NHTSA published a motorcoach safety plan identifying four specific priority items: Seat belts on motorcoaches, rollover structural integrity, emergency evacuation, and fire safety. The DOT published a comprehensive motorcoach safety action plan in November 2009 that reiterated NHTSA´s motorcoach safety priorities. This rulemaking also addresses six recommendations issued by the NTSB on motorcoach roof strength and structural integrity and is responsive to requirements of the Moving Ahead for Progress in the 21st Century (MAP–21) Act.

Statement of Need: Over the ten-year period between 2000 and 2009, there were 45 fatal motorcoach crashes resulting in 134 fatalities. During this period, on average, 13 fatalities have occurred annually to occupants of motorcoaches in crash and rollover events, with about 2 of these fatalities being drivers and 11 being passengers. However, while motorcoach transportation overall is safe, when serious crashes of this vehicle type do occur, they can cause a significant number of fatal or serious injuries during a single event, particularly when occupants are ejected. This action is consistent with our detailed plans for improving motorcoach passenger protection, laid out in NHTSA's Approach to Motorcoach Safety 2007 and the Department of Transportation 2009 Motorcoach Action Plan (Docket No. NHTSA–2007–28793), as well as the Agency's Vehicle Safety and Fuel Economy Rulemaking and Research Priority Plan 2011–2013 (Docket No. NHTSA–2009–0108), and is responsive to six recommendations issued by the National Transportation Safety Board. In addition, this action would fulfill a statutory provision of the Motorcoach Enhanced Safety Act of 2012 (incorporated and passed as part of the Moving Ahead for Progress in the 21st Century Action) for establishing motorcoach roof strength and crush resistance requirements, to the extent warranted under the National Traffic and Motor Vehicle Safety Act.

Summary of Legal Basis: Section 30111, title 49 of the U.S.C., states that the Secretary shall prescribe motor vehicle safety standards.

Alternatives: NHTSA is examining existing regulations as alternatives to this proposal. FMVSS No. 216 ''Roof crush resistance,'' FMVSS No. 220, ''School bus rollover protection,'' and UN ECE R.66 are among the existing regulations that the agency is considering. The agency is considering these alternatives in light of their ability to ensure occupant protection during a rollover crash as well as additional safety issues such as opening of egress portals, failure of seat and luggage rack anchorages, detachment of windows from their mounting.

Anticipated Cost and Benefits: The net impact ranges from a net benefit of $9.5 million to $19.4 million if seat belt usage is 15 percent. If the seat belt usage rate is 84 percent, the estimated net impact ranges from a net benefit of $4.7 million to $13.1 million.

Risks: The Agency believes that there are no significant risks associated with this rulemaking, and that only beneficial outcomes will occur.

Timetable:

Action	Date	FR Cite
NPRM	06/00/14	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

URL for More Information: *www.regulations.gov.*

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

Agency Contact: Shashi Kuppa, Chief, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 1200 New Jersey Ave, SE., Washington, DC 20590, *Phone:* 202–366–3827, *Fax:* 202–493–7002, *Email: shashi.kuppa@dot.gov.*

RIN: 2127–AK96

DOT—NHTSA

Final Rule Stage

112. +Require Installation of Seat Belts on Motorcoaches, FMVSS No. 208 (MAP–21)

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: 49 U.S.C. 30111; 49 U.S.C. 30115; 49 U.S.C. 30117; 49 U.S.C. 30166; 49 U.S.C. 322; delegation of authority at 49 CFR 1.95

CFR Citation: 49 CFR 571.208; 49 CFR 571.3.

Legal Deadline: Final, Statutory, October 1, 2013, Final Rule.

Abstract: This rulemaking would require the installation of lap/shoulder belts in newly-manufactured motorcoaches. Specifically, this rulemaking would establish a new definition for motorcoaches in 49 CFR part 571.3. It would also amend Federal Motor Vehicle Safety Standard No. 208, Occupant Crash Protection, to require the installation of lap/shoulder belts at all driver and passenger seating positions. It would also require the installation of lap/shoulder belts at driver seating positions of large school buses in FMVSS No. 208. This rulemaking responds, in part, to recommendations made by the National Transportation Safety Board for improving bus safety and to a newly enacted statutory mandate in MAP–21 to require seat belts in certain buses.

Statement of Need: Over the ten-year period between 1999 and 2008, there were 54 fatal motorcoach crashes resulting in 186 fatalities. During this period, on average, 16 fatalities have occurred annually to occupants of motorcoaches in crash and rollover events, with about 2 of these fatalities being drivers and 14 being passengers. However, while motorcoach transportation overall is safe, when serious crashes of this vehicle type do occur, they can cause a significant number of fatal or serious injuries during a single event, particularly when occupants are ejected. This action is responsive to four recommendations issued by the National Transportation Safety Board.

Summary of Legal Basis: Section 30111, title 49 of the U.S.C., states that the Secretary shall prescribe motor vehicle safety standards.

Alternatives: In addition to the proposed installation of lap/shoulder belts in all passenger seating positions on motorcoaches, the Agency is also pursuing improvements to motorcoach rollover structural integrity, fire safety, electronic stability control, and emergency egress to improve occupant protection. Our detailed plans for improving motorcoach passenger protection can be found in NHTSA's Approach to Motorcoach Safety 2007 and the Department of Transportation 2009 Motorcoach Action Plan (Docket No. NHTSA–2007–28793), as well as the agency's Vehicle Safety and Fuel Economy Rulemaking and Research Priority Plan 2011–2013 (Docket No. NHTSA–2009–0108).

The Agency also alternatively evaluated proposing the installation of lap belts in all passenger seating positions on motorcoaches, and is seeking comments on the issue of retrofitting older motorcoaches with seat belts.

Anticipated Cost and Benefits: The anticipated total costs are expected to be $25.8 million for the 2,000 new motorcoaches produced each year, plus added fuel costs. The Agency estimates the proposal has the potential to save 1–8 fatalities and 144–794 non-fatal injuries annually assuming a range of seat belt use between 15 and 83 percent. The cost per equivalent life saved at a seven percent discount rate is estimated to range from $1.8 to $9.9 million, based on an assumed seat belt use rate between 83 percent and 15 percent, respectively.

Risks: The agency believes there are no substantial risks to this rulemaking, and that only beneficial outcomes will occur as the industry moves to reduce injuries of motorcoach occupants.

Timetable:

Action	Date	FR Cite
NPRM	08/18/10	75 FR 50958
NPRM Comment Period End.	10/18/10	
Final Rule	11/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: 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.

URL for More Information: *www.regulations.gov.*

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

Agency Contact: Shashi Kuppa, Chief, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 1200 New Jersey Ave. SE., Washington, DC 20590, *Phone:* 202–366–3827, *Fax:* 202–493–7002, *Email: shashi.kuppa@dot.gov.*

RIN: 2127–AK56

DOT—NHTSA

113. +Electronic Stability Control Systems for Heavy Vehicles (MAP–21)

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

Legal Authority: 49 U.S.C. 30111; 49 U.S.C. 30115; 49 U.S.C. 30117; 49 U.S.C. 30166; 49 U.S.C. 322; delegation of authority at 49 CFR 1.95

CFR Citation: 49 CFR 571.

Legal Deadline: Final, Statutory, October 1, 2014, Final Rule.

Abstract: This rulemaking would promulgate a new Federal standard that would require stability control systems on truck tractors and motorcoaches that address both rollover and loss of control crashes. Rollover and loss of control crashes involving heavy vehicles is a serious safety issue that is responsible for 304 fatalities and 2,738 injuries annually. They are also a major cause of traffic tie-ups, resulting in millions of dollars of lost productivity and excess energy consumption each year. Suppliers and truck and motorcoach manufacturers have developed stability control technology for heavy vehicles to mitigate these types of crashes. Based on the technology unit costs and affected vehicles, we estimate technology costs would be $55 to $107 million, annually. However, the costs savings from reducing travel delay and property damage would produce net benefits of $128–$372 million. This rulemaking is responsive to requirements of the Moving Ahead for Progress in the 21st Century (MAP–21) Act.

Statement of Need: Rollover and loss of control crashes involving combination truck tractors and large buses is a serious safety issue that is responsible for 268 fatalities and 3000 injuries annually. They are also a major cause of traffic tie-ups, resulting in millions of dollars of lost productivity and excess energy consumption each year. This action is consistent with our detailed plans for improving motorcoach passenger protection, laid out in NHTSA's Approach to Motorcoach Safety 2007 and the Department of Transportation 2009 Motorcoach Action Plan (Docket No. NHTSA–2007–28793), as well as the agency's Vehicle Safety and Fuel Economy Rulemaking and Research Priority Plan 2011–2013 (Docket No. NHTSA–2009–0108), and is responsive to three recommendations issued by the National Transportation Safety Board.

Summary of Legal Basis: Section 30111, title 49 of the U.S.C., states that the Secretary shall prescribe motor vehicle safety standards.

Alternatives: The Agency considered two regulatory alternatives. First, we considered requiring truck tractors and large buses to be equipped with roll stability control (RSC) systems. The second alternative considered was requiring trailers to be equipped with RSC systems. When compared to the proposal, these alternatives provide fewer benefits because they are less effective at preventing rollover crashes and much less effective at preventing loss-of-control crashes.

Anticipated Cost and Benefits: According to the NPRM, the anticipated total costs are expected to be $113.6 million for the 150,000 truck tractors and 2,200 large buses produced in 2012. The agency estimates the proposal has the potential to save 49–60 fatalities, 649–858 injuries, and 1,807–2,329 crashes annually. The net cost per equivalent life saved at a 7 percent discount rate is estimated to range from $2.0–$2.6 million, and for a 3 percent discount rate is $1.5–$2.0 million. The net benefits are $155–$222 million at a 7 percent discount rate and $228–$310 million at a 3 percent discount rate.

Risks: The Agency believes that there are no significant risks associated with this rulemaking, and that only beneficial outcomes will occur.

Timetable:

Action	Date	FR Cite
NPRM	05/23/12	77 FR 30766
NPRM Comment Period End.	08/21/12	
Final Rule	07/00/14	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

URL for More Information: *www.regulations.gov.*

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

Agency Contact: George Soodoo, Chief, Vehicle Safety Dynamics Division (NVS–122), Department of Transportation, National Highway Traffic Safety Administration, 1200 New

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RIN: 2127–AK97

DOT—FEDERAL TRANSIT ADMINISTRATION (FTA)

Prerule Stage

114. +National and Public Transportation Safety Plans (MAP–21) and Transit Asset Management

Priority: Other Significant.

Legal Authority: 49 U.S.C. 5326 and 5329

CFR Citation: Not Yet Determined.

Legal Deadline: None.

Abstract: This is a joint ANPRM for certain requirments of the Public Transportation Safety Program and the of the National Tranist Asset Management System.

Safety: This rule, mandated by MAP–21, will create and implement a National Public Transportation Safety Plan that will include: (1) Safety performance criteria for all modes of public transportation; (2) the definition of State of Good Repair established under separate rulemaking; (3) minimum safety performance standards for public transportation vehicles used in revenue operations that do not apply to vehicles regulated by another Federal agency; and (4) a public transportation safety certification training program. This rule will also establish requirements for each 5307 and 5311 recipient in developing and implementing individual agency safety plans. This rule will ultimately be broken into three separate rulemakings for the National Plan and the Agency Plans, and the training certification program.

TRANSIT ASSET MANAGEMENT: See 2132–AB07.

Statement of Need: The Moving Ahead for Progress in the 21st Century Act (''MAP–21,'' effective Oct. 1, 2012) placed substantial new obligations upon the Department, FTA, and its recipients. Among those changes was a new Federal public transportation safety program for the DOT, public transportation agency safety plans by local transit agencies, and the creation of transit asset management systems and plans at the national and local levels.

Summary of Legal Basis: Title 49 US Code, sections 5326 (Transit Asset Management) and 5329 (Safety).

Alternatives: N/A.

Anticipated Cost and Benefits: The costs and benefits of these rulemakings are unknown at this time, as the prospective shape and direction of the regulatory obligations are undetermined. FTA will estimate the costs and benefits of these rulemakings at the notice of proposed rulemaking stage.

Risks: Regulated parties could raise the traditional concerns about unfunded Federal mandates and lack of transparency. But many of the safety costs will be covered by or eligible for Federal grants, and by issuing an ANPRM prior to a proposed rule, FTA hopes to enlist the involvement of affected stakeholders prior to publication of the NPRM.

Timetable:

Action	Date	FR Cite
ANPRM	10/03/13	78 FR 61251
ANPRM Comment Period End.	01/02/14	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Federal, State.

URL for More Information: www.regulations.gov.

URL for Public Comments: www.regulations.gov.

Agency Contact: Scott Biehl, Senior Chief Counsel, Department of Transportation, Federal Transit Administration, 1200 New Jersey Ave. SE., Washington, DC 20590, *Phone:* 202 366–0826, *Email: scott.biehl@dot.gov.*

Related RIN: Related to 2132–AB07.

RIN: 2132–AB20

DOT—FTA

Proposed Rule Stage

115. +New and Small Start Projects (MAP–21)

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

Legal Authority: 49 U.S.C. 5309

CFR Citation: 49 CFR 611.

Legal Deadline: None.

Abstract: This rulemaking would establish the steps in the process for New and Small Starts projects. The final rule published in January 2013 made final most of the MAP–21 evaluation criteria, except for the congestion relief criterion. This new rulemaking would build on that work by establishing the requirements for advancing through the steps in the process and outlining the congestion relief criterion that will be used by FTA.

Statement of Need: The Moving Ahead for Progress in the 21st Century Act (''MAP–21,'' effective Oct. 1, 2012) made a number of changes to the project development process for New and Small Starts projects authorized by 49 U.S.C. 5309, and created a new discretionary program for Core Capacity Improvement (''CCI'') projects. This rulemaking will carry out the new CCI program and the changes to the project development process for New and Small Starts as required by MAP–21.

Summary of Legal Basis: 49 U.S.C. 5309(g)(6) requires the Secretary to issue regulations setting the evaluation and rating process for the New Starts, Small Starts, and Core Capacity Improvement programs and the projects that seek discretionary Federal financial assistance under those programs.

Alternatives: N/A.

Anticipated Cost and Benefits: On average, Congress appropriates approximately $2 billion per year for the discretionary programs under 49 U.S.C. 5309, and FTA oversees more than $10 billion in Section 5309 funds that have been committed to New and Small Starts projects. The costs and benefits of this rulemaking will be assessed during the development of the NPRM, but they are likely to be similar to those identified in the preamble to the final rule for the previous rulemaking on New and Small Starts, issued on January 9. 2013, at 78 FR 1992–2037.

Risks: This rulemaking will modify the framework whereby FTA administers the competitive, discretionary Federal grant-in-aid programs under 49 U.S.C. 5309. This rulemaking will not regulate any entities other than the State and local agencies that apply for the discretionary funds. As such, this rulemaking poses no risks for the regulated communities other than the risks inherent in pursuing Federal-aid grant funds in competition with other applicants.

Timetable:

Action	Date	FR Cite
NPRM	03/00/14	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: None.

URL for More Information: www.regulations.gov.

URL for Public Comments: www.regulations.gov.

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RIN: 2132–AB18

DOT—FTA

116. +State Safety Oversight (MAP–21)

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

Legal Authority: Pub. L. 112–141, sec 20021

CFR Citation: 49 CFR 659.

Legal Deadline: None.

Abstract: This rulemaking will set standards for State Safety Oversight of rail transit systems and criteria for award of FTA grant funds to help the States develop and carry out their oversight programs.

Statement of Need: The Moving Ahead for Progress in the 21st Century Act (''MAP–21,'' effective Oct. 1, 2012) made substantial changes to the program for State safety oversight of rail fixed guideway public transportation systems, and created a new program of Federal financial assistance to the States for the purpose of conducting their oversight of rail transit system safety. This rulemaking will flesh out the statutory changes to the program and set the process for making grants of Federal funding to the States.

Summary of Legal Basis: 49 U.S.C. 5329(e)(9) requires the Secretary to issue regulations to carry out the State safety oversight program for rail fixed guideway public transportation systems.

Alternatives: N/A.

Anticipated Cost and Benefits: This rulemaking is not anticipated to add significant costs or benefits to the State Safety Oversight rules that have been in place since 1995. The costs and benefits will be assessed during the development of the NPRM, but it's critical to note that State Safety Oversight of rail transit systems will no longer be an unfunded mandate; for the first time, under MAP–21, Federal funding will be available to the States to assist them in conducting their oversight, and this rulemaking will set the process for making the FTA grants to the States.

Risks: This rulemaking will not regulate any entities other than States that have rail fixed guideway public transportation systems and the State Safety Oversight Agencies that conduct oversight of those rail transit systems. The Federal funding for State Safety Oversight will be apportioned by formula, based on the statutory criteria set forth in 49 U.S.C. 5329(e)(6)(B)(i), thus, this rulemaking poses no risks for the regulated communities other than the risks inherent in conducting the oversight of the safety of the rail transit systems for which they are responsible.

Timetable:

Action	Date	FR Cite
NPRM	03/00/14	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Undetermined.

Federalism: Undetermined.

URL for More Information: *www.regulations.gov.*

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

Agency Contact: Scott Biehl, Senior Chief Counsel, Department of Transportation, Federal Transit Administration, 1200 New Jersey Ave. SE., Washington, DC 20590, *Phone:* 202 366–0826, *Email: scott.biehl@dot.gov.*

RIN: 2132–AB19

DOT—PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION (PHMSA)

Prerule Stage

117. +Hazardous Materials: Rail Petitions and Recommendations to Improve the Safety of Railroad Tank Car Transportation (RRR)

Priority: Other Significant.

Legal Authority: 49 U.S.C. 5101 *et seq.*

CFR Citation: 49 CFR 173; 49 CFR 174; 49 CFR 178; 49 CFR 179.

Legal Deadline: None.

Abstract: PHMSA is considering amendments that would enhance safety and revise and clarify the HMR applicable to the transportation of hazardous materials by rail. This action responds to petitions for rulemaking submitted by the regulated community and NTSB recommendations that are associated with the petitions. Specifically, these amendments would identify elements of non-conformity that do not require a movement approval from the Federal Railroad Administration (FRA); correct an unsafe condition associated with pressure relief valves (PRV) on rail cars transporting carbon dioxide, refrigerated liquid; revise outdated regulations applicable to the repair and maintenance of DOT Specification 110, DOT Specification 106, and ICC 27 tank car tanks (ton tanks); except ruptured discs from removal if the inspection itself damages, changes, or alters the intended operation of the device; and enhance the standards for DOT Specification 111 tank cars used to transport Packing Group I and II hazardous materials.

Statement of Need: This ANPRM is a crucial step by DOT in considering how to reduce the risks related to the transportation of hazardous materials by rail. Preventing tank car incidents and minimizing the consequences when an incident does occur are not only DOT priorities, but are also shared by the National Transportation Safety Board (NTSB), industry, and the general public. These same groups also question the survivability of general service tank cars built to the current regulatory requirements. To this end, PHMSA will consider regulatory amendments to enhance the standards for tank cars, most notably, DOT Specification 111 tank cars used to transport certain hazardous materials and explore additional operational requirements to enhance the safe transportation of hazardous materials by rail.

Summary of Legal Basis: The authority of 49 U.S.C. 5103(b), which authorizes the Secretary of Transportation to ''prescribe regulations for the safe transportation, including security, of hazardous materials in intrastate, interstate, and foreign commerce.''

Alternatives: PHMSA and FRA are committed to a comprehensive approach to addressing the risk and consequences of derailments involving hazardous materials by addressing not only survivability of rail car designs, but the operational practices of rail carriers. Obtaining information and comments in an ANPRM will provide the greatest opportunity for public participation in the development of regulatory amendments, and promote greater exchange of information and perspectives among the various stakeholders to promote future regulatory action on these issues.

Anticipated Cost and Benefits: Given that we are in the ANPRM stage of this action, we are still determining the best path forward. As such, the costs and benefits have not yet been fully quantified. The ANPRM requests comments on both the path forward and the economic impacts.

Risks: DOT conducted research on long-standing safety concerns regarding the survivability of the DOT Specification 111 tank cars designed to current HMR requirements and used for the transportation of flammable liquids. The research found that special consideration is necessary for the transportation of flammable liquids in DOT Specification 111 tank cars, especially when a train is configured as a unit train. Through the research, DOT identified and ranked several enhancements to the current specification that would increase tank car survivability. The highest ranked options are low cost and the most effective at preventing loss of containment and catastrophic failure of

a DOT Specification 111 tank car during a derailment.

Timetable:

Action	Date	FR Cite
ANPRM	09/06/13	78 FR 54849
ANPRM Comment Period End.	11/05/13	
ANPRM Comment Period Extended.	11/05/13	78 FR 66326
ANPRM Extended Comment Period End.	12/05/13	
ANPRM Analyzing Comments.	12/00/13	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Undetermined.

Additional Information: HM–251; SB–Y; IC–Y; SLT–N; This ANPRM will provide the greatest opportunity for public participation in the development of regulatory amendments, and promote greater exchange of information and perspectives among the various stakeholders. This additional step will lead to more focused and well-developed proposals that reflect the views of all regulated entities. Comments received will be used in our evaluation and development of future regulatory action on these issues.

URL for More Information: *www.regulations.gov.*

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

Agency Contact: Ben Supko, Transportation Regulations Specialist, Department of Transportation, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, *Phone:* 202–366–8553, *Email:* *ben.supko@dot.gov.*

RIN: 2137–AE91

DOT—PHMSA

Proposed Rule Stage

118. +Pipeline Safety: Safety of On-Shore Liquid Hazardous Pipelines

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

Legal Authority: 49 U.S.C. 60101 *et seq.*

CFR Citation: 49 CFR 195.

Legal Deadline: None.

Abstract: This rulemaking would address effective procedures that hazardous liquid operators can use to improve the protection of High Consequence Areas (HCA) and other vulnerable areas along their hazardous liquid onshore pipelines. PHMSA is considering whether changes are needed to the regulations covering hazardous liquid onshore pipelines, whether other areas should be included as HCAs for integrity management (IM) protections, what the repair timeframes should be for areas outside the HCAs that are assessed as part of the IM program, whether leak detection standards are necessary, valve spacing requirements are needed on new construction or existing pipelines, and PHMSA should extend regulation to certain pipelines currently exempt from regulation. The Agency would also address the public safety and environmental aspects any new requirements, as well as the cost implications and regulatory burden.

Statement of Need: This rulemaking would respond to the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (P.L. 112–90), which includes several provisions and mandates that are relevant to the 49 CFR including section 195.452 (hazardous liquid integrity management). The rule also would respond to several NTSB recommendations, a GAO recommendation, public safety community input, research and technology advancements, and reviews of recent incident and accident reports to refine and improvement of existing hazardous liquid regulations. This action would better protect the public, property, and the environment by ensuring that additional pipelines are subject to regulation, thus increasing the detection and remediation.

Summary of Legal Basis: Congress established the current framework for regulating the safety of hazardous liquid pipelines in the Hazardous Liquid Pipeline Safety Act (HLPSA) of 1979 (P.L. 96–129). Like its predecessor, the Natural Gas Pipeline Safety Act of 1968 (P.L. 90–481), the HLPSA provided the Secretary of Transportation (Secretary) with the authority to prescribe minimum Federal safety standards for hazardous liquid pipeline facilities. That authority, as amended in subsequent reauthorizations, is currently codified in the Pipeline Safety Laws (49 U.S.C. §§ 60101 *et seq.*).This action would respond to the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (P.L. 112–90), which requires that the Secretary of Transportation to study and submit to Congress reports on various topics related to hazardous liquid transportation by pipeline and to amend the current pipeline safety statutes through the rulemaking process after submission of these reports. The mandates which this rule responds to are found in Section 5(IM), Section 8 (leak detection), Section 21 (Gathering Lines), Section 29 (seismicity) and Section 14 (bio fuels).

Alternatives: PHMSA considered various alternatives for each of the eight proposals of this NPRM. The alternative considered for all proposals was ''no action or status quo'' in addition to other various appropriate alternatives. Other alternatives reviewed included establishing different requirements for the large and small operators; creating a ''Monitored'' category; application of the existing IM repair criteria to anomalous conditions discovered outside of HCAs, use of a tiered, risk-based approach for repairing anomalous conditions discovered outside of HCAs, require ILI assessment for all pipelines and a rigid structured data integration program. Special consideration was given to alternatives that lessened regulatory burdens and provided operator flexibility in performance of a requirement.

Anticipated Cost and Benefits: PHMSA cannot estimate costs or benefits precisely, but based on the information, the present value of costs and benefits over a 20-year period is approximately $56 million and $98 million, respectively at 7 percent. Thus, net benefits are approximately $46 million ($102 million–$56 million) over 20 years.

Risks: This rulemaking would provide increased safety for the regulated entities and reduce pipeline safety risks.

Timetable:

Action	Date	FR Cite
ANPRM	10/18/10	75 FR 63774
ANPRM Comment Period End.	01/18/11	
ANPRM Comment Period Extended.	01/04/11	76 FR 303
ANPRM Extended Comment Period End.	02/18/11	
NPRM	04/00/14	

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: John A Gale, Transportation Regulations Specialist, Department of Transportation, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, *Phone:* 202–366–0434, *Email:* *john.gale@dot.gov.*

RIN: 2137–AE66

DOT—PHMSA

119. +Pipeline Safety: Gas Transmission (RRR)

Priority: Other Significant.

Legal Authority: 49 U.S.C. 60101 *et seq.*

CFR Citation: 49 CFR 192.

Legal Deadline: None.

Abstract: This rulemaking action would enhance safety, revise and clarify the pipeline safety regulations applicable to the transmission and gathering of natural gas by pipeline. This rulemaking would address the implementation of integrity management principles for gas transmission pipelines in and out of High Consequence Areas (HCAs). In addition, PHMSA would also address the repair criteria for both HCA and non-HCA areas, corrosion control requirements, MAOP exceedance reporting and expanding requirements for integrity management.

Statement of Need: 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 shut off valves, valve spacing, and whether applying the integrity management program requirements to additional areas would mitigate the need for class location requirements. This rulemaking is in direct response to Congressional mandates in the 2011 Pipeline Reauthorization Act, specifically; section 4 (e) Gas IM plus 6 months), section 5(IM), 8 (leak detection), 23 (b)(2)(exceedance of MAOP); section 29 (seismicity). Congress has requested PHMSA to review the existing regulations for gas transmission by pipeline and strengthen them through more clarity and expansion of IM for gas pipelines. The goal of this rule is to improve gas transmission pipeline safety.

Summary of Legal Basis: This action would respond to the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (P.L. 112–90), which requires that the Secretary of Transportation to study and submit to Congress reports on various topics related to transmission of natural gas by pipeline and to amend the current pipeline safety statutes through the rulemaking process after submission of these reports. The mandates which this rule responds to are found in section 4 (e) (Gas IM), section 5 (IM), section 23 (b)(2)(exceedance of MAOP) and section 29 (seismicity).

Alternatives: Alternative analyzed included no change and extention of the compliance deadlines associated with the major cost of the requirement area; namely, development and implementation of management of change processes that apply to all gas transmission pipelines beyond that which already applies to beyond IMP- and control center-related processes.

Anticipated Cost and Benefits: PHMSA does not expect the proposed rule to adversely affect the economy or any sector of the economy in terms of productivity and employment, the environment, public health, safety, or State, local, or tribal government. PHMSA has also determined, as required by the Regulatory Flexibility Act, that the rule would not have a significant economic impact on a substantial number of small entities in the United States. Additionally, PHMSA determined that the rule would not impose annual expenditures on State, local, or tribal governments in excess of $152 million, and thus does not require an Unfunded Mandates Reform Act analysis. However, the rule would impose annual expenditure on private sector in excess of $152 million and is therefore economically significant.

Risks: This proposed rule will strengthen current pipeline regulations and lower the safety risk of all regulated entities.

Timetable:

Action	Date	FR Cite
ANPRM	08/25/11	76 FR 5308
ANPRM Comment Period Extended.	11/16/11	76 FR 70953
ANPRM Comment Period End.	12/02/11	
End of Extended Comment Period.	01/20/12	
NPRM	07/00/14	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Additional Information: SB–Y IC–N SLT–N.

URL for More Information: www.regulations.gov.

URL for Public Comments: www.regulations.gov.

Agency Contact: Cameron H Satterthwaite, Transportation Regulations Specialist, Department of Transportation, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Ave. SE., Washington, DC 20590, *Phone:* 202 366–8553, *Email: cameron.satterthwaite@dot.gov.*

RIN: 2137–AE72

BILLING CODE 4910–9X–P

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, the Department invites interested parties to submit views on rulemaking projects while a proposed rule is being developed.

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 published 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.

In FY 2014, 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.

Bureau of the Fiscal Service

The Bureau of the Fiscal Service (Fiscal Service) 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.

The Fiscal Service, 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) Administering the Government's payments, collections and debt collection; (3) Implementing Treasury's borrowing authority, including rules governing the sale and issue of savings bonds, marketable Treasury securities, and State and local government securities; (4) Setting out the terms and conditions by which Treasury may buy back and redeem outstanding, unmatured marketable Treasury securities through debt buyback operations; (5) Governing securities held in Treasury's retail systems; (6) Governing the acceptability and valuation of collateral pledged to secure deposits of public monies and other financial interests of the Federal Government; and (7) Administering Governmentwide accounting programs.

During fiscal year 2013, the Fiscal Service 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, the Fiscal Service, 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.

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 2013, FinCEN issued the following regulatory actions:

Withdrawal of the Findings of Primary Money Laundering Concern and the Final Rules against Myanmar Mayflower Bank and Asia Wealth Bank. On October 1, 2012, FinCEN issued a notice repealing the final rule, ''imposition of Special Measures Against Myanmar Mayflower Banks and Asia Wealth Bank'' of April 12, 2004, and withdrawing the findings of November 25, 2003 that these entities were financial institutions of primary money laundering concern pursuant to 31 U.S.C. 5318A of the Bank Secrecy Act. FinCEN's actions were the result of the revocation of their licenses by the Government of Burma and the cessation of their business activities.

Amendments to the Definitions of Funds Transfer and Transmittal of Funds in the Bank Secrecy Act (BSA) Regulations. On December 6, 2012, FinCEN published a Notice of Proposed Rulemaking (NPRM) 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 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.

Imposition of Special Measure against Kassem Rmeiti & Co. For Exchange as a Financial Institution of Primary Money Laundering Concern. On April 23, 2013, FinCEN issued a finding that Kassem Rmeiti & Co. For Exchange (Rmeiti Exchange) is a financial institution operating outside of the United States that is of primary money laundering concern under section 311 of the USA PATRIOT Act. On April 23, 2013, FinCEN issued an NPRM to impose the first special measure and the fifth special measure against the institution. 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. In conjunction with the NPRM, FinCEN issued an order imposing certain recordkeeping and reporting obligations on covered financial institutions and principal money transmitters with respect to transactions involving Rmeiti Exchange.

Imposition of Special Measure Against Halawi Exchange Co. as a Financial Institution of Primary Money Laundering Concern. On April 23, 2013, FinCEN issued a finding that Halawi Exchange Co. (Halawi) is a financial institution operating outside of the United States that is of primary money laundering concern under section 311 of the USA PATRIOT Act. On April 23, 2013, FinCEN issued an NPRM to impose the first special measure and the fifth special measure against the institution. 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. In conjunction with the NPRM, FinCEN issued an order imposing certain recordkeeping and reporting obligations on covered financial institutions and principal money transmitters with respect to transactions involving Halawi.

Imposition of Special Measure Against Liberty Reserve S.A. as a Financial Institution of Primary Money Laundering Concern. On May 28, 2013, FinCEN issued a finding that Liberty Reserve S.A. is a financial institution operating outside of the United States that is of primary money laundering concern under section 311 of the USA PATRIOT Act. On May 28, 2013, FinCEN issued an NPRM to impose the fifth special measure against the institution. 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.

Administrative Rulings and Written Guidance. FinCEN published three administrative rulings and written guidance pieces, and provided 16 responses to written inquiries/correspondence interpreting the BSA and providing clarity to regulated industries.

FinCEN's regulatory priorities for fiscal year 2014 include finalizing any initiatives mentioned above that are not finalized by fiscal year end, as well as the following in-process and potential projects:

Amendment to the BSA Regulations—Definition of Monetary Instrument. On October 17, 2011, FinCEN published an NPRM 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.

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.

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.

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 IRS to resolve these issues, which may include additional guidance and rulemaking.

Cross Border Electronic Transmittal of Funds. On September 27, 2010, FinCEN issued an 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.

Comprehensive Review and Revisions to the CMIR Regulations. FinCEN is in the preliminary stages of an initiative to address certain vulnerabilities with respect to currency flows across U.S. borders and the longstanding exemptions to the CMIR regulations.

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.

Changes to the Travel and Recordkeeping Requirements for Funds Transfers and Transmittals of Funds. FinCEN is considering changes to require that more information be collected and maintained by financial institutions on funds transfers and transmittals of funds to address concerns regarding transmissions of wires with missing originator fields. Changes can now be considered due to the recently enhanced information capacity within transmittal systems.

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 that it may propose various technical and other regulatory amendments in conjunction with its ongoing, comprehensive review of existing regulations to enhance regulatory efficiency, and as a result of the efforts of an interagency task force currently focusing on improvements to the U.S. regulatory framework for anti-money laundering.

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–Peru Trade Promotion Agreement final rule (77 FR 64031) of October 18, 2012 that adopted interim amendments (76 FR 68067) of November 3, 2011, to the U.S. Customs and Border Protection (CBP) regulations which implemented the preferential tariff treatment and other customs-related provisions of the United States–Peru Trade Promotion Agreement Implementation Act. CBP issued the United States–Korea Free Trade Agreement final rule (78 FR 32356) of May 30, 2013 that adopted interim amendments (77 FR 15943) of March 19, 2012 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 that took effect on March 15, 2012. In addition, CBP issued the United States-Colombia Trade Promotion Agreement final rule (78 FR 60191) on October 1, 2013, that adopted the interim amendments (77 FR 59064) of September 26, 2012 to the CBP regulations. On October 23, 2013, CBP also issued regulations (78 FR 63052), on an interim basis, on the United States-Panama Trade Promotion Agreement and CBP plans to finalize this rulemaking in fiscal year 2014.

On December 6, 2012, Treasury and CBP published a final rule (77 FR 72715) that amended the regulations to increase the $2,000 Informal entry 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 removed the requirement for the filing of a formal entry for certain articles formerly subject to absolute quotas under the Agreement on Textiles and Clothing.

On July 5, 2013, Treasury and CBP published a final rule (78 FR 40388) that adopted, with some changes based upon comments received, the March 2012 proposal that provides CBP will refuse admission into the customs territory of the United States to consumer products and industrial equipment found to be noncompliant with energy conservation and labeling standards pursuant to the mandate of the Energy Policy and Conservation Act of 1975 and its implementing regulations. Upon written or electronic notice from the Department of Energy or the Federal Trade Commission, CBP may conditionally release under bond to the importer such noncompliant products or equipment for purposes of reconditioning, relabeling, or other action so as to bring the subject product or equipment into compliance.

On July 8, 2013, Treasury and CBP finalized (78 FR 40627) its August 2012 proposal to promulgate regulations regarding the prohibitions and conditions that are applicable to the importation and exportation of rough diamonds pursuant to the Clean Diamond Trade Act, as implemented by the President in Executive Order 13312 dated July 29, 2003, and the Rough Diamonds Control Regulations (RDCR) issued by the Treasury's Department Office of Foreign Assets Control. In addition to restating pertinent provisions of the RDCR, the regulations clarify that any U.S. person exporting from, or importing to, the United States a shipment of rough diamonds must retain for a period of at least five years a copy of the Kimberley Process Certificate that must accompany such shipments and make the copy available for inspection when requested by CBP, and also requires formal entry for shipments of rough diamonds.

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 proposed changes on February 22, 2012 (77 FR 10368) to its in-bond process which allows imported merchandise to be entered at one U.S. port of entry without appraisement or payment of duties and transported by bonded carrier to another U.S. port of entry provided all statutory and regulatory conditions are met. At the destination port, the merchandise is entered into the commerce of the United States and duties paid, or the merchandise is exported. The proposed changes, including the automation of the in-bond process, are proposed to modernize, simplify, and facilitate the in-bond process while enhancing CBP's ability to regulate and track in-bond merchandise to ensure that in-bond merchandise is properly entered or exported. CBP plans to finalize its proposed rulemaking in fiscal year 2014.

During fiscal year 2014, 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.

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 such as the trade benefit provisions for Caribbean Basin countries as well as for sub-Saharan Africa.

Free Trade Agreements. Treasury and CBP also plan to issue final regulations this fiscal year to implement the preferential trade benefit provisions of the United States-Singapore Free Trade Agreement Implementation Act and the United States-Panama Trade Promotion 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.

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.

Documentation Related to Goods Imported From U.S. Insular Possessions. Treasury and CBP plan to propose an amendment to the regulations to eliminate the requirement that a customs officer at the port of export verify and sign CBP Form 3229, Certificate of Origin for U.S. Insular Possessions, and to require instead that the importer present this form, upon CBP's request, rather than submit it with each entry as the current regulations require. The changes proposed would streamline the entry process by making it more efficient as it would reduce the overall administrative burden on both the trade and CBP. If the importer does not maintain CBP Form 3229 in its possession, the importer may be subject to a recordkeeping penalty.

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 year 2013 include:

Regulatory Capital Rules—Basel III (12 CFR parts 3, 5, 6, 165, 167). The banking agencies (OCC and Board of Governors of the Federal Reserve System (Federal Reserve) have issued a final rule that revises their risk-based and leverage capital requirements for banking organizations. (The Federal Deposit Insurance Corporation (FDIC) separately issued an interim final rule that is substantively the same as the OCC and Federal Reserve final rule.) The final rule consolidates three separate proposed rules that the banking agencies published on August 30, 2012 (77 FR 52792, 52888, 52978), into one final rule. The final rule implements a revised definition of regulatory capital, 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 risk-based capital rules, a supplementary leverage ratio that incorporates a broader set of exposures in the denominator. The final rule incorporates new requirements are into the banking agencies' prompt corrective action framework and establishes limits on a banking organization's capital distributions and certain discretionary bonus payments if the banking organization does not hold a specified amount of common equity tier 1 capital in addition to the amount necessary to meet its minimum risk-based capital requirements. The final rule amends the methodologies for determining risk-weighted assets for all banking organizations, and introduces disclosure requirements that would apply to top-tier banking organizations domiciled in the United States with $50 billion or more in total assets. The final rule also adopts changes required by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (P.L. 111–203) to implement more stringent capital and leverage requirements and to replace regulatory references to credit ratings with new creditworthiness measures. In addition, the OCC has amended the market risk capital rule to apply to Federal savings associations. The final rule was published on October 11, 2013, 78 FR 62018.

Leverage Ratio. (12 CFR Part 3). The banking agencies issued a proposed rule that would strengthen the agencies' leverage ratio standards for large, interconnected U.S. banking organizations. The proposal would apply to any U.S. top-tier bank holding company (BHC) with at least $700 billion in total consolidated assets or at least $10 trillion in assets under custody (covered BHC) and any insured depository institution (IDI) subsidiary of these BHCs. In the Basel III final rule, the banking agencies established a

minimum supplementary leverage ratio of 3 percent (supplementary leverage ratio), consistent with the minimum leverage ratio adopted by the Basel Committee on Banking Supervision, for banking organizations subject to the advanced approaches risk-based capital rules. In this proposed rule, the banking agencies are proposing to establish a ''well capitalized'' threshold of 6 percent for the supplementary leverage ratio for any IDI that is a subsidiary of a covered BHC, under the agencies' prompt corrective action framework. 78 FR 51101 (August 20, 2013).

Short-Term Investment Funds (12 CFR part 9). The OCC issued a final rule updating 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 proposed rule was issued on April 9, 2012 (77 FR 21057) and the final rule was issued on October 9, 2012 (77 FR 61229).

Flood Insurance (12 CFR parts 22 and 172). The banking agencies, the Farm Credit Administration, and the National Credit Union Administration have proposed revisions to their regulations regarding loans in areas having special flood hazards to implement provisions of the Biggert-Waters Flood Insurance Reform Act of 2012. In addition, the OCC proposed to integrate its flood insurance regulations for national banks, 12 CFR part 22, and Federal savings associations, 12 CFR part 172. 78 FR 65108 (October 30, 2013).

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 OCC issued an interim final rule on June 21, 2012, which consolidated the lending limits rules applicable to national banks and savings associations, removed the separate OCC regulation governing lending limits for savings associations, and implemented section 610 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, which amends the statutory definition of ''loans and extensions of credit'' to include certain credit exposures arising from derivative transactions, repurchase agreements, reverse repurchase agreements, securities lending transactions, and securities borrowing transactions. The interim final rule was finalized with revisions on June 19, 2013 and published in the **Federal Register** on June 25, 2013. 78 FR 37930.

Appraisals for Higher-Risk Mortgages (12 CFR parts 34, 164). The banking agencies, CFPB, FHFA, and NCUA, issued a final rule on February 13, 2012 (78 FR 10368) to amend Regulation Z and its official interpretation. The rule revised Regulation Z to implement a new TILA provision requiring appraisals for ''higher-risk mortgages'' that was added to TILA as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act. For mortgages with an annual percentage rate that exceeds market-based prime mortgage rate benchmarks by a specified percentage, the rule generally requires 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 agencies issued a supplemental proposed rule on August 8, 2013 that would exempt from the requirements of the final rule (i) transactions secured by existing manufactured homes and not land; (ii) certain streamlined refinancings; and (iii) transactions of $25,000 or less. 78 FR 48548.

Annual Stress Test (12 CFR part 46). The OCC issued a final rule to 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 proposed rule was published on January 24, 2012 and the final rule on October 9, 2012. 77 FR 3408, 61238.

Regulatory priorities for fiscal year 2014 include finalizing the proposals listed above as well as the following rulemakings:

Integration of Savings Association Supervision (12 CFR chapter I). The OCC intends to propose amendments to integrate certain rules related to bank operations and compliance and securities-related matters of national banks and savings associations, revise some of these rules with the goal of eliminating unnecessary requirements while ensuring safety and soundness, and make other technical and conforming changes. These amendments will streamline OCC rules, reduce duplication, and create efficiencies by establishing in many areas a single set of rules for all entities supervised by the OCC. The OCC also is requesting comments on some of these rules on way to reduce regulatory burden pursuant to the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA).

Appraisal Management Companies (12 CFR part 34). The OCC in an interagency rule with the FDIC, FRB, FHFA, NCUA and CFPB, plans to issue a proposed rule that will set minimum standards for state registration and regulation of appraisal management companies. The rule will implement the minimum requirements in section 1473 of Dodd-Frank to be applied by States in the registration of appraisal management companies. The proposed rule will also implement the requirement in section 1473 of the Dodd-Frank Act for States to report to the Appraisal Subcommittee of the Federal Financial Institutions Examination Council the information needed by the ASC to administer the national registry of appraisal management companies.

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 a proposed rule 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. The proposed rule was published on April 29, 2011. 76 FR 24090. A reproposal was issued on September 20, 2013. (78 FR 57928.)

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 proposed rule was issued 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. The proposed rule was published on May 11, 2011 (76 FR 27564).

Source of Strength. (12 CFR part 47). The banking agencies plan 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 insured 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.

Liquidity Coverage Ratio (12 CFR 50). The banking agencies plan to issue a proposed rule that would implement the liquidity coverage ratio consistent with agreements reached by the Basel Committee on Banking Supervision for certain banking organizations to promote improvements in the measurement and management of asset- and funding-liquidity risk. The proposal would establish a quantitative minimum liquidity coverage ratio that builds upon the liquidity coverage methodologies traditionally used by banking organizations to assess exposures to contingent liquidity events and would complement existing supervisory guidance.

*Automated Valuation Models. (*Parts 34, 164) The OCC, FRB, FDIC, NCUA, FHFA and CFPB, in consultation with the Appraisal Subcommittee and the Appraisal Standards Board of the Appraisal Foundation, are required to promulgate regulation to implement quality control standards required for automated valuation models. Section of 1473(q) of the Dodd Frank Wall Street Reform and Consumer Protection Act requires that automated valuation models used to estimate collateral value for mortgage lending comply with quality control standards designed to: ensure a high level of confidence in the estimates produced by automated valuation models; protect against manipulation of data; seek to avoid conflicts of interest; require random sample testing and reviews and account for other factors the agencies deem appropriate. The agencies plan to issue a proposed rule to implement the requirement for quality control standards.

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.

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, 2014:

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.

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.

During fiscal year 2014, the IRS will accord priority to the following regulatory projects:

Tax-Related Affordable Care Act 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 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 already effective and some of which will become effective over the next several years. Since enactment of the ACA, Treasury and the IRS have issued a series of temporary, proposed, and final regulations implementing over a dozen provisions of the ACA, including the premium tax credit under section 36B, the small business health coverage tax credit under section 45R, new requirements for charitable hospitals under section 501(r), limits on tax preferences for remuneration provided by certain health insurance providers under section 162(m)(6), the employer shared responsibility provisions under section 4980H, the individual shared responsibility provisions under section 5000A, insurer and employer reporting under sections 6055 and 6056, and several revenue-raising provisions, including a fee on branded prescription drugs and a tax on indoor tanning services.

In fiscal year 2014, Treasury and the IRS will continue to provide guidance to implement tax provisions of the ACA, including:

- Final regulations on information reporting by exchanges under section 36B(f)(3);
- Final regulations on minimum value of eligible-employer-sponsored plans under section 36B;
- Final regulations on limits on tax preferences for remuneration provided by certain health insurance providers under section 162(m)(6);
- Final regulations on new requirements for charitable hospitals under section 501(r);
- Final regulations on the net investment income tax under section 1411;
- Final regulations on the additional Medicare tax under sections 3101 and 3102;
- Final regulations on the employer shared responsibility provisions under section 4980H;
- Final regulations on the health insurance providers fee under section 9010 of the ACA;
- Final regulations on insurer and employer reporting under sections 6055 and 6056.
- Additional guidance on the medical device tax under section 4191.

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. We also provided additional industry-specific guidance related to property used to generate steam or electric power. Treasury and the IRS intend to finalize the proposed and temporary regulations. We also intend to provide additional industry-specific guidance relating to property used in the transmission and distribution of natural gas, property used in a cable television system, and property used in the retail industry.

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 regulations with respect to the definition and credit eligibility of expenditures for internal use software, the treatment of intra-group transactions for purposes of determining the controlled group's gross receipts for purposes of the credit computation, the election of the alternative simplified credit, and the allocation of the credit among members of a controlled group. 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, and terminations of qualified hedging transactions, and selected other issues.

Guidance on the Definition of Political Subdivision for Tax-Exempt, Tax-Credit, and Direct-Pay Bonds. A political subdivision may be a valid issuer of tax-exempt, tax-credit, and direct-pay bonds. Concerns have been raised recently about what is required for an entity to be a political subdivision. Treasury and the IRS plan to provide additional guidance under section 103 for determining when an entity is a political subdivision.

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 2013, Treasury and the IRS have addressed some of these issues through published guidance, including guidance relating to home mortgages refinanced under the Home Affordable Modification Program—Principal Reduction Alternative, final regulations to determine the issue price of a debt instrument issued in certain refinancings of publicly traded debt, and a notice relating to the conclusive presumption of bad debts. Treasury and the IRS plan to address more of these issues in published guidance.

Corporate Spin-offs and Split-offs. Section 355 and related provisions of the Internal Revenue Code allow for the tax-free division a corporation into two corporations under certain conditions. The IRS and Treasury Department intend to provide guidance on a variety of topics relating to these provisions. Two of these topics were the subject of previous regulatory proposals: the active trade or business requirement of section 355(b) and when a corporation is a predecessor or successor corporation under section 355(e). Other topics to be addressed are: when a corporation is a controlled corporation that can be distributed under section 355(a) given changes to the voting power of its various classes of stock in anticipation of the distribution; when stock or securities of the distributed corporation can be used to retire debt of the distributing corporation that was issued in anticipation of the distribution; and when various items of cash or property flowing between a corporation and its shareholders should be treated as being in exchange for each other.

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 proposed regulations on February 15, 2012 that would amend the current regulations to add categories of preparers and further clarify who may obtain a PTIN. Treasury and the IRS intend to finalize the proposed regulations in 2014.

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. Treasury and the IRS intend to publish a number of guidance projects in fiscal year 2014 addressing these new or amended penalty provisions. Specifically, Treasury and the IRS intend to publish final 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. The proposed regulations were published on March 8, 2013. Treasury and the IRS also 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. Further, Treasury and the IRS intend to publish 1) 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 2) temporary and proposed regulations under section 6707A addressing statutory changes to the method of computing the section 6707A penalty for failure to disclose reportable transactions.

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.'' Proposed regulations were published on December 18, 2012, that included 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. Treasury and the IRS plan to issue final regulations 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 or that is not deemed to comply with the requirements of section 1471 generally will be subject to a withholding tax on the gross amount of certain payments from U.S. sources, as well as, after 2016, the gross proceeds from disposing of certain U.S. investments. To date, Treasury and the IRS have published Notice 2010–60, Notice 2011–34, Notice 2011–53, Announcement 2012–42, and proposed and final regulations under chapter 4. Notice 2013–43 was also recently published to provide revised timelines for the implementation of FATCA. This year Treasury and the IRS expect to publish certain substantive changes and corrections to the chapter 4 final regulations; a model FFI Agreement; revised Qualified Intermediary, Withholding Foreign Partnership, and Withholding Foreign Trust Agreements coordinating the requirements of these agreements with the chapter 4 requirements of entities executing these agreements; and revisions to the regulations under chapters 3 and 61 to coordinate with the requirements of the regulations under chapter 4.

Withholding on Certain Dividend Equivalent Payments on Certain Equity Derivatives. 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. On January 23, 2012, 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 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 in 2012 and expect to issue additional guidance on EJMAA in this fiscal year.

Transfers of Intangibles to Foreign Corporations. Section 367(d) of the Internal Revenue Code requires, except as provided in regulations, a U.S. person who transfers intangible property to a foreign corporation in an exchange described in section 351 or 361 of the Code to treat the transfer as a sale for payments which are contingent upon the productivity, use, or disposition of such property, and to take into account amounts which reasonably reflect the amounts which would have been received annually in the form of such payments over the useful life of such property, or at the time of the disposition of the property. The amounts so taken into account must be commensurate with the income attributable to the intangible. Under existing temporary regulations issued in 1986, section 367(d) is made inapplicable to the transfer of ''foreign goodwill or going concern value,'' as defined in the regulations. The existing regulations provide general guidance regarding the application of section 367(d), although controversy regarding the application of section 367(d) to certain transfers led the Treasury and the IRS to publish Notice 2012–39 on July 13, 2012. Treasury and the IRS intend to issue additional guidance in 2014 to reduce uncertainty and controversy in this area.

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.

Section 501(c)(4) guidance. Treasury and the IRS plan to issue proposed regulations that provide guidance relating to measurement of an organization's primary activity and whether it is operated primarily for the promotion of social welfare, including guidance relating to political campaign intervention. Treasury and the IRS intend to issue further guidance on these issues in fiscal year 2014.

Alcohol and Tobacco Tax and Trade Bureau

The Alcohol and Tobacco Tax and Trade Bureau (TTB) issues regulations to implement and 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, 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 2014, 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 in the updating of Parts 9 (American Viticultural Areas) and 19 (Distilled Spirits Plants) of Title 27, Code of Federal Regulations. In December 2012, TTB published a temporary rule and concurrent Notice of Proposed Rulemaking (NPRM) that would lessen the number of required excise tax returns and operations reports for small brewers and also provide a flat $1,000 penal sum for the brewer's bond for such brewers. TTB believes these proposals will lessen costs and increase efficiencies for those businesses. The regulatory proposals also will reduce the administrative burden on TTB. If small brewers submitted quarterly returns and operations reports, TTB could reduce the overall time it spends processing these forms.

Additionally, in FY 2013, TTB published a temporary rule and concurrent NPRM pertaining to permits for importers of tobacco products and processed tobacco that would extend the duration of new permits from three years to five years. Furthermore, TTB published an NPRM concerning denatured alcohol and products made with industrial alcohol. The proposed amendments would remove unnecessary regulatory burdens on the industrial alcohol industry as well as TTB, and would align the regulations with current industry practice. These three rules were published in June 2013.

As described in greater detail below, in FY 2014, TTB plans to continue its Regulations Modernization Project concerning its Specially Denatured and Completely Denatured Alcohol regulations, Labeling Requirement regulations, Export regulations, Nonbeverage Products regulations and Beer regulations.

Revisions to Specially Denatured and Completely Denatured Alcohol Regulations. TTB proposed 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, 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. To help alleviate these concerns, TTB plans to issue a final rule that will reclassify certain SDA formulas as CDA and issue new general-use formulas for articles made with SDA. As a result of these changes, industry members would need to seek formula approval from TTB less frequently, and, in turn, TTB could decrease the resources it dedicates to formula review. TTB estimates that these changes will result in an 80 percent reduction in the formula approval submissions currently required from industry members and will 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 changes made by this final rule will 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)). 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 accordance with the mandate of Executive Order 13563 of January 18, 2011, regarding improving regulation and regulatory review, TTB has conducted an analysis of its regulations to identify if any may be outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned. As a result of its review, 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. The goal of these regulatory changes, to be developed with industry input, is to accelerate the approval process, which will result in the regulated industries being able to bring products to market without undue delay.

Selected Revisions of Export Regulations (Part 28). TTB has identified selected sections of its export regulations (part 28) that should be amended to assist industry members in complying with the regulations. Current regulations require industry members to obtain documents and follow procedures that are outdated and not entirely consistent with current industry practices regarding exportation, and, under its regulatory authority, TTB routinely provides exceptions to these regulatory provisions. Revising these regulations will provide industry members with clear and updated

procedures for removal of alcohol for exportation without having to pay excise taxes (under the IRC, beverage alcohol may be removed for exportation without payment of tax), thus increasing their willingness and ability to export their products. Increasing American exports benefits the American economy and is consistent with Treasury and Administration priorities.

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 nearly 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 conducting discussions with industry groups and members, analyzing available data, and reviewing our existing regulations and requirements, TTB, in December 2012, proposed changes to our regulations that would reduce the tax return submission and filing and operations reporting burdens on ''small'' brewers. Such proposals would lessen the number of required excise tax returns and operations reports for small brewers and also provide a flat $1,000 penal sum for the brewer's bond for such brewers. The amendments 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 has solicited comments from the public in this notice of proposed rulemaking (NPRM) on other changes it 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.

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.

RESTORE Act. On September 6, 2013, the Department of the Treasury published proposed regulations concerning the investment and use of amounts deposited in the Gulf Coast Restoration Trust Fund, which was established in the Treasury of the United States by the Resources and Ecosystem Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (RESTORE Act). Eighty percent of the administrative and civil penalties paid under the Federal Water Pollution Control Act in connection with the Deepwater Horizon oil spill will be deposited into the Trust Fund and invested. Under terms described in the Act, amounts in the Trust Fund will be available for programs, projects, and activities that restore and protect the environment and economy of the Gulf Coast region which includes Alabama, Florida, Louisiana, Mississippi, and Texas. This regulation contains procedures required by the Act. The regulation recognizes that, under the statutory scheme, many expenditures from the Trust Fund will be grants. The financial management, auditing, and reporting requirements in Federal grant law and policy, therefore, apply to these expenditures. Overseeing compliance will be a responsibility resting primarily with the Federal and State entities which administer grants for the programs, projects, and activities funded under the Act. Treasury will carry out an important and supplemental role in overseeing the States' compliance with requirements in the Comprehensive Plan Component and the Spill Impact Component. The comment period closes on November 5, 2013.

Retrospective Review of Existing Regulations

The following regulations (identified by Regulatory Identifier Number) have been identified as candidates for retrospective review pursuant to the Department's most recent retrospective review of regulations plan issued in July 2013 pursuant to section 6 of Executive Order 13563 ''Improving Regulation and Regulatory Review'' (Jan. 18, 2011). Treasury's retrospective review 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.

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.

BILLING CODE 8320–01–P

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

FY 2014 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, information and communication technology, and medical diagnostic equipment. Other federal agencies adopt the accessibility guidelines and standards issued by the Access Board as mandatory requirements for entities under their jurisdiction.

This plan highlights three rulemaking priorities for the Access Board in FY 2014: (A) Information and Communication Technology Accessibility Standards and Guidelines; (B) Medical Diagnostic Equipment Accessibility Standards; and (C) Pedestrian Facilities in the Public Right of Way Accessibility Guidelines. The guidelines and standards would enable individuals with disabilities to achieve greater participation in our society, independent living, and economic self-sufficiency, and would promote our national values of equity, human dignity, and fairness, the benefits of which are difficult to quantify.

The rulemakings are summarized below.

A. Information and Communication Technology Accessibility Standards and Guidelines (RIN: 3014–AA37)

The Access Board plans to issue a Notice of Proposed Rulemaking (NPRM) to update its accessibility standards for electronic and information technology covered by section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d) (Section 508), and its accessibility guidelines for telecommunication equipment and customer premises equipment covered by section 255 of the Telecommunications Act of 1996 (47 U.S.C. 255) (Section 255). 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 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.

A.1 *Statement of Need:* The Access Board issued the Electronic and Information Technology Accessibility Standards in 2000 (65 FR 80500, December 21, 2000), and the Telecommunications Act Accessibility Guidelines for telecommunications equipment and customer premises equipment in 1998 (63 FR 5608, February 3, 1998). Since the 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 Access Board is updating the standards and guidelines together to address changes in technology and to make them consistent.

A.2 *Summary of the Legal Basis:* Section 508 and Section 255 require the Access Board to develop accessibility standards for electronic and information technology and accessibility guidelines for telecommunications equipment and customer premises equipment, and to periodically review and update the standards and guidelines to reflect technological advances and changes.

A.3 *Alternatives:* The Access Board established a Telecommunications and Electronic and Information Technology Advisory Committee to recommend changes to the existing standards and guidelines. The advisory committee was comprised a broad cross-section of stakeholders, including representatives from industry, disability groups, and government agencies from the U.S. the European Commission, Canada, Australia, and Japan. Recognizing the importance of standardization across markets worldwide, the advisory committee coordinated its work with standard-setting bodies in the U.S. and abroad, such as the World Wide Web Consortium (W3C). The Access Board published Advance Notices of Proposed Rulemaking (ANPRMs) in the **Federal Register** in 2010 and 2011 requesting public comments on draft updates to the standards and guidelines (75 FR 13457, March 22, 2010; and 76 FR 76640, December 8, 2011). The NPRM will be based on the advisory committee's report and public comments on the ANPRMs.

The Access Board expects that the Information and Communication Technology Standards and Guidelines will have international impacts, and has engaged extensive outreach efforts to standard-setting bodies in the U.S. and abroad such as the World Wide Web Consortium and to other countries, including the European Commission, Canada, Australia, and Japan.

A.4 *Anticipated Costs and Benefits:* The Access Board is working with a contractor to assess costs and benefits and prepare a preliminary regulatory impact assessment to accompany the NPRM.

B. Medical Diagnostic Equipment Accessibility Standards (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. The standards will contain minimum technical criteria to ensure that medical diagnostic equipment, including examination tables, examination chairs, weight scales, mammography equipment, and other imaging equipment used by health care providers for diagnostic purposes are accessible to and usable by individuals with disabilities. The Access Board published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** in 2012, 77 FR 6916, February 9, 2012.

B.1 *Statement of Need:* A national survey of a diverse sample of individuals with a wide range of disabilities, including mobility and sensory disabilities, showed that the respondents had difficulty getting on and off on examination tables and chairs, radiology equipment and weight scales, and experienced problems with physical comfort, safety and communication. Focus group studies of individuals with disabilities also provided information on barriers that affect the accessibility and usability of various types of medical diagnostic equipment. The national survey and focus group studies are discussed in the NPRM.

B.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 to the Rehabilitation Act (29 U.S.C. 794f) (Section 510). Section 510 requires the Access Board, in consultation with the Commissioner of the Food and Drug Administration (FDA), to develop 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.

Section 510 does not address who is required to comply with the standards. However, the Americans with Disabilities Act requires health care providers to provide individuals with disabilities full and equal access to their health care services and facilities. The U.S. Department of Justice (DOJ) is responsible for issuing regulations to implement the Americans with Disabilities Act and enforcing the law. The NPRM discusses DOJ activities related to health care providers and medical equipment.

B.3 *Alternatives:* The Access Board worked with the FDA and DOJ in developing the standards. The Access Board considered the Association for the Advancement of Medical Instrumentation's ANSI/AAMI HE 75:2009, ''Human factors engineering—Design of medical devices,'' which includes recommended practices to provide accessibility for individuals with disabilities. The Access Board also established a Medical Diagnostic Equipment Accessibility Standards Advisory Committee that included representatives from the disability community and manufacturers of medical diagnostic equipment to make recommendations on issues raised in public comments on and responses to questions in the NPRM. The final rule will be based on the public comments and recommendations of the advisory committee.

B.4 *Anticipated Costs and Benefits:* The Access Board is working with a contractor to assess costs and benefits and prepare a preliminary regulatory impact assessment to accompany the final rule. The standards would address many of the barriers that have been identified as affecting the accessibility and usability of diagnostic equipment by individuals with disabilities. The 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 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.

C. Pedestrian Facilities in the Public Right-of-Way Accessibility Guidelines (RIN: 3014–AA26)

The Access Board plans to issue a final rule establishing accessibility guidelines for the design, construction, and alteration of pedestrian facilities in the public right-of-way, including sidewalks, shared use paths, pedestrian street crossings, curb ramps and blended transitions, pedestrian overpasses and underpasses, pedestrian signals, signs, street furniture, transit stops and transit shelters, on-street parking spaces, and passenger loading zones. The Access Board published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** in 2011, 76 FR 44664, July 26, 2011.

C.1 *Statement of Need:* The Access Board has issued accessibility guidelines for the design, construction, and alteration of buildings and facilities covered by the Americans with Disabilities Act (ADA) and the Architectural Barriers Act (ABA) at 36 CFR part 1191. These guidelines were developed primarily for buildings and facilities on sites. Some of the provisions in these guidelines can be readily applied to pedestrian facilities in the public right-of-way such as curb ramps. However, other provisions need to be adapted or new provisions developed for pedestrian facilities that are built in the public right-of-way.

C.2 *Summary of the Legal Basis:* Section 502 (b) (3) of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 792 (b) (3), requires the Access Board to establish and maintain minimum guidelines for the standards issued by other agencies pursuant to the ADA and ABA. In addition, section 504 of the ADA, 42 U.S.C. 12204, required the Access Board to issue accessibility guidelines for buildings and facilities covered by that law.

C.3 *Alternatives:* The Access Board established a Public Rights-of-Way Access Advisory Committee to make recommendations for the guidelines. The advisory committee was comprised of a broad cross-section of stakeholders, including representatives for state and local government agencies responsible for constructing facilities in the public right-of-way, transportation engineers, disability groups, and bicycling and pedestrian organizations. The Access Board released a draft of the guidelines for public comment. The NPRM was based on the advisory committee report and public comments on the draft guidelines. The final rule will be based on the NPRM and public comments on the NPRM.

C.4 *Anticipated Costs and Benefits:* The Access Board identified three provisions in the NPRM that would have more than minimal impacts on state and local governments. The provisions would require detectable warning surfaces on newly constructed and altered curb ramps and blended transitions at pedestrian street crossings; accessible pedestrian signals and pushbuttons when pedestrian signals are newly installed or replaced at signalized intersections; and pedestrian activated signals at roundabouts with multi-lane pedestrian crossings. Another provision would require a 2 percent maximum cross slope on pedestrian access routes within pedestrian street crossings with yield or stop control and would have more than minimal impacts on state and local governments that construct roadways with pedestrian crossings in hilly areas. The NPRM included questions requesting information to assess the costs and benefits of these provisions, as well as other provisions that may have cost impacts. The Access Board will prepare a regulatory impact assessment to accompany the final rule based on information provided in response to questions in the NPRM and other sources.

ATBCB

Proposed Rule Stage

120. 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 1193; 36 CFR 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).

Statement of Need: The Access Board issued the Electronic and Information Technology Accessibility Standards in 2000 (65 FR 80500, December 21, 2000), and the Telecommunications Act Accessibility Guidelines for telecommunications equipment and customer premises equipment in 1998 (63 FR 5608, February 3, 1998). Since the 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 Access Board is updating the standards and guidelines together to address changes in technology and to make them consistent.

Summary of Legal Basis: Section 508 and Section 255 require the Access Board to develop accessibility standards for electronic and information technology and accessibility guidelines for telecommunications equipment and customer premises equipment, and to periodically review and update the standards and guidelines to reflect technological advances and changes.

Alternatives: The Access Board established a Telecommunications and Electronic and Information Technology Advisory Committee to recommend changes to the existing standards and guidelines. The advisory committee was comprised of a broad cross-section of stakeholders, including representatives from industry, disability groups, and government agencies from the U.S., the European Commission, Canada, Australia, and Japan. Recognizing the importance of standardization across markets worldwide, the advisory committee coordinated its work with standard-setting bodies in the U.S. and abroad, such as the World Wide Web Consortium (W3C). The Access Board published Advance Notices of Proposed Rulemaking (ANPRMs) in the **Federal Register** in 2010 and 2011 requesting public comments on draft updates to the standards and guidelines (75 FR 13457, March 22, 2010; and 76 FR 76640, December 8, 2011). The NPRM will be based on the advisory committee's report and public comments on the ANPRMs.

The Access Board expects that the Information and Communication Technology Standards and Guidelines will have international impacts, and has engaged extensive outreach efforts to standard-setting bodies in the U.S. and abroad such as the World Wide Web Consortium and to other countries, including the European Commission, Canada, Australia, and Japan.

Anticipated Cost and Benefits: The Access Board is working with a contractor to assess costs and benefits and prepare a preliminary regulatory impact assessment to accompany the NPRM.

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	03/00/14	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Federal.

URL for More Information: *www.access-board.gov.*

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

121. Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way

Priority: Other Significant.

Legal Authority: 42 U.S.C. 12204, Americans With Disabilities Act; 29 U.S.C. 792, Rehabilitation Act

CFR Citation: 36 CFR 1190.

Legal Deadline: None.

Abstract: This rulemaking would establish accessibility guidelines to ensure that sidewalks, pedestrian street crossings, pedestrian signals, and other facilities for pedestrian circulation and use constructed or altered in the public right-of-way by State or local governments are accessible to and usable by individuals with disabilities. The rulemaking in RIN 3014–AA41 that would establish accessibility guidelines for shared use paths that are designed for bicyclists and pedestrians and are used for transportation and recreation purposes is merged with this rulemaking. A second notice of proposed rulemaking (Second NPRM) proposed to add provisions for shared use paths to the accessibility guidelines for pedestrian facilities in the public right-of-way. The U.S. Department of Justice, U.S. Department of Transportation, and other Federal agencies are expected to adopt the accessibility guidelines for pedestrian facilities in the public right-of-way as enforceable standards in separate rulemakings for the construction and alteration of facilities covered by the Americans With Disabilities Act, section 504 of the Rehabilitation Act, and the Architectural Barriers Act.

Statement of Need: The Access Board has issued accessibility guidelines for the design, construction, and alteration of buildings and facilities covered by the Americans with Disabilities Act (ADA) and the Architectural Barriers Act (ABA) at 36 CFR part 1191. These guidelines were developed primarily for buildings and facilities on sites. Some of the provisions in these guidelines can be readily applied to pedestrian facilities in the public right-of-way such as curb ramps. However, other provisions need to be adapted or new provisions developed for pedestrian facilities that are built in the public right-of-way.

Summary of Legal Basis: Section 502 (b) (3) of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 792 (b) (3), requires the Access Board to establish and maintain minimum guidelines for the standards issued by other agencies pursuant to the ADA and ABA. In addition, section 504 of the ADA, 42 U.S.C. 12204, requires the Access Board to issue accessibility guidelines for buildings and facilities covered by the law.

Alternatives: The Access Board established a Public Rights-of-Way Access Advisory Committee to make recommendations for the guidelines. The advisory committee was comprised of a broad cross-section of stakeholders, including representatives for state and local government agencies responsible for constructing facilities in the public right-of-way, transportation engineers, disability groups, and bicycling and pedestrian organizations. The Access Board released a draft of the guidelines for public comment. The NPRM was based on the advisory committee report and public comments on the draft guidelines. The final rule will be based on the NPRM and public comments on the NPRM.

Anticipated Cost and Benefits: The Access Board identified three provisions in the NPRM that would have more than minimal impacts on state and local governments. The provisions would require detectable warning surfaces on newly constructed and altered curb ramps and blended transitions at pedestrian street crossings; accessible pedestrian signals and pushbuttons when pedestrian signals are newly installed or replaced at signalized intersections; and pedestrian activated signals at roundabouts with multi-lane pedestrian crossings. Another provision would require a 2 percent maximum cross slope on pedestrian access routes within pedestrian street crossings with yield or stop control and would have more than minimal impacts on state and local governments that construct roadways with pedestrian crossings in hilly areas. The NPRM included questions requesting information to assess the costs and benefits of these provisions, as well as other provisions that may have cost impacts. The Access Board will prepare a regulatory impact assessment to accompany the final rule based on information provided in response to questions in the NPRM and other sources.

Timetable:

Action	Date	FR Cite
Notice of Intent to Form Advisory Committee.	08/12/99	64 FR 43980
Notice of Appointment of Advisory Committee Members.	10/20/99	64 FR 56482
Availability of Draft Guidelines.	06/17/02	67 FR 41206
Availability of Draft Guidelines.	11/23/05	70 FR 70734
NPRM	07/26/11	76 FR 44664
NPRM Comment Period End.	11/23/11	
Notice Reopening Comment Period.	12/05/11	76 FR 75844
NPRM Comment Period End.	02/02/12	
Second NPRM	02/13/13	78 FR 10110
Second NPRM Comment Period End.	05/14/13	
Final Action	09/00/14	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Governmental Jurisdictions.

Government Levels Affected: Local, State, Tribal.

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

URL for More Information: *www.access-board.gov.*

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.*

Related RIN: Merged with 3014–AA41.

RIN: 3014–AA26

ATBCB

122. Accessibility Standards for Medical Diagnostic Equipment

Priority: Other Significant.

Legal Authority: 29 U.S.C. 794(f)

CFR Citation: 30 CFR 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: A national survey of a diverse sample of individuals with a wide range of disabilities, including mobility and sensory disabilities, showed that the respondents had difficulty getting on and off on examination tables and chairs, radiology equipment and weight scales, and experienced problems with physical comfort, safety and communication. Focus group studies of individuals with disabilities also provided information on barriers that affect the accessibility and usability of various types of medical diagnostic equipment. The national survey and focus group studies are discussed in the NPRM.

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 to the Rehabilitation Act (29 U.S.C. 794f) (Section 510). Section 510 requires the Access Board, in consultation with the Commissioner of the Food and Drug Administration (FDA), to develop 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.

Section 510 does not address who is required to comply with the standards. However, the Americans with Disabilities Act requires health care providers to provide individuals with disabilities full and equal access to their health care services and facilities. The U.S. Department of Justice (DOJ) is responsible for issuing regulations to implement the Americans with Disabilities Act and enforcing the law. The NPRM discusses DOJ activities related to health care providers and medical equipment.

Alternatives: The Access Board worked with the FDA and DOJ in developing the standards. The Access Board considered the Association for the Advancement of Medical Instrumentation's ANSI/AAMI HE 75:2009, ''Human factors engineering-Design of medical devices,'' which includes recommended practices to provide accessibility for individuals with disabilities. The Access Board also established a Medical Diagnostic Equipment Accessibility Standards Advisory Committee that included representatives from the disability community and manufacturers of medical diagnostic equipment to make recommendations on issues raised in

public comments on and responses to questions in the NPRM. The final rule will be based on the public comments and recommendations of the advisory committee.

Anticipated Cost and Benefits: The Access Board is working with a contractor to assess costs and benefits and prepare a regulatory impact assessment to accompany the final rule. The standards would address many of the barriers that have been identified as affecting the accessibility and usability of diagnostic equipment by individuals with disabilities. The 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 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.

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
Notice Establishing Advisory Committee.	07/05/12	77 FR 39653
Final Action	09/00/14	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Undetermined.

URL for More Information: www.access-board.gov.

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

For more than 40 years, the U.S. Environmental Protection Agency (EPA) has worked to protect people's health and the environment. By taking advantage of the best thinking, the newest technologies and the most cost-effective, sustainable solutions, EPA has fostered innovation and cleaned up pollution in the places where people live, work, play and learn.

With a renewed focus on the challenges ahead, science, law and transparency continue to guide EPA decisions. EPA will leverage resources with grant and incentive-based programs, sound scientific advice, technical and compliance assistance and tools that support states, tribes, cities, towns, rural communities and the private sector in their efforts to address our shared challenges, including:

- Making a visible difference in communities across the country;
- addressing climate change and improving air quality;
- taking action on toxics and chemical safety;
- protecting water: a precious, limited resource;
- launching a new era of state, tribal and local partnership; and
- working toward a sustainable future.

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 to doubling the fuel efficiency of our cars and trucks, the Agency is working to save lives and protect the environment. In addition, while removing a billion tons of pollution from the air, the Agency has produced hundreds of billions of dollars in benefits for the American people.

Highlights of EPA's Regulatory Plan

EPA's more than 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. 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.

Six 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, the Agency has established several guiding priorities. These priorities are enumerated in the list that follows, along with recent progress and future objectives for each.

1. Making a Visible Difference in Communities Across the Country

Enhance Agricultural Worker Protection. Based on years of extensive stakeholder engagement and public meetings, EPA is developing a proposal to strengthen the existing agricultural worker protection regulation under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). The changes under consideration aim to improve pesticide safety training and agricultural workers' ability to protect themselves and their families from potential secondary exposure to pesticides and pesticide residues. The proposed revisions will address key environmental justice concerns for a population that may be disproportionately affected by pesticide exposure. Other changes under development are intended to bring hazard communication requirements more in line with Occupational Safety and Health Administration (OSHA) requirements, and seek to clarify current requirements to facilitate program implementation and enforcement.

Environmental Justice in Rulemaking. EPA will continue to focus attention on improving the environment in communities that have been adversely or disproportionately impacted by exposure to environmental hazards and pollution. EPA is supporting innovative and sustainable solutions, integrated with community development and private investments.

2. Addressing Climate Change and Improving Air Quality

The Agency will continue to deploy existing regulatory tools where appropriate and warranted. Addressing climate change calls for coordinated national and global efforts to reduce emissions and develop new technologies that can be deployed. 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 from new electric power plants. A

supplemental proposal was issued in September of this year. The proposed standards, if finalized, will establish achievable limits of carbon pollution per megawatt hour for all future units, moving the nation towards a cleaner and more efficient energy future. In 2014, EPA intends to propose standards of performance for greenhouse gas emissions from existing and modified power plant sources.

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.

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 air pollution standards. This year's regulatory plan describes efforts to review the primary National Ambient Air Quality Standards (NAAQS) for lead.

Tier 3 Vehicle and Fuel Standards. In May of this year, EPA proposed vehicle emission and fuel standards to further reduce NO_X, PM, and other harmful air toxics. These standards will also help states to achieve air quality standards. EPA expects to publish a final rule establishing these standards in February of 2014.

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. In February of this year, EPA expects to propose a rule that will review existing MACT standards for Petroleum Refineries to reduce residual risk and assure that the standards reflect current technology.

3. Taking Action on Toxics and Chemical Safety

One of EPA's highest priorities is to make significant 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 FY 2014, the Agency will continue to satisfy its overall directives under these authorities, and highlights the following actions in this Regulatory Plan:

EPA's Existing Chemicals Management Program Under TSCA. As part of EPA's ongoing efforts to ensure the safety of chemicals, EPA plans to take a range of identified regulatory actions for certain chemicals and assess other chemicals to determine if risk reduction action is needed to address potential concerns.

Addressing Formaldehyde Used in Composite Wood Products. As directed by the Formaldehyde Standards for Composite Wood Products Act of 2010, EPA is developing final 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.

Improving Chemical Facility Safety and Security. In addition to the actions noted in this Regulatory Plan, the Executive Order 13650 on Improving Chemical Facility Safety and Security directs federal agencies to work with stakeholders to improve chemical safety and security through agency programs, private sector initiatives, federal guidance, standards, and regulations. During the course of implementing this executive order, EPA, along with the Department of Homeland Security, including the National Protection and Programs Directorate, the Transportation Security Agency, and the United States Coast Guard; the Occupational Safety and Health Administration; the United States Department of Justice, Bureau of Alcohol, Tobacco, and Firearms; the United States Department of Agriculture; and the United States Department of Transportation, will assess whether its regulations should be modified or new regulations developed to improve upon chemical safety and security. EPA will initiate rulemaking if the assessment warrants it.

4. Protecting Water: A Precious, Limited Resource

Despite considerable progress, America's waters remain imperiled. Water quality protection programs face complex challenges, from nutrient loadings and stormwater runoff to invasive species and drinking water contaminants. These challenges demand both traditional and innovative strategies.

Stormwater. Urban stormwater is a leading source of impairment and a fast growing water quality concern. Over 60% of regulated municipal separate storm sewer systems (MS4s) discharge to impaired waters. Stormwater from newly developed areas is one of the nation's largest growing sources of water pollution. Approximately 800,000 acres are developed every year and projected to grow to over 1.0 million acres by 2040. Development increases the amount of impervious cover in the landscape and even small increases in impervious cover lead to big impacts in receiving waters. As more land is developed and new impervious surfaces are created, the volume, velocity, and pollutants contained in storm water increases.

EPA is considering a range of regulatory and non-regulatory options to reduce the pollutant loads delivered by storm water discharges to receiving waters and improve water quality and aquatic ecosystem integrity, and to protect water quality from certain currently unregulated storm water discharges. EPA plans to work closely with state and local governments in this effort and will consider innovative approaches to address these issues.

Improving Water Quality. The Environmental Protection Agency (EPA) plans to address challenging water quality issues in several rulemakings during fiscal year 2014.

Cooling Water Intake Structures. EPA plans to finalize standards for cooling water intakes for electric power plants and for 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 establish 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 health effects. Pollutants of concern include metals (e.g., mercury, arsenic and selenium), nutrients, and total dissolved solids.

Definition of ''Waters of the United States'' Under the Clean Water Act. After U.S. Supreme Court decisions in SWANCC and Rapanos, the scope of ''waters of the US'' protected under Clean Water Act (CWA) programs has been an issue of considerable debate and uncertainty. The Act does not distinguish among programs as to what constitutes ''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. Experience implementing the regulations following the two court cases has identified several areas that could benefit from additional clarification through rulemaking.

5. Launching a New Era of State, Tribal and Local Partnership

EPA's success depends more than ever on working with increasingly capable and environmentally conscious partners. States have demonstrated leadership on managing environmental challenges and EPA wants to build on and complement their work. EPA supports 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 nation's environmental and public health. The history and future of environmental protection will be built on this type of collaboration.

New Native American Affairs Council. By Executive Order, President Obama established the White House Council on Native American Affairs in 2013. The policy behind the formation of this council is to recognize the government–to-government relationship, as well as the unique legal and political relationship that exists between the federal government and tribes. Greater EPA engagement and consultation is critical to policies that advance tribal self-determination and prosperity.

6. Working Toward a Sustainable Future

Allowing the Use of Electronic Manifests. The e-Manifest Final rule will codify certain provisions of the ''Hazardous Waste Electronic Manifest Establishment Act,'' which direct EPA to adopt a regulation by October 5, 2013 that authorizes the use of electronic manifests to track hazardous waste shipments nationwide. The Act also instructs EPA to develop a user-fee funded e-Manifest system by October 2015. Pursuant to the Act, EPA will soon issue a regulation that will allow hazardous waste handlers to use electronic manifest documents to track hazardous waste from the time the waste leaves the generator facility where it was produced, until it reaches the off-site waste management facility that will store, treat, or dispose of the hazardous waste. EPA will issue a subsequent rulemaking that will establish the schedule of user fees for the system and announce the date on which the system will be implemented and available to users.

Once the e-Manifest regulation is adopted and the national e-Manifest system becomes available, hazardous waste handlers will be able to complete, sign, transmit, and store electronic manifests through the national IT system, or they can elect to continue tracking the hazardous waste under the paper manifest system. Further, waste handlers that currently submit manifests to the states will no longer be required to do so, as EPA will collect both the remaining paper manifest copies and electronic manifests in the national system, and will disseminate the manifest data to those states that want it. The adoption of e-Manifest will eliminate the current impediments to automation in the current manifest regulations, such as the requirements to physically carry paper forms with hazardous waste shipments; sign manifest copies ''by-hand;'' manually file copies; and mail copies to waste handlers and authorized states. EPA will clarify which electronic signature methods may be used when executing electronic manifests in the first generation of the national e-Manifest system, as well as to specify how issues of public access to manifest information will be addressed when manifest data are submitted and processed electronically.

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–AQ86	Control of Air Pollution From Motor Vehicles: Tier 3 Motor Vehicle Emission and Fuel Standards.
2060–AO60	New Source Performance Standards (NSPS) Review under CAA–111(b)(1)(B).
2060–AP06	New Source Performance Standards for Grain Elevators—Amendments.

Regulatory Identifier No. (RIN)	Rulemaking title
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.
2050–AG20	Hazardous Waste Manifest Revisions—Standards and Procedures for Electronic Manifests.

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:

Regulatory Identifier No. (RIN)	Rulemaking title
2060–AQ86	Control of Air Pollution From Motor Vehicles: Tier 3 Motor Vehicle Emission and Fuel Standards.
2060–AQ91	Standard of Performance for Greenhouse Gas Emissions from Modified Sources: Electric Utility Generating Units.
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 identified two international activities that are anticipated to lead to significant regulations in the following year:

Regulatory Identifier No. (RIN)	Rulemaking title
2070–AJ44	Formaldehyde; Third-Party Certification Framework for the Formaldehyde Standards for Composite Wood Products.
2070–AJ92	Formaldehyde Emission Standards for Composite Wood Products.

EPA

Proposed Rule Stage

123. Review of the National Ambient Air Quality Standards for Lead

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

Legal Authority: 42 U.S.C. 7408; 42 U.S.C. 7409

CFR Citation: 40 CFR 50.

Legal Deadline: None.

Abstract: Under the Clean Air Act Amendments of 1977, 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 November 12, 2008, EPA published a final rule to revise the primary and secondary NAAQS for lead to provide increased protection for public health and welfare. EPA has now initiated the next review. This new review includes the preparation of an Integrated Review Plan, an Integrated Science Assessment, and, if warranted, a Risk/Exposure Assessment, and also 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. This decision will be published in the **Federal Register** with opportunity provided for public comment. The Administrator's final decisions will take into consideration these documents and public comment on the proposed decision.

Statement of Need: Under the Clean Air Act Amendments of 1977, 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. In the last lead NAAQS review, EPA published a final rule on November 12, 2008, to revise the primary and secondary NAAQS for lead to provide increased protection for public health and welfare.

Summary of Legal Basis: Under the Clean Air Act Amendments of 1977, 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.

Alternatives: The main alternative for the Administrator's decision on the review of the national ambient air

quality standards for lead is whether to retain or revise the existing standards.

Anticipated Cost and Benefits: The Clean Air Act makes clear that the economic and technical feasibility of attaining standards are not to be considered in setting or revising the NAAQS, although such factors may be considered in the development of State plans to implement the standards. Accordingly, when the Agency proposes revisions to the standards, the Agency prepares cost and benefit information in order to provide States information that may be useful in considering different implementation strategies for meeting proposed or final standards. In those instances, cost and benefit information is generally included in the regulatory analysis accompanying the final rule.

Risks: As part of the review, EPA prepares an Integrated Review Plan, an Integrated Science Assessment, and, if warranted, a Risk/Exposure Assessment, and also a Policy Assessment Document, 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. The proposed decision will be published in the **Federal Register** with opportunity provided for public comment. The Administrator's final decisions will take into consideration these documents and public comment on the proposed decision.

Timetable:

Action	Date	FR Cite
NPRM	07/00/14	
Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Undetermined.

Additional Information: Docket #: EPA–HQ–OAR–2010–0108.

URL for More Information: http://www.epa.gov/ttn/naaqs/standards/pb/s_pb_index.html

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RIN: 2060–AQ44

EPA

124. Petroleum Refinery Sector Risk and Technology Review and NSPS

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

Legal Authority: Clean Air Act Sec 111 and 112

CFR Citation: 40 CFR 60; 40 CFR 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 technology (MACT) standards 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. This action is the Petroleum Refining Sector Rulemaking which will address our obligation to perform Risk and Technology Reviews (RTR) for Petroleum Refinery MACT 1 and 2 source categories and will address issues related to the reconsideration of Petroleum Refinery New Source Performance Standard (NSPS) subpart Ja. Petroleum refineries are facilities engaged in refining and producing products made from crude oil or unfinished petroleum derivatives. Emission 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.

Statement of Need: The Clean Air Act (CAA) requires that existing air toxics standards undergo periodic review. In this action, EPA will conduct such a review for the Petroleum Refineries MACT standard, as well as addressing issues that have arisen regarding the Petroleum Refineries New Source Performance Standard.

Summary of Legal Basis: The periodic air-toxics-standard reviews are required by CAA section 112. New Source Performance Standards are issued under CAA section 111.

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	02/00/14	
Final Rule	01/00/15	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

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.

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RIN: 2060–AQ75

EPA

125. Standards of Performance for Greenhouse Gas Emissions From New Stationary Sources: Electric Utility Generating Units

Priority: Other Significant.

Legal Authority: CAA 111

CFR Citation: 40 CFR 60.

Legal Deadline: None.

Abstract: This action will establish the first new source performance standards for greenhouse gas emissions. This rule will establish CO2 emission standards for certain new fossil fuel-fired electric generating units.

Statement of Need: EGU GHG NSPS is the first action item in President Obama's Climate Action Plan (CAP). The CAP called for EPA to issue a proposal by September 20, 2013, to regulate carbon emissions from fossil fuel-fired power plants.

Summary of Legal Basis: CO2 is a regulated pollutant and, thus, is subject to regulation under section 111 of the Clean Air Act as Amended in 1990.

Alternatives: None.

Anticipated Cost and Benefits: No costs and no quantified benefits.

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
Second NPRM	11/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

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.

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RIN: 2060–AQ91

EPA

126. Standards of Performance for Greenhouse Gas Emissions From Existing Sources: Electric Utility Generating Units

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

Unfunded Mandates: Undetermined.

Legal Authority: CAA 111

CFR Citation: 40 CFR 60.

Legal Deadline: None.

Abstract: On June 25, 2013, President Obama issued a presidential memorandum directing the Environmental Protection Agency (EPA) to work expeditiously to complete greenhouse standards for the power sector. The agency is using its authority under section 111(d) of the Clean Air Act to issue emission guidelines, to address greenhouse gases (GHG) from existing power plants. The presidential memorandum specifically directs EPA to build on state leadership, provide flexibility and take advantage of a wide range of energy sources and technologies towards building a cleaner power sector. The presidential memorandum directs EPA to issue proposed GHG standards, regulations or guidelines, as appropriate, for existing power plants by no later than June 1, 2014, and issue final standards, regulations or guidelines, as appropriate, by no later than June 1, 2015. In addition, the presidential memorandum directs EPA to include in the guidelines addressing existing power plants a requirement that states submit to EPA the implementation plans required under section 111(d) of the Clean Air Act and its implementing regulations by no later than June 30, 2016.

Statement of Need: On December 7, 2009, the EPA found that current and projected concentrations of greenhouse gases (GHG) in the atmosphere threaten the public health and welfare of current and future generations. Electric generating units (EGUs) are the single biggest stationary source of greenhouse gases and account for well over a third of all greenhouse gas emissions in the United States. Recognizing that greenhouse gases pose a threat to the public health and welfare and that EGUs are one of the largest sources of GHG emissions, the EPA has begun taking regulatory steps to ensure reductions of GHG emissions from EGUs. The regulatory path that the EPA has embarked upon commits the agency to regulating emissions from, not just new EGUs, but also existing EGUs.

Summary of Legal Basis: EPA will use the Clean Air Act authority under section 111 (d) to set GHG guidelines for states to set GHG standards for existing EGU sources. The Clean Air Act (CAA) gives the Agency broad authority to set standards for emissions of ''air pollutants.'' GHGs have been determined by the U.S. Supreme Court to be ''air pollutants'' that are subject to regulation under the CAA. Because of this and the fact that GHGs are not currently regulated under either National Ambient Air Quality Standards or under the National Emission Standards for Hazardous Air Pollutants, EPA has the authority to address them under the NSPS program.

Alternatives: Not yet determined.

Anticipated Cost and Benefits: At this time we do not have any estimates regarding the benefits and costs of this action, but we do expect it to be a significant regulatory action with annual effects on the economy exceeding $100 million.

Risks: Not yet determined.

Timetable:

Action	Date	FR Cite
NPRM	06/00/14	
Final Rule	06/00/15	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: State, Tribal.

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

Energy Effects: Statement of Energy Effects planned as required by Executive Order 13211.

Additional Information: Docket #: EPA–HQ–OAR–2013–0602. Split from RIN 2060–AQ91.

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Related RIN: Split from 2060–AQ91.

RIN: 2060–AR33

EPA

127. • Standards of Performance for Greenhouse Gas Emissions From Modified Sources: Electric Utility Generating Units

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

Unfunded Mandates: Undetermined.

Legal Authority: CAA 111

CFR Citation: 40 CFR 60.

Legal Deadline: None.

Abstract: This action will amend the electric generating units (EGU) New Source Performance Standards for modified sources for greenhouse gas (GHG) under Clean Air Act section 111(b).

Statement of Need: On December 7, 2009, the EPA found that current and projected concentrations of greenhouse gases (GHG) in the atmosphere threaten the public health and welfare of current and future generations. Electric generating units (EGUs) are the single biggest stationary source of greenhouse gases and account for well over a third of all greenhouse gas emissions in the United States. Recognizing that greenhouse gases pose a threat to the public health and welfare and that EGUs are one of the largest sources of GHG

emissions, the EPA has begun taking regulatory steps to ensure reductions of GHG emissions from EGUs. The regulatory path that the EPA has embarked upon commits the agency to regulating emissions from, not just new EGUs, but also existing EGUs (including those that are modified).

Summary of Legal Basis: EPA will use the Clean Air Act authority under section 111 (b) to set GHG standards for modified EGU sources. The Clean Air Act (CAA) gives the Agency broad authority to set standards for emissions of ''air pollutants.'' GHGs have been determined by the U.S. Supreme Court to be ''air pollutants'' that are subject to regulation under the CAA. Because of this and the fact that GHGs are not currently regulated under either National Ambient Air Quality Standards or under the National Emission Standards for Hazardous Air Pollutants, EPA has the authority to address them under the New Source Performance Standards (NSPS) program.

Alternatives: Not yet determined.

Anticipated Cost and Benefits: At this time we do not have any estimates regarding the benefits and costs of this action, but we do expect it to be a significant regulatory action with annual effects on the economy exceeding $100 million.

Risks: Not yet determined.

Timetable:

Action	Date	FR Cite
NPRM	06/00/14	
Final Rule	06/00/15	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Federal, State, Tribal.

Energy Effects: Statement of Energy Effects planned as required by Executive Order 13211.

Additional Information: Docket #: EPA–HQ–OAR–2013–0603. Split from RIN 2060–AQ91.

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Related RIN: Related to 2060–AQ91, Related to 2060–AR33.

RIN: 2060–AR88

EPA

128. Pesticides; Agricultural Worker Protection Standard Revisions

Priority: Other Significant.

Legal Authority: 7 U.S.C. 136w

CFR Citation: 40 CFR 170.

Legal Deadline: None.

Abstract: EPA is developing a proposal under the Federal Insecticide, Fungicide and Rodenticide Act to revise the federal regulations that direct agricultural worker protection (40 CFR 170). The changes under consideration are intended to improve agricultural workers' ability to protect themselves from potential exposure to pesticides and pesticide residues and to protect their families from potential secondary exposures to pesticides and pesticide residues. EPA is also considering adjustments to improve and clarify current requirements to facilitate compliance; to align the WPS' hazard communication requirements with Occupational Safety and Health Administration (OSHA) requirements; and to improve pesticide safety training, with improved worker safety the intended outcome. This proposal is in response to EPA discussions with key stakeholders beginning in 1996. Since then, EPA has held numerous public meetings throughout the country during which the public submitted written and verbal comments on issues and concerns with the existing requirements.

Statement of Need: The agricultural workforce may be exposed to pesticides and pesticide residues that have the potential to pose long- and short-term health risks. In addition, families may potentially be exposed through secondary exposure to pesticide residues. These direct and indirect exposures have the potential to pose long- and short-term health risks. Implementing the Worker Protection Standards (WPS) is a key part of EPA's strategy for reducing occupational exposures to agricultural pesticides. The WPS is designed to protect employees on farms, forests, nurseries, and greenhouses from occupational exposures to agricultural pesticides; and offers protections to approximately 2.5 million agricultural workers (people involved in the production of agricultural plants) and pesticide handlers (people who mix, load, or apply pesticides) that work at over 600,000 agricultural establishments.

Although EPA has taken a number of steps to ensure effective national implementation of and compliance with the WPS regulation, the need to consider potential changes to the WPS arose from EPA discussions with key stakeholders beginning in 1996. Since that time, EPA has held several public meetings throughout the country during which written and verbal comments identified issues and concerns with the existing requirements.

Summary of Legal Basis: EPA establishes standards for protecting agricultural workers from potential exposure to pesticides and pesticide residues under the authority of sections 2 through 35 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136–136y, and particularly section 25(a), 7 U.S.C. 136w(a).

Alternatives: In implementing the existing WPS, EPA has addressed identified deficiencies in the existing regulation through non-regulatory means whenever possible. For example, the Agency has developed improved training materials that are sector-specific and in multiple languages; improved capacity for outreach; a train-the-trainer program; health care practitioner (HCP) curricula to train HCPs on pesticide exposure identification and treatment; and a bilingual manual for HCPs to use in identifying pesticide poisonings. The Agency also provides financial support for pesticide safety training.

Changes under consideration for the WPS regulation are necessary improvements but will not replace these non-regulatory measures. In fact, EPA intends to consider continued support for and potential additions to these and other potential non-regulatory measures that may contribute to improving protections and compliance.

Anticipated Cost and Benefits: EPA is currently evaluating the incremental costs and benefits of the changes under consideration and will present the EPA estimates in the proposed rule.

In general, EPA anticipates that the potential incremental benefits will likely accrue to workers and handlers through improved health outcomes, and that the potential incremental costs will involve revised requirements for agricultural employers.

Risks: Agricultural workers and pesticide handlers are at risk from pesticide exposure through their work activities, and may put their families at risk of secondary exposures. These exposures can pose significant long- and short-term health risks that are difficult to quantify in terms of a specific level of risk because workers and handlers are potentially exposed to a wide range of pesticides with varying toxicities and risks.

Timetable:

Action	Date	FR Cite
NPRM	03/00/14	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

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

Additional Information: Docket #: EPA–HQ–OPP–2005–0561. *http://epa.gov/sbrefa/worker-protection-standards.html.*

Sectors Affected: 111 Crop Production; 541690 Other Scientific and Technical Consulting Services; 32532 Pesticide and Other Agricultural Chemical Manufacturing; 541712 Research and Development in the Physical, Engineering, and Life Sciences (except Biotechnology); 8133 Social Advocacy Organizations; 115 Support Activities for Agriculture and Forestry.

URL for More Information: http://www.epa.gov/pesticides/health/worker.htm.

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RIN: 2070–AJ22

EPA

129. Definition of ''Waters of the United States'' Under the Clean Water Act

Priority: Other Significant.

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 make clear which waterbodies 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. 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	12/00/13	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Undetermined.

Federalism: Undetermined.

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RIN: 2040–AF30

EPA

Final Rule Stage

130. 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 the private sector under Pub. L. 104–4.

Legal Authority: Clean Air Act Sec 202(a); Clean Air Act Sec 202(k); Clean Air Act Sec 211(c)

CFR Citation: 40 CFR 80; 40 CFR 86; 40 CFR 85; 40 CFR 600; 40 CFR 1036; 40 CFR 1037; 40 CFR 1065; 40 CFR 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 (NAAQS). 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 to 45 percent of total nitrogen oxides (NO_X) emissions, 20 to 25 percent of total volatile organic compound (VOC) emissions, and 5 to 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 mobile source inventory of air toxics emissions

from all mobile sources. The most recent National-Scale Air Toxics Assessment showed that, in 2005, mobile sources were responsible for over 50 percent of the 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 discussed regulatory alternatives that were considered in addition to the Agency's primary proposal.

Anticipated Cost and Benefits: EPA estimates that the proposed program would cost about a penny per gallon of gasoline, and about $130 per vehicle. The annual cost of the overall program in 2030 would be approximately $3.4 billion; however, EPA estimates that in 2030 the annual monetized health benefits of the proposed Tier 3 standards would be between $8 and $23 billion.

Risks: Approximately 158 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 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	05/21/13	78 FR 29815
NPRM Comment Period Extended.	05/29/13	78 FR 32223
Final Rule	02/00/14	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

Additional Information: Docket #: EPA–HQ–OAR–2011–0135.

Sectors Affected: 11 Agriculture, Forestry, Fishing and Hunting; 811198 All Other Automotive Repair and Maintenance; 325199 All Other Basic Organic Chemical Manufacturing; 336111 Automobile Manufacturing; 811112 Automotive Exhaust System Repair; 336311 Carburetor, Piston, Piston Ring, and Valve Manufacturing; 325193 Ethyl Alcohol Manufacturing; 493130 Farm Product Warehousing and Storage; 336312 Gasoline Engine and Engine Parts Manufacturing; 811111 General Automotive Repair; 336120 Heavy Duty Truck Manufacturing; 336112 Light Truck and Utility Vehicle Manufacturing; 336211 Motor Vehicle Body Manufacturing; 335312 Motor and Generator Manufacturing; 211112 Natural Gas Liquid Extraction; 424690 Other Chemical and Allied Products Merchant Wholesalers; 333618 Other Engine Equipment Manufacturing; 325110 Petrochemical Manufacturing; 424710 Petroleum Bulk Stations and Terminals; 324110 Petroleum Refineries; 486910 Pipeline Transportation of Refined Petroleum Products.

URL for More Information: http://www.epa.gov/otaq/tier3.htm.

URL for Public Comments:http://www.regulations.gov/#!docketDetail;D=EPA-HQ-OAR-2011-0135.

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RIN: 2060–AQ86

EPA

131. Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirement

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 50; 40 CFR 51; 40 CFR 70; 40 CFR 71.

Legal Deadline: None.

Abstract: This final 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 final 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 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 final rule. However, the CAA requires the nonattainment area plans addressed by this rule to be developed and submitted by states within 2 to 3 years after the July 20, 2012 date of nonattainment designations.

Summary of Legal Basis: CAA Section 110.

Alternatives: The proposed rule included several alternatives for meeting implementation requirements, including but not limited to options for SIP submittal dates, NOx substitution for VOC in RFP SIPs, alternative baseline years for RFP and alternatives for addressing anti-backsliding requirements once the 1997 ozone NAAQS has been revoked. Additionally the EPA is solicited comments on a number of topics, including alternative approaches to achieving RFP, RACT flexibility and alternate revocation dates for the 1997 ozone NAAQS.

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: Ozone concentrations that exceed the National Ambient Air Quality Standards (NAAQS) to can cause adverse public health and welfare effects, as discussed in the March 27, 2008 Final Rule for NAAQS for Ozone (73 FR 16436).

Timetable:

Action	Date	FR Cite
NPRM	06/06/13	78 FR 34177
NPRM Comment Period Extended.	07/24/13	78 FR 44485
Final Rule	05/00/14	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

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

Additional Information: Docket #: EPA–HQ–OAR–2010–0885.

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RIN: 2060–AR34

EPA

132. Formaldehyde; Third-Party Certification Framework for the Formaldehyde Standards for Composite Wood Products

Priority: Other Significant.

Legal Authority: 15 U.S.C. 2697; TSCA section 601

CFR Citation: 40 CFR 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 as Title VI of Toxic Substances Control Act (TSCA), 15 U.S.C. 2697, 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. On June 10, 2013, EPA issued a proposed rule under TSCA Title VI to establish a framework for a TSCA Title VI Third-Party Certification Program whereby third-party certifiers (TPCs) are accredited by accreditation bodies (ABs) so that they may certify composite wood product panel producers under TSCA Title VI. The proposed rule identifies the roles and responsibilities of the groups involved in the TPC process (EPA, ABs, and TPCs), as well as the criteria for participation in the program. This proposal contains general requirements for TPCs, such as conducting and verifying formaldehyde emission tests, inspecting and auditing panel producers, and ensuring that panel producers' quality assurance and quality control procedures comply with the regulations set forth in the proposed rule. A separate Regulatory Agenda entry (RIN 2070–AJ92) covers the other proposed regulation 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). TSCA Title VI requires EPA to promulgate implementing regulations by January 1, 2013.

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 prepared an analysis of the potential impacts associated with the proposed rulemaking. This analysis is summarized in greater detail in Unit VI.A. of the preamble for the proposed rule, and is briefly summarized here.

Costs: EPA estimates the annualized costs of this proposed rule to be approximately $34,000 per year using either a 3% discount rate or a 7% discount rate.

Small Entity Impacts: This rule would impact an estimated 9 small entities, of which 8 are expected to have impacts of less than 1% of revenues or expenses, and 1 is expected to have impacts between 1% and 3%.

Effects on State, Local, and Tribal Governments: Government entities are not expected to be subject to the rule's requirements, which apply to third-party certifiers and accreditation bodies. The rule does not have a significant intergovernmental mandate, significant or unique effect on small governments, or have Federalism implications.

Risks: 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 respiratory related effects. 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	06/10/13	78 FR 34795
NPRM Comment Period End With Extension.	09/25/13	78 FR 44090
Final Rule	09/00/14	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: 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: 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.

URL for Public Comments: http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OPPT-2011-0380-0001.

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RIN: 2070–AJ44

EPA

133. Formaldehyde Emissions Standards for Composite Wood Products

Priority: Other 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 section 601

CFR Citation: 40 CFR 770.

Legal Deadline: Final, Statutory, January 1, 2013, Statutory Deadline.

Abstract: On July 7, 2010, the Formaldehyde Standards for Composite Wood Products Act was enacted as Title VI of Toxic Substances Control Act (TSCA), 15 U.S.C. 2697, and requires that EPA promulgate implementing regulations 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. On June 10, 2013, EPA proposed regulations to implement emissions standards established by TSCA Title VI for composite wood products sold, supplied, offered for sale, or manufactured in the United States. Pursuant to TSCA section 3(7), the definition of ''manufacture'' includes import. As required by Title VI, these regulations apply to hardwood plywood, medium-density fiberboard, and particleboard. TSCA Title VI also directs EPA to promulgate supplementary provisions to ensure compliance with the emissions standards, including provisions related to labeling; chain of custody requirements; sell-through provisions; ULEF resins; no-added formaldehyde-based resins; finished goods; third-party testing and certification; auditing and reporting of third-party certifiers; recordkeeping; enforcement; laminated products; and exceptions from the requirements of regulations promulgated pursuant to this subsection for products and components containing de minimis amounts of composite wood products. A separate Regulatory Agenda entry (RIN 2070–AJ44) addresses 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.

TSCA Title VI requires EPA to promulgate implementing regulations by January 1, 2013.

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, the notice of proposed rulemaking addresses the alternatives considered by EPA for the implementation of the statutory emission limits for various provisions of the rule. Most of these alternatives would have applied to both small and large entities but, given the number of small entities in the affected industries, some of these alternatives could affect many small entities. EPA made a concerted effort to keep the costs and burdens associated with this rule as low as possible while still ensuring compliance with the TSCA Title VI emissions standards. In developing the proposed rule, EPA considered the statutory requirements and the benefits from protection of human health and the environment, as well as the compliance costs imposed by the rule, both in general and on small entities. EPA took a number of steps to reduce the economic impacts of the rule where doing so was consistent with the statutory mandate.

Anticipated Cost and Benefits: EPA prepared an analysis of the potential impacts associated with the proposed rulemaking. This analysis is summarized in greater detail in Unit V.A. of the preamble for the proposed rule, and is briefly summarized here.

Benefits: This proposed rule will reduce exposures to formaldehyde, resulting in benefits from avoided adverse health effects. For the subset of health effects where the results were quantified, the estimated annualized benefits (due to avoided incidence of eye irritation and nasopharyngeal

cancer) are $20 million to $48 million per year using a 3% discount rate, and $9 million to $23 million per year using a 7% discount rate. There are additional unquantified benefits due to other avoided health effects.

Costs: The monetized costs of this proposed rule are estimated at $72 million to $81 million per year using a 3% discount rate, and $80 million to $89 million per year using a 7% discount rate.

Small Entity Impacts: This proposed rule is estimated to impact nearly 879,000 small businesses: Over 851,000 have costs impacts less than 1% of revenues, over 23,000 firms have impacts between 1% and 3%, and over 4,000 firms have impacts greater than 3% of revenues. Most firms with impacts over 1% have annualized costs of less than $250 per year.

Effects on State, Local, and Tribal Governments: Government entities are not expected to be subject to the proposed requirements, which apply to entities that manufacture, fabricate, distribute, or sell composite wood products. The proposed rule does not have a significant intergovernmental mandate, significant or unique effect on small governments, or have Federalism implications.

Environmental Justice and Protection of Children: This proposed rule is expected to increase the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population or children.

Risks: 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 respiratory related effects. In addition, formaldehyde is a by-product of human metabolism; therefore, endogenous levels are present in the body.

Timetable:

Action	Date	FR Cite
NPRM	06/10/13	78 FR 34820
NPRM Comment Period End With Extension.	10/09/13	78 FR 44089
Final Rule	09/00/14	

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 #: EPA–HQ–OPPT–2012–0018. Split from RIN 2070–AJ44.

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.

URL for Public Comments: http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OPPT-2012-0018-0001.

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RIN: 2070–AJ92

EPA

134. Hazardous Waste Manifest Revisions—Standards and Procedures for Electronic Manifests

Priority: Other Significant.

Legal Authority: 42 U.S.C. 6922; 42 U.S.C. 6923; 42 U.S.C. 6924; 42 U.S.C. 6926; Pub. L. 105–277

CFR Citation: 40 CFR 260; 40 CFR 262; 40 CFR 263; 40 CFR 264; 40 CFR 265; 40 CFR 271.

Legal Deadline: Final, Statutory, October 5, 2013, The Hazardous Waste Electronic Manifest Establishment Act of 2012 requires the EPA to authorize the use of e-manifests by October 5, 2013.

Abstract: The ''Hazardous Waste Electronic Manifest Establishment Act,'' signed into law by the President on October 5, 2012, established the authority for an electronic manifest program, including the development of a system collection of user fees and the establishment of an advisory group. The Act requires that the EPA issue regulations by October 5, 2013 that authorize the use of electronic manifests in lieu of the current manifest form (i.e., EPA Form 8700–22 and 8700–22A). There are between 4.6 to 5.6 million manifests processed each year, including manifests for State-defined hazardous wastes. Pursuant to the Act, this action is aimed at finalizing the development of EPA's Resource Conservation and Recovery Act (RCRA) regulatory standards and procedures that will govern the initiation, signing, transmittal, and retention of hazardous waste manifests using electronic documents and systems. EPA proposed electronic manifest standards in May 2001 as part of a more general manifest revision action that also addressed standardizing the paper manifest form's data elements and procedures (EPA Form 8700–22). The May 2001 electronic manifest proposed rule was a standards-based decentralized approach under which EPA would establish and maintain the standards that would guide the development of electronic manifest systems by private sector entities that chose to participate in the system. Since the proposal, the Agency has (1) continued its engagement with affected industry, States, and the general public to solicit input on the development of a nationwide e-manifest system, and (2) published an e-manifest approach in an

April 18, 2006, Notice of Data Availability. EPA envisions that an e-manifest system will facilitate the electronic transmittal of manifests throughout the hazardous waste shipping process, including enabling better transparency by sharing data with the public at appropriate stages. This rule does not address the collection of fees, which will be dealt with in a subsequent rulemaking.

Statement of Need: Federal and State laws for the current paper-based manifest system require hazardous waste handlers (i.e., generators, transporter, and treatment, storage, and disposal facilities) to track hazardous waste shipments from cradle-to-grave using the uniform hazardous waste manifest form (EPA Form 8700–22). Currently, hazardous waste handlers prepare between 4.6 to 5.6 million manifests annually. The current paper-based manifest system is inefficient and waste handlers incur substantial costs to comply with the current requirements to complete, carry, sign, file, and mail paper manifest copies. EPA has been exploring ways to reduce burden for hazardous waste handlers by transitioning from a paper-based reporting system to an electronic reporting system. This is consistent with EO 13563's directive to reduce regulatory burden. This action also codifies new statutory provisions contained in the ''Hazardous Waste Electronic Manifest Establishment Act,'' which directs EPA to issue a regulation that authorizes use of electronic manifests for tracking hazardous wastes.''

Summary of Legal Basis: The President signed the ''Hazardous Waste Electronic Manifest Establishment Act'' into law on October 5, 2012. The Act amended RCRA to direct the EPA Administrator to establish a hazardous waste electronic manifest system. Section 2(g)(1)(A) of the Act directs EPA to promulgate final regulations, after consultation with the Secretary of Transportation, authorizing the use of electronic manifests within one year of enactment (i.e., by October 5, 2013). Section 2(b) directs the Agency to establish an e-Manifest system that may be used by any user within three years from the date of enactment of the Act (i.e., by October 5, 2015). This action simply codifies several of the provisions of the e-Manifest Act and authorizes the use of the electronic manifests that will be available when the information technology (IT) system is developed and operational.

Alternatives: EPA has explored various electronic manifest approaches for tracking hazardous wastes. In May 2001, EPA proposed a standards-based decentralized approach under which EPA would establish and maintain the standards that would guide the development of electronic manifest systems by private sector entities that chose to participate in the system. In May 2004, EPA held a two-day public meeting to solicit input and preferences from stakeholders and other interested persons on the development and implementation of the e-Manifest. Based on comments to the 2001 proposed rule and input received from stakeholders at the public meeting, EPA published a follow-up notice in April 2006, which announced and requested comment on EPA's preferred approach for electronically completing and transmitting manifests through a national, centralized web-based IT system.

Anticipated Cost and Benefits: This action does not establish a system for the collection of electronic manifests, nor does it compel industry or State stakeholders now using the paper manifest system to change their behavior and thus incur costs or benefits. This action simply establishes the legal and policy framework for the national e-Manifest system and by itself will not result in any tangible costs, benefits, or other impacts to the regulated community or the Government at this time. The e-Manifest option will only become available when EPA develops and implements this new electronic system and establishes a program of fees to be imposed upon users of the e-manifest system. A subsequent rulemaking will establish the schedule of user fees for the system and announce the date on which the e-Manifest will be implemented and available to users. While this action does not quantify the economic benefits for an e-Manifest system, EPA expects that the non-economic benefits will be significant as the system will provide (1) much improved data quality from the manifest creation and editing aids that will be available in an electronic system; (2) greater inspection and oversight efficiencies for regulators who can access manifests more readily with electronic search aids; (3) greater transparency for and empowerment of communities with more accurate information about completed waste shipments and management trends; and (4) the efficiencies of consolidating duplicative Federal and State waste data reporting requirements with one-stop reporting.

Risks: This action does not address any particular risks in EPA's jurisdiction as it does not change existing requirements for manifesting hazardous waste shipments. It merely authorizes the use of electronic manifests at such time as the system to receive them is built and operational.

Timetable:

Action	Date	FR Cite
NPRM	05/22/01	66 FR 28240
Notice	04/01/04	69 FR 17145
Notice	04/18/06	71 FR 19842
Notice	02/26/08	73 FR 10204
Final Rule	11/00/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

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

Additional Information: Docket #: EPA–HQ–RCRA–2001–0032.

Sectors Affected: 325 Chemical Manufacturing; 2211 Electric Power Generation, Transmission and Distribution; 332 Fabricated Metal Product Manufacturing; 2122 Metal Ore Mining; 2111 Oil and Gas Extraction; 326 Plastics and Rubber Products Manufacturing; 331 Primary Metal Manufacturing; 323 Printing and Related Support Activities; 3221 Pulp, Paper, and Paperboard Mills; 482 Rail Transportation; 484 Truck Transportation; 5621 Waste Collection; 5622 Waste Treatment and Disposal; 483 Water Transportation.

URL for More Information: *www.epa.gov/epaoswer/hazwaste/gener/manifest/.*

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RIN: 2050–AG20

EPA

135. 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 122; 40 CFR 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, January 14, 2014, Settlement Agreement.

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 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. 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 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. In June 2006, EPA promulgated the Phase III regulation, covering existing electric generating plants using less than 50 MGD of cooling water, new offshore oil and gas facilities, and all existing manufacturing facilities. 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. The court also granted the request of EPA and environmental petitioners to remand the existing facility portion of the rule to the Agency. EPA entered a settlement agreement with the plaintiffs in two lawsuits related to Section 316(b) rulemakings. Under the settlement agreement 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 November 4, 2013 as discussed below. 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 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 (entrainment). 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 or more MGD of cooling water, with site-specific impingement controls for facilities withdrawing less than 50 MGD. EPA issued two Notices of Data Availability in June 2012 that described measures to provide additional flexibility that EPA is considering as part of the impingement mortality standard and that described the preliminary results of surveys of households' willingness to pay for incremental reductions in fish mortality. In light of the Supreme Court 2009 decision and its recognition that EPA has broad discretion in its 316(b) regulations, EPA initiated consultation with the Fish and Wildlife Service and the National Marine Fisheries Service under Section 7 of the Endangered Species Act. EPA and the Services began informal consultation in 2012, but concluded in 2013 that formal consultation was necessary. In order to accommodate the regulatory 135-day time frame for formal consultation, plaintiffs agreed to a modification to the settlement agreement, extending final rule deadline to November 4, 2013.

Statement of Need: Cooling water is withdrawn for the purpose of dissipating waste heat from industrial processes. Over half of all water withdrawn in the United States each year is for cooling purposes. The withdrawal of cooling water removes and kills hundreds of billions of aquatic organisms from waters of the United States each year, including plankton, fish, crustaceans, shellfish, sea turtles, and marine mammals. In addition to direct loss of organisms, a number of indirect, ecosystem-level effects may also occur, and environmental degradation can result from the cumulative impacts. The long life of the capital equipment in industries withdrawing cooling water implies that these adverse environmental impacts could continue for decades. Private decision making at facilities that use cooling water may not take society's preferences for fish protection into account. The beneficiaries of fish protection at cooling water intakes include fisherman, and citizens interested in well-functioning and healthy aquatic ecosystems. In addition, deregulation in the electric industry has made it more difficult for merchant power producers to both remain competitive and pass along to consumers costs associated with fish protection, putting them at a disadvantage to rate-regulated electric utilities that are vertically integrated.

Summary of Legal Basis: 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 existing 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, 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. The annual social costs of the other options ranged from $327 million to $4.63 billion. EPA monetized only a portion of the expected annual benefits of the rule, amounting to $18 million. The monetized benefits for the other options ranged from $17 million to $126 million. EPA also conducted a stated preference survey to provide a more comprehensive estimate of the monetized benefits and expects to have

the Science Advisory Board review this study.

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	01/00/14	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: 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.

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RIN: 2040–AE95

EPA

136. 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 423 (revision).

Legal Deadline: NPRM, Judicial, April 19, 2013, Consent Decree.

Final, Judicial, May 22, 2014, 5/22/2014—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 petreatment program. The steam electric effluent limitations guidelines and standards 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. The rulemaking may address discharges associated with coal ash waste and flue gas desulfurization (FGD) air pollution controls, as well as other power plant waste streams. 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. The proposed rule was published in the **Federal Register** on June 17, 2013 (''Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category,'' 78 **Federal Register** 110 (7 June 2013), pp. 34432–pp. 34543).

Statement of Need: Steam electric power plants contribute over half of all toxic pollutants discharged to surface

waters by all industrial categories currently regulated in the United States under the Clean Water Act. For example, steam electric plants annually discharge:

- 64,400 lb. of lead
- 2,820 lb. of mercury
- 79,200 lb. of arsenic
- 225,000 lb. of selenium
- 1,970,000 lb. of aluminum
- 4,990,000 lb. of zinc
- 30,000,000 lb. of nitrogen
- 682,000 lb. of phosphorus
- 14,500,000 lb. of manganese
- 158,000 lb. of vanadium; and
- 27 other pollutants.

Discharges of these toxic pollutants are linked to cancer, neurological damage, and ecological damage. Many of these toxic pollutants, once in the environment, remain there for years. These pollutant discharges contribute to:

- Over 160 water bodies not meeting State quality standards
- 185 waters for which there are fish consumption advisories; and
- degradation of 399 water bodies across the country that are drinking water supplies.

The revised steam electric rule would strengthen the existing controls on discharges from these plants. It would set the first Federal limits on the levels of toxic metals in wastewater that can be discharged from power plants, based on technology improvements in the industry over the last three decades.

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 (D.C. 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). As described above, EPA determined the existing regulations do not adequately address the pollutants being discharged and that revisions are appropriate.

Alternatives:, Due to the widespread discharge of pollutants in steam electric discharges, EPA has not identified alternatives to regulation.

Anticipated Cost and Benefits:, EPA recently proposed revisions to the steam electric rule and identified a range of preferred regulatory options. EPA's estimates of the annual social costs of the steam electric rule range from $185 million to $954 million with associated annual pollutant discharge reductions of 470 million to 2.62 billion pounds and water use reductions of 50 billion to 103 billion gallons. EPA's estimate of the monetized benefits, which only includes a portion of the benefits, range from $139 million to $483 million.

Risks: Effluent limitations guidelines and standards are technology based discharge requirements. As such, EPA has not assessed risk associated with this action. However, as detailed in the Statement of Need, toxic pollutant discharges from steam electric plants are linked to cancer, neurological damage, and ecological damage.

Timetable:

Action	Date	FR Cite
NPRM	06/07/13	78 FR 34431
NPRM Comment Period Extended.	07/12/13	78 FR 41907
Final Rule	05/00/14	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Undetermined.

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

Additional Information: Docket #: EPA–HQ–OW–2009–0819.

Sectors Affected: 22111 Electric Power Generation; 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.

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RIN: 2040–AF14

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 items currently under review pursuant to 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 are the joint regulations that EEOC has with the Department of Justice and the Department of Labor (DOL) (29 CFR parts 1640, 1641 and 1691) which provide for coordinated charge/complaint handling procedures. The

EEOC plans to propose to amend and revise these regulations so that, where appropriate, 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 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.	This rulemaking may decrease burdens on small businesses by making the charge/complaint process more efficient.

EEOC

Proposed Rule Stage

137. 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 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. In drafting this regulation, EEOC will explore ways to make it more consistent with 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.*

[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.

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	03/00/14	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Federal, Local, State.

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Related RIN: Related to 3046–AA92, Related to 3046–AA93.

RIN: 3046–AA91

EEOC

138. 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 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. In drafting this regulation, EEOC will explore ways to make it more consistent with two other coordination regulations (29 CFR part 1640 and 29 CFR part 1691), as well as with 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	03/00/14	

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.*

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Related RIN: Related to 3046–AA91, Related to 3046–AA93.

RIN: 3046–AA92

EEOC

139. 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 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. In drafting this regulation, EEOC will explore ways to make it more consistent with two other coordination regulations (29 CFR part 1640 and 29 CFR part 1641), as well as with 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

[1] The relevant EEO statutes are: Title VI of the Civil Rights Act of 1964, title IX of the Education Amendments 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.

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	03/00/14	

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.*

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Related RIN: Related to 3046–AA91, Related to 3046–AA92.

RIN: 3046–AA93

EEOC

140. Revisions to the Federal Sector's Affirmative Employment Obligations Regarding 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.[1]

This proposed rule would revise the regulations regarding 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.''[2] 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	04/00/14	

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–P

[1] 29 CFR 1614.203(a).

[2] Id.

GENERAL SERVICES ADMINISTRATION (GSA)—REGULATORY PLAN—OCTOBER 2013

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 Government-wide 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 Government-Wide Policy (OGP)

OGP sets Government-wide 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 direction is to ensure that Government-wide 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 Government-wide 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 Government-wide 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 of 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 (General Services Administration Acquisition Manual (GSAM) and the General Services Administration Acquisition Regulation (GSAR))

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 Federal Acquisition Regulation (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 2014, GSA plans to amend the FTR by:

- Revising chapter 301, Temporary Duty Travel, ensuring accountability and transparency. This revision will ensure agencies' travel for missions is efficient and effective, reduces costs, promotes sustainability, and incorporates industry best practices at the lowest logical travel cost.
- 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. This will include revising the Relocation Income Tax (RIT) Allowance; amending coverage on family relocation; and amending the calculations regarding the commuted rate for employee-managed household goods shipments

FMR Regulatory Priorities

In fiscal year 2014, GSA plans to amend the FMR by:

- Revising rules regarding management of Government aircraft;
- Revising rules regarding management of Federal real property;
- Revising rules regarding management of Federal personal property.

GSAR Regulatory Priorities

GSA updates the GSAR to maintain consistency with the 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.

Regulations of Concern to Small Businesses

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.

Changes to the GSAR that would be of interest to small businesses include:

• GSAR Cases 2012–G501 (Electronic Contracting Initiative), 2012–G502 (Enterprise Acquisition Solution), and 2012–G503 (Industrial Funding Fee and Sales Reporting). All of these affect GSAR Part 538 on the Schedules Program, and will assist small businesses by streamlining procedures and supporting electronic contracting.

GSAR Case 2008–09, Construction and Architect-Engineer Contracts. This case will delete outdated material and update GSAR Part 536, simplifying guidance for small construction and A/E firms.

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 published FTR Case 2011–308; Payment of Expenses Connected with the Death of Certain Employees in FY 2013. GSA amended 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'' (July, 2013), 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 Identifier No.	Title
	Proposed Rule Stage
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–AJ32	General Services Administration Acquisition Regulation (GSAR); GSAR Case 2012–G502, Enterprise Acquisition Solution.
	Final Rule Stage
3090–AI76	General Services Administration Acquisition Regulation (GSAR); GSAR Case 2008–G506, Rewrite of GSAR Part 515, Contracting by Negotiation.
3090–AI79	Federal Management Regulation (FMR); FMR Case 2008–102–4, Mail Management, Financial Requirements for All Agencies.
3090–AI81	General Services Administration Acquisition Regulation (GSAR); GSAR Case 2008–G509, Rewrite GSAR 536, Construction and Architect-Engineer Contracts.
3090–AI95	Federal Travel Regulation (FTR); FTR Case 2009–307, Temporary Duty (TDY) Travel Allowances (Taxes); Relocation Allowances (Taxes).
3090–AJ04	Federal Management Regulation (FMR); FMR Case 2010–102–3, Sale of Personal Property.
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–AJ27	Federal Travel Regulation (FTR); FTR Case 2012–301; Removal of Conference Lodging Allowance Provisions.
3090–AJ31	General Services Administration Acquisition Regulation (GSAR); GSAR Case 2012–G503; Industrial Funding Fee (IFF) and Sales Reporting.

Regulation Identifier No.	Title
3090–AJ34	Federal Management Regulation (FMR); FMR Case 2012–102–5, Restrictions on International Transportation of Freight and Household Goods.
3090–AJ35	Federal Management Regulation (FMR); FMR Case 2013–102–1; Obligating Authority.
3090–AJ36	General Services Administration Acquisition Regulation (GSAR); GSAR Case 2012–G501, Electronic Contracting Initiative.
	Completed Actions
3090–AJ22	Federal Travel Regulation (FTR); FTR Case 2011–309, Lodging Reimbursement.
3090–AJ11	Federal Travel Regulation (FTR); FTR Case 2011–301; Per Diem, Miscellaneous Amendments.
3090–AJ06	Federal Travel Regulation (FTR); FTR Case 2010–303; Terms and Definitions for ''Dependent'', ''Domestic Partner'', ''Domestic Partnership'', and ''Immediate Family.''
3090–AJ21	Federal Travel Regulation (FTR); FTR Case 2011–308; Payment of Expenses Connected With the Death of Certain Employees.

Dated: August 29, 2013.

Laura Auletta,

Acting Senior Procurement Executive.

BILLING CODE 6820–34–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA)

Statement of Regulatory Priorities

For this statement of priorities, NASA has no recent legislative and programmatic activities that affect its regulations. There are no rulemakings that are expected to have high net benefits. All of the Agency's rulemaking promotes open government as the public is given an opportunity to review and comment on these rulemakings prior to promulgation.

NASA is streamlining three of its regulations dealing with 1) delegation of authority of certain civil rights functions to Department of Health, Education, and Welfare, 2) protection of human subjects, and 3) care and use of animals in the conduct of NASA activities because these regulations contain regulatory text that is redundant to governing statutes and other regulations. The Agency has no rulemakings that reduce unjustified burdens with no particular concern to small businesses, and there are no significant international impacts.

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, aeronautics, and space exploration to enhance knowledge, education, innovation, economic vitality, and stewardship of the Earth.'' The FY 2014 Strategic Plan, scheduled for publication February 2014, guides NASA's program activities through a framework of the following three strategic goals:

- Strategic Goal 1: Expand the frontiers of knowledge, capability, and opportunity in space.
- Strategic Goal 2: Advance understanding of Earth and develop technologies to improve the quality of life on our home planet.
- Strategic Goal 3: Serve the American public and accomplish our mission by effectively managing our people, technical capabilities, and infrastructure.

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 pursuing 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 in the process of reviewing and updating the entire NFS with a projected completion date of December 2014. 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 13579 ''Regulation and Independent Regulatory Agencies'' (Jul. 11, 2011), NASA regulations associated with its retrospective review and analysis are described in the Agency's final retrospective plan of existing regulations. Nine of these regulations were completed and are described below. NASA's final plan and updates can be found at *http://www.nasa.gov/open*, under the Compliance Documents Section.

Inventions and Contributions [14 CFR 1240]—NASA amended its regulations to clarify and update the procedures for board recommended awards, and the procedures and requirements for recommended special initial awards, including patent application awards, software release awards, and Tech Brief awards, and to update citations and the information on the systems used for reporting inventions and issuing award payments. [77 FR 27365]

Information Security Protection [14 CFR 1203]—NASA amended its regulations to make nonsubstantive changes to align with and implement the provisions of Executive Order (E.O.) 13526, Classified National Security Information, and appropriately to correspond with NASA's internal requirements, NPR 1600.2, Classified National Security Information, that establishes the Agency's requirements for the proper implementation and management of a uniform system for classifying, accounting, safeguarding, and declassifying national security information generated by or in the possession of NASA. [78 FR 5116]

Claims for Patent and Copyright Infringement [14 CFR 1245]—NASA finalized its regulations relating to requirements for the filing of claims against NASA where a potential claimant believes NASA is infringing privately owned rights in patented inventions or copyrighted works. The requirements for filing an administrative claim are important since the filing of a claim carries with it certain rights relating to the applicable statute of limitations for filing suit against the Government. The regulations set forth guidelines as to what NASA considers necessary to file a claim for patent or copyright infringement, and they also provide for written notification to the claimant upon completion of an investigation by NASA. [77 FR 14686]

Procedures for Implementing the National Environmental Policy Act [14

CFR 1216]—NASA is amended its regulations governing compliance with the National Environmental Policy Act of 1969 (NEPA) and the Council on Environmental Quality's (CEQ) Code of Federal Regulations (CFR) (40 CFR parts 1500–1508). This rule replaces procedures contained in NASA's current regulations. The revised regulations are intended to improve NASA's efficiency in implementing NEPA requirements by reducing costs and preparation time while maintaining quality. In addition, NASA's experience in applying the NASA NEPA regulations since they were issued in 1988 suggested the need for NASA to make changes in its NEPA regulations. [77 FR 3102]

Tracking and Data Relay Satellite System [14 CFR 1215]—NASA amended its regulations to make nonsubstantive changes to the policy governing the Tracking and Data Relay Satellite System (TDRSS) services provided to non-U.S. Government users and the reimbursement for rendering such services. TDRSS, also known as the Space Network, provides command, tracking, data, voice, and video services to the International Space Station, NASA's space and Earth science missions, and other Federal agencies, including the Department of Defense and the National Science Foundation. For a fee, commercial users can also have access to TDRSS for tracking and data acquisition purposes. Over the last 25 years, TDRSS has delivered pictures, television, scientific, and voice data to the scientific community and the general public, including data from more than 100 Space Shuttle and International Space Station missions and the Hubble Space Telescope. A principal advantage of TDRSS is providing communications services, which previously have been provided by multiple worldwide ground stations, with much higher data rates and lower latency to the user missions. [77 FR 6949]

Removal of Obsolete Regulation: Use of Centennial of Flight Commission Name [14 CFR 1204.506]—NASA amended its regulations to make nonsubstantive changes to remove a regulation that is obsolete and no longer used. [77 FR 60619]

Non Procurement Rule, Suspension and Debarment [2 CFR 1880]—NASA has adopted as final, with no change, a proposed rule to extend coverage of non-procurement suspension and debarment to all tiers of procurement and non-procurement actions under all grants and cooperative agreements. [78 FR 13211]

Boards and Committees [14 CFR 1209]—NASA amended its regulations to make nonsubstantive changes to correct and remove citations referenced in NASA's Contract Adjustment Board rule. [78 FR 20422]

Research Misconduct [14 CFR 1275]—NASA amended its regulations to make nonsubstantive changes to the policy governing the handling of allegations of research misconduct and updates to reflect organizational changes that have occurred in the Agency. [77 FR 44439]

Updating of Existing Privacy Act—NASA Regulations [14 CFR 1212]—NASA amended its regulations to make nonsubstantive changes to its rules governing implementation of the Privacy Act by updating statute citations, position titles, terminology, and adjusting appellate responsibility for records for records held by the NASA Office of the Inspective General. [77 FR 60620]

NASA Security and Protective Service Enforcement [14 CFR 1203a, 1203b, 1204]—NASA amended its regulations to make nonsubstantive changes to its regulations to clarify the procedures for establishing controlled/secure areas and to revise the definitions for these areas and the process for granting access to these areas, as well as denying or revoking access to such areas. Arrest powers and authority of NASA security force personnel are also updated and clarified to include the carrying of weapons and the use of such weapons should a circumstance require it. [78 FR 5122]

Abstracts for other regulations that will be amended or repealed between October 2013 and October 2014 are reported in the fall 2013 edition of 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) primarily issues regulations directed to other Federal agencies and to the public. These regulations include records management, information services, access to and use of NARA holdings, and grant programs. For example, 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 Governmentwide 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 four regulatory priorities for fiscal year 2014, which are included in The Regulatory Plan. The first are NARA's revisions to the Federal records management regulations found at 36 CFR chapter XII, subchapter B. The National Archives and Records Administration proposes to revise the Federal records management regulations found at 36 CFR chapter XII, subchapter B. The proposed changes include changes resulting from the 2011 Presidential Memorandum on Managing Government Records and the 2012 Managing Government Records Directive (M–12–18). The proposed rules will affect Federal agencies' records management programs relating to proper records creation and maintenance, adequate documentation, use of paper-based-only recordkeeping, electronic recordkeeping requirements, use of the Electronic Records Archive (ERA) for records transfer, and records disposition. The proposed revisions have begun with changes to provisions at 36 CFR parts 1222, 1223, 1224, 1229, 1235, 1236, and 1239. Additional proposed revisions to the subchapter will be published this fiscal year as well.

The second priority is NARA's revision of 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, and updating the regulations to incorporate Office of Government Services and make other changes pursuant to the Open FOIA Act of 2009, the Open Government Act of 2007, and the Electronic Freedom of Information Act Amendments of 1996 (EFOIA). The revisions also 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 cover 36 CFR part 1250 and the Notice of Proposed Rulemaking has been published.

NARA's third regulatory priority is the Office of the Federal Register's (OFR) Incorporation by Reference (IBR) action. On February 13, 2012, the OFR

received a petition to amend regulations governing the approval of agency requests to incorporate material by reference into the Code of Federal Regulations. The OFR proposes that agencies seeking the Director's approval of their IBR requests add more information regarding IBR's materials to the preambles of their rulemaking documents.

And the fourth priority is a new regulation on Controlled Unclassified Information (CUI). The Information Security Oversight Office (ISOO), a component of NARA, is proposing this rule pursuant to Executive Order 13556. The Order establishes an open and uniform program for managing information requiring safeguarding or dissemination controls. This rule sets forth guidance to agencies on safeguarding, disseminating, marking, and decontrolling CUI, self-inspection and oversight requirements, and other facets of the program.

BILLING CODE 7515–01–P

Fall 2013 OPM Statement of Regulatory Priorities

Administrative Law Judges

OPM issued an interim rule in 2008 suspending the requirement set forth in 5 CFR 930.204(b) that requires incumbent administrative law judges (ALJs) to ''possess a professional license to practice law and be authorized to practice law.'' In 2010, OPM issued a proposed rule on the topic of the ALJ licensure requirements for incumbents and will consider comments on the proposed rule and comments on the interim rule when issuing a final rule on the topic.

Administrative Wage Garnishment

OPM is issuing this proposed regulation to implement the administrative wage garnishment (AWG) provisions of the Debt Collection Act of 1982, as amended by the Debt Collection Improvement Act of 1996 (DCIA). The regulation will allow OPM to garnish the disposable pay of an individual to collect delinquent non-tax debts owed to the United States without first obtaining a court order. The proposed regulation sets forth procedures for use by OPM in collecting debts owed to the Federal Government. The Federal Claims Collection Act of 1966, as amended by the Debt Collection Act of 1982 and the DCIA, requires agencies to issue regulations on their debt collection procedures. The proposed regulation includes procedures for collection of debts through AWG.

Benefits for Family Members of Military Members

The U.S. Office of Personnel Management (OPM) proposes to implement amendments to the Family and Medical Leave Act (FMLA). These regulations implement section 585(b) of the National Defense Authorization Act for Fiscal Year 2008 (NDAA) (Pub. L. 110–181, January 28, 2008) and section 565(b)(1) of the National Defense Authorization Act for Fiscal Year 2010 (Pub. L. 111–84, October 28, 2009). The statutory changes amended the FMLA provisions in 5 U.S.C. 6381 to 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 servicemember (either a current or former servicemember) 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 servicemember.

Under 5 U.S.C. 6387, OPM is required, to the extent appropriate, to be consistent with Department of Labor (DOL) regulations. DOL issued its final regulations on February 6, 2013 (78 FR 8833), which means that OPM can now issue its proposed FMLA regulations implementing the FY 2008 and FY 2010 NDAA amendments to the FMLA leave to care for a covered servicemember entitlement.

General Schedule Locality Pay Areas—2013 Metropolitan Statistical Areas as the Basis for Locality Pay Areas

The Office of Management and Budget delineated new Core-Based Statistical Areas in February 2013. The Federal Salary Council and the Pay Agent will review the new area definitions to determine if they are suitable for use as locality pay areas for the General Schedule locality pay system. If approved by the Pay Agent, the U.S. Office of Personnel Management (OPM) will issue a proposed rule to use the new Core-Based Statistical Areas as the basis for locality pay areas.

Managing Senior Executive Performance

OPM proposes to revise the regulations addressing the performance management of Senior Executives to provide for a Governmentwide appraisal system built around the Executive Core Qualifications and agency mission results.

Selective Service

OPM will issue the final regulation with a change in its procedures for determining whether an individual's failure to register with the Selective Service System was knowing and willful. Individuals will be given an opportunity to fully explain their failure to register, and the determination will be made on a more complete record. OPM is also delegating authority to Federal agencies to make initial determinations as to whether an individual failure to register with Selective Service was knowing and willful. The delegation will facilitate better quality in decision-making and efficient decisions. The Office of General Counsel has committed to issuing clear guidance on ''knowing and willful'' prior to implementation of the final regulation.

Solicitation of Federal Civilian and Uniformed Service Personnel for Contributions to Private Voluntary Organizations

OPM plans to issue final Combined Federal Campaign (CFC) regulations in order to strengthen the integrity, streamline the operation, and increase the effectiveness of the program to ensure its continued success.

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 more than 40 million people in more than 25,000 private-sector defined benefit plans. PBGC receives no 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 has changed its regulatory approach so that its regulations do not inadvertently discourage the maintenance of existing defined benefit plans or the establishment of new plans. In the past, 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. PBGC particularly 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/res/laws-and-regulations/reducing-regulatory-burden.html.*

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. Current PBGC premiums are insufficient.

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 complex. Despite this 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).

Rethinking 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, in April 2013 PBGC published a new proposal that would exempt more than 90 percent of plans and sponsors from many reporting requirements. The new proposal takes advantage of other existing reporting requirements and methods to avoid burdening companies and plans and expands waivers and redefines events to reduce reporting. The new proposal implements stakeholder suggestions that different reporting requirements should apply in circumstances where the risk to PBGC is low or compliance is especially burdensome. PBGC is considering public comments on the new proposal.

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 implemented 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

[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.*

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 and in November 2012 announced a 4062(e) enforcement pilot program under which it does not enforce in the case of small plans or financially strong sponsors (90 percent of plans are small or have financially strong sponsors).

Premiums. Based on PBGC's regulatory review and in response to public comments, in July 2013 PBGC published a proposed rule to make its premium rules more effective and less burdensome. The proposal would simplify due dates, coordinate the due date for terminating plans with the termination process, make conforming and clarifying changes to the variable-rate premium rules, provide for relief from penalties, and make other changes. Large plans would no longer have to pay flat-rate premiums early; small plans would get more time to value benefits. The proposal would also amend PBGC's regulations in accordance with the Moving Ahead for Progress in the 21st Century Act. The proposal has been favorably received by the pension community.

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 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. In June 2013, PBGC issued a Request for Information soliciting information from the public to assist it in making decisions about implementing a new program to deal with benefits of missing participants in terminating individual account plans. PBGC is interested in stakeholders' views on topics such as the extent of the demand for such a program, the demand for a database of missing participants, the availability of private-sector missing participant services, potential program costs and fees, electronic filing, and the contours of diligent search requirements. PBGC received useful comments from various sectors of the pension community.

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 [3] 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.[4]

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. As stated in our 4010 report to Congress,[5] legislative changes to section 4010 may be appropriate.

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 has issued or is considering several proposed rules that will focus on small businesses:

Small plan premium due date. Under the current regulation, 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. The premium proposed rule discussed above under *Retrospective Review of Existing Regulations* addresses this issue.

Reportable events. The reportable events proposed rule discussed above under *Retrospective Review of Existing Regulations* waives many reporting requirements for plans with fewer than 100 participants.

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 Increased Public Participation

PBGC is doing more to encourage public participation in the regulatory process. 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

[3] 76 FR 13304 (Mar. 11, 2011), *www.pbgc.gov/Documents/2011-5696.pdf.*

[4] 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.

[5] *http://www.pbgc.gov/documents/PBGC-4010-report-harkin.pdf.*

process. For example, in June 2013, PBGC held its first ever regulatory hearing on the reportable events proposed rule, so that the agency would have a better understanding of the needs and concerns of plan administrators and plan sponsors. PBGC's Request for Information on missing participants in individual account plans is another example of PBGC's efforts to solicit public participation in the regulatory process.

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 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 Regulation 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 core activities in its loan, innovation, and procurement programs.

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.

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) implementing the Mentor-Protégé Programs, which were 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 expanded to all small business concerns by the National Defense Authorization Act for FY 2013; and (3) finalizing amendments to regulations for the 504 and 7(a) loan programs.

(1) Small Business Innovation and Research (SBIR) Program (RIN: 3245–AG84)

As a result of 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, 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)

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 designed to reduce 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) 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. The National Defense Authorization Act for FY 2013 further authorized SBA to extend the availability of mentor-protégé programs to all small business concerns. During the next 12 months, one of SBA's priorities will be to issue regulations establishing these 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.

(4) 504 and 7(a) Regulatory Enhancements (RIN: 3245–AG04)

SBA also plans to finalize revised regulations to reinvigorate the Section 504 and Section 7(a) loan programs, which are both 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 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.

Retrospective Review of Existing Regulations

Pursuant to section 6 of Executive Order 13563 ''Improving Regulation and Regulatory Review'' (Jan. 18, 2011), SBA developed a plan for the retrospective review of its regulations. Since that date SBA has issued several updates to this plan to reflect the Agency's ongoing efforts in carrying out this executive order. The final Agency plan and review updates can be found at *http://www.sba.gov/aboutsba/sba_performance/open_government/retrospective_review_of_regulations.*

SBA

Proposed Rule Stage

141. Small Business Mentor-Protege Programs

Priority: Other Significant.

Legal Authority: Pub. L. 111–240; sec 1347;15 U.S.C. 657r

CFR Citation: 3 CFR 124; 13 CFR 125; 13 CFR 126; 13 CFR 127.

Legal Deadline: None.

Abstract: SBA currently has a mentor-protege program for the 8(a) Business Development Program that is intended to enhance the capabilities of the protege 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-protege programs for the Service Disabled Veteran-Owned, HUBZone, and Women-Owned Small Federal Contract Business Programs and the National Defense Authorization Act for Fiscal Year 2013 authorized this for all small businesses. 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-protege programs and set out the standards for participating as a mentor or protege in each. As is the case with the current mentor-protege program, the various forms of assistance that a mentor will be expected to provide to a protege 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. The National Defense Authorization Act for FY 2013; Public Law 112–239, section 1641, authorizes SBA to establish programs for all 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	12/00/13	

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

142. 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, Section 5151 of the SBIR/STTR Reauthorization Act of 2011 (Reauthorization Act) requires SBA to issue amendments to conform the SBIR Policy Directive to the Reuathorization 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 SBIR/STTR Reauthorization Act of 2011—Pub. L. 112–81, sec. 5001, *et seq.*), which made many changes to the STTR program.

Summary of Legal Basis: The SBIR/STTR Reauthorization Act of 2011 (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	12/00/13	

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

143. 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, Section 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 SBIR/STTR Reauthorization Act of 2011—Pub. L. 112–81, sec. 5001, *et seq.*), which made many changes to the SBIR program.

Summary of Legal Basis: The SBIR/STTR Reauthorization Act of 2011 (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	12/00/13	

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

144. 504 and 7(a) Loan Programs Updates

Priority: Other Significant.

Legal Authority: 15 U.S.C. 695 *et seq.,* 15 U.S.C. 636

CFR Citation: 13 CFR 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 percent 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 percent. 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	02/25/13	78 FR 12633
NPRM Comment Period End.	04/26/13	
Final Rule	12/00/13	

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

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 seven 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 update the medical listings used to determine disability—evaluating neurological impairments, malignant neoplastic diseases and human immunodeficiency virus infection for evaluating limitations in the immune system disorders. The revisions reflect our adjudicative experience and advances in medical knowledge, diagnosis, and treatment.

Another proposed rule will require our claimants to inform us or to submit all evidence known to them that relates to their disability claim.

Enhance Public Service

We will revise our rules to finalize the 12-month time limit for the withdrawal of an old-age benefits application. The final rules will permit only one withdrawal per lifetime.

We will revise our rules to protect the integrity of our programs and address public concerns regarding the removal of an administrative judge's name from the Notice of hearing and other prehearing notices.

We will finalize the rule modifying our regulations regarding Medicare Part B income-related monthly adjustment amounts in order to conform to changes made to the Social Security Act by the Affordable Care Act.

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 agency final plans are located 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.
0960–AH43	Revised Medical Criteria for Evaluating Cancer (Malignant Neoplastic Diseases)	No.
0960–AH54	Revised Medical Criteria for Evaluating Hearing Loss and Disturbances of Labyrinthine-Vestibular Function.	No.

SSA

Proposed Rule Stage

145. 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	02/00/14	

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.

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RIN: 0960–AF35

SSA

146. Revised Medical Criteria for Evaluating Immune (HIV) System Disorders (3466P)

Priority: Other Significant.

Unfunded Mandates: Undetermined.

Legal Authority: 42 U.S.C. 402; 42 U.S.C. 405(a); 42 U.S.C. 405(b); 42 U.S.C. 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 14.00 and 114.00, Immune System, of appendix 1 to subpart P of part 404 of our regulations describe immune 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 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: This proposed regulation is necessary in order to update the HIV evaluation listings to reflect advances in medical knowledge, treatment, and evaluation methods. It ensures that determinations of disability have a sound medical basis, that claimants receive equal treatment through the use of specific criteria, and that individuals 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: Undetermined at this time.

Anticipated Cost and Benefits: Cost/Savings estimate—negligible.

Risks: Undetermined at this time.

Timetable:

Action	Date	FR Cite
ANPRM	03/18/08	73 FR 14409
ANPRM Comment Period End.	05/19/08	
NPRM	02/00/14	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: Undetermined.

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

URL for Public Comments: www.regulations.gov.

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RIN: 0960–AG71

SSA

147. Revised Medical Criteria for Evaluating Cancer (Malignant Neoplastic Diseases) (3757P)

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. 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: We propose to revise the criteria in parts A and B of the Listing of Impairments (listings) that we use to evaluate cases involving cancer (malignant neoplastic diseases) in adults and children under titles II and XVI of the Social Security Act (Act). These proposed revisions would reflect our adjudicative experience, advances in medical knowledge, and recommendations from medical experts we consulted.

Statement of Need: These proposed regulations are necessary to update the listings for evaluating cancer to reflect advances in medical knowledge, treatment, and methods of evaluating cancer. 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: Cost estimate negligible.

Risks: None.

Timetable:

Action	Date	FR Cite
NPRM	03/00/14	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

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

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RIN: 0960–AH43

SSA

148. Submission of Evidence in Disability Claims (3802P)

Priority: Other Significant.

Legal Authority: 42 U.S.C. 405(a); 42 U.S.C. 405(d); 42 U.S.C. 423(d)(5); 42 U.S.C. 1383c(a)(3)(H); 42 U.S.C. 1383(d)(1)

CFR Citation: 20 CFR 404.900; 20 CFR 404.935; 20 CFR 404.1512; 20 CFR 404.1740; 20 CFR 405.1; 20 CFR 405.331; 20 CFR 416.912; 20 CFR 416.1400; 20 CFR 416.1435; 20 CFR 416.1540.

Legal Deadline: None.

Abstract: We propose to require claimants to inform us about or submit all evidence known to them that relates to their disability claim, subject generally to two exceptions for privileged communications and work product. This requirement would include the duty to submit all relevant evidence obtained from any source in its entirety, unless subject to an exception. We also propose to require a representative to help the claimant obtain the information or evidence that the claimant must submit under our regulations.

Statement of Need: These proposed rules would protect the integrity of the programs by clarifying a claimant's duty to submit all relevant evidence and enabling us to have a more complete case record on which to make more accurate disability determinations or decisions.

Summary of Legal Basis: Administrative—not required by statute or court order.

Alternatives: Based on our program experience, there are no alternatives at this time. The proposed rules are based on recommendations by the Administrative Conference of the United States.

Anticipated Cost and Benefits: Undetermined.

Risks: None.

Timetable:

Action	Date	FR Cite
NPRM	03/00/14	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

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

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RIN: 0960–AH53

SSA

Final Rule Stage

149. 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 modified 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 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 was crucial that we changed 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: 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	04/00/14	

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.

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RIN: 0960–AH07

SSA

150. Changes to Scheduling and Appearing at Hearings (3728F)

Priority: Other Significant.

Legal Authority: 42 U.S.C. 401(j); 42 U.S.C. 404(f); 42 U.S.C. 405(a) to 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. 423(a) to 423(b); 42 U.S.C. 423(d) to 423(h); 42 U.S.C. 423(i); 42 U.S.C. 423(s); 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 405.315; 20 CFR 405.316; 20 CFR 405.317; 20 CFR 405.350; 20 CFR 416.1429; 20 CFR 416.1436; 20 CFR 416.1438.

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 final rules will 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	06/27/13	78 FR 38610
NPRM Comment Period End.	08/26/13	
Final Action	03/00/14	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: None.

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

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RIN: 0960–AH37

SSA

151. Conforming Changes to Regulations Regarding Income-Related Monthly Adjustment Amounts to Medicare Part B Premiums (3734I)

Priority: Other Significant.

Legal Authority: 42 U.S.C. 902(a)(5); 42 U.S.C. 1395r(i)

CFR Citation: 20 CFR 404.900; 20 CFR 418.1001; 20 CFR 418.1101; 20 CFR 418.1105; 20 CFR 418.1115; 20 CFR 418.1120; 20 CFR 418.1125; 20 CFR 418.1130; 20 CFR 418.1230; 20 CFR 418.1350.

Legal Deadline: None.

Abstract: We are modifying our regulations to the Medicare Part B income-related monthly adjustment amount (IRMAA) in order to conform to changes made to the Social Security Act (Act) by the Affordable Care Act. These rules remove the requirement that beneficiaries consent to the release of IRS information outside of SSA for appeals past the reconsideration level and freeze the income threshold and ranges from 2011 through 2019. We are also removing provisions that phased in the income-related monthly adjustment amount between 2007 and 2009. The regulation also updates an outdated provision to reflect the transfer of authority for hearing appeals under title XVIII of the Act from SSA to the Department of Health and Human Services, as prescribed by the Medicare Prescription Drug, and Modernization Act of 2003.

Statement of Need: We are modifying our regulations regarding Medicare Part B income-related monthly adjustment amounts in order to conform to changes made to the Social Security Act by the Affordable Care Act.

Summary of Legal Basis: We are modifying our regulations regarding Medicare Part B income-related monthly amounts in order to conform to changes made to the Social Security Act by the Affordable Care Act.

Alternatives: None.

Anticipated Cost and Benefits: None.

Risks: None.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/18/13	78 FR 57257
Interim Final Rule Comment Period End.	11/18/13	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Federal.

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

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RIN: 0960–AH47

BILLING CODE 4191–02–P

FEDERAL ACQUISITION REGULATION (FAR)—REGULATORY PLAN—OCTOBER 2013

I. Mission and Overview

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 Secretary of Defense, Administrator of General Services, and the Administrator, National Aeronautics and Space Administration. Statutory authorities to issue and revise the FAR have been delegated to the procurement executives in DoD, GSA, and NASA.

This plan pertains to regulatory changes that will be included in the FAR. The FAR serves as the authoritative source for Federal agency procurements, directly affecting the purchase and sale of over $500 billion worth of supplies and services each year. The updating and maintaining of the FAR is achieved through extensive involvement with the Federal Acquisition Regulatory Council (FAR Council). The FAR Council, chaired by the OFPP, is comprised of senior representation from DoD, GSA and NASA. The FAR Council assists in the direction, development, and coordination of Government-wide procurement regulations, which is accomplished, in part, by interagency FAR teams and agency analysts. FAR changes are accompanied by an established process for review and analysis of public comment. Members of the public may submit comments on individual proposed and interim final rulemakings at *www.regulations.gov* during the comment period that follows publication in the **Federal Register**.

II. Statement of Regulatory and Deregulatory Priorities

Federal Acquisition Regulation Priorities

Specific FAR cases that the FAR Council established and plans to address in Fiscal Year 2013 and 2014 include:

Regulations of Concern to Small Businesses

Set-Asides for Small Business—Provide authority to set-aside part or parts of multiple-award contracts, and task and delivery orders under multiple-award contracts. (FAR Case 2011–024)

Accelerated Payment to Small Business Subcontractors- Implement the temporary policy provided by Office of Management and Budget (OMB) Policy Memorandum M–12–16, dated July 11, 2012, to provide for the accelerated payments to small business subcontractors. (FAR Case 2012–031)

Contracting with Women-owned Small Business Concerns—Implements section 1697 of the NDAA for FY 2013 to remove the statutory limitation on the dollar amount of a contract for which women-owned small businesses can compete. (FAR Case 2013–010)

Regulations Which Promote Fiscal Responsibility

Notification of Pass-Through Contracts—Implements section 802 of the NDAA for FY 2013. Section 802 requires review and justification by the contracting officer in any case in which an offeror for a contract or a task or delivery order informs the agency pursuant to that the offeror intends to award subcontracts for more than 70 percent of the total cost of work to be performed under the contract, task order, or delivery order. (FAR Case 2013–012)

Applicability of the Senior Executive Compensation Benchmark—Implements of section 803 of the National Defense Authorization Act for Fiscal Year 2012 (Pub L 112–81), which extends the limitation on allowability of compensation for certain contractor personnel from senior executives to all DoD, NASA and Coast Guard contractor employees. (FAR Case 2012–025)

Expansion of Applicability of the Senior Executive Benchmark—Implements Section 803 of the National Defense Authorization Act for Fiscal Year 2012 (Pub L 112–81), which extends the limitation on allowability of compensation for certain contractor personnel from senior executives to all DoD, NASA and Coast Guard contractor employees. (FAR Case 2012–017)

Terms of Service—Responds to recent DOJ Office of Legal Counsel (OLC) opinion regarding open-ended indemnification Terms of Service (TOS) Agreements and the Anti-Deficiency Act. Clarifies the unenforceability against the Government of such open-ended indemnification TOS agreements. (FAR Case 2013–005)

Regulations Which Promote Ethics and Integrity

Allowability of legal cost of Whistleblower—Implements sections 827(g) and 828(d) of the NDAA for FY 2013 (Pub. L. 112–239). The rule amends the FAR to address legal costs incurred by a contractor in connection with a proceeding commenced by a contractor employee submitting a complaint under the applicable whistleblower statute. (FAR Case 2013–017)

Pilot program for Enhancement of Contractor Whistleblower Protections—Implements section 828 of the NDAA for FY 2013. Section 828 enhances the whistleblower protections of contractor and subcontractor employees by establishing a 4-year ''pilot program'' to strengthen whistleblower protections for civilian agencies' (i.e., title 41 agencies) contractors and subcontractors. The whistleblower provisions exempt employees in the intelligence community and do not cover the disclosure of classified information. (FAR Case 2013–015)

Trafficking in Persons—Implements Executive Order 13627, and title XVII of the NDAA for FY 2013, to strengthen protections against trafficking in persons in Federal contracts. (FAR Case 2013–001)

Organizational Conflicts of Interests—Implements section 841 of the NDAA for FY 2009 (Pub. L. 110–147). Section 841 requires consideration of how to address the current needs of the acquisition community with regard to Organizational Conflicts of Interest. Separately addresses the issues regarding unequal access to information. (FAR Case 2011–011)

Personal Conflicts of Interest—Implements section 829 of the NDAA for FY 2013 (Pub. L. 112–239). The rule extends the guidance on personal conflicts of interest for contractor employees performing acquisitions functions closely associated with inherently governmental functions guidance to contractor personnel performing certain other functions or contract types. (FAR Case 2013–022)

Basic Safeguarding of Contractor Information Systems—Addresses safeguarding of unclassified information that does not meet the standard for National Security classification under Executive Order 12958, as amended. It addresses unclassified information that is pertinent to the national interests of the United States or originated by entities outside the U.S. Federal Government, and under law or policy requires protection from disclosure, special handling safeguards, and prescribed limits on exchange or dissemination. (FAR Case 2011–020)

Information on Corporate Contractor Performance and Integrity Implements section 852 of the NDAA for FY 2013 (Pub. L. 112–239)—Section 852 requires that FAPIIS include, to the extent practicable, information on any parent, subsidiary, or successor entities to the corporation. (FAR Case 2013–020)

Expanded Reporting of Nonconforming Supplies—Expands Government and contractor requirements for reporting of nonconforming supplies. Partial implementation of section 818 of the NDAA for FY 2012. (FAR Case 2013–002)

Contractor Access to Protected Information—Addresses contractor access to protected information, i.e., information provided by the Government (other than public information), generated for the Government, or provided by a third party and marked by the provider to indicate that protection is required. (FAR 2012–029)

Regulations Which Promote Accountability and Transparency

Service Contracts Reporting Requirements—Implements section 743 of Division C of FY 2010 Consolidated Appropriations Act (P.L. 111–117), which requires agencies to develop inventories of their service contracts, including number and work location of contractor employees. (FAR Case 2010–010)

Commercial and Government Entity (CAGE) Code—The rule requires the use of CAGE codes for awards valued greater than the micro-purchase threshold, and identification of the immediate corporate/organization parent and highest level corporate/organization parent during contractor registration for Federal contracts. The goal is to provide for standardization across the Federal government, and to facilitate data collection. (FAR Case 2012–014)

Uniform Procurement Identification—The rule proposes the use of a unique identifier for contracting offices and a standard unique Procurement Instrument Identification Number for transactions. The goal is to provide for standardization across the Federal government and to facilitate data tracking and collection. (FAR Case 2012–023)

Line Item Numbering—Considers the use of a standardized uniform line item numbering structure in Federal procurement. (FAR Case 2013–014)

Higher-Level Contract Quality Requirements—Revises acquisition

planning and quality assurance requirements to ensure the performance of higher level quality assurance for critical items. (FAR 2012–032)

Regulations Which Promote Environmental and Sustainable Acquisition

(FAR Case 2013–006) This final rule published in the **Federal Register** on August 1, 2013 78 FR 46794 but reporting for FY 13 and onward will be in the governmentwide biobased reporting tool at *www.sam.gov*.

EPEAT Items—Identifies imaging equipment and televisions as new items to be included under the EPEAT standard in FAR part 23 (FAR Case 2013–016).

Sustainable Acquisition—Implements Executive Order 13514, Federal Leadership in Environmental, Energy, and Economic Performance (10/5/2009), and Executive Order 13423, Strengthening Federal Environmental, Energy, and Transportation Management (1/24/2007), requiring agencies to leverage acquisitions to foster markers for sustainable technologies, products, and services. (FAR Case 2010–001)

III. 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 Agencies 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: *www.gsa.gov/improvingregulations.*

FAR Rules

- 9000–AM37, FAR Case 2012–031, Accelerated Payment to Small Business Subcontractors—Implement the temporary policy provided by Office of Management and Budget (OMB) Policy Memorandum M–12–16, dated July 11, 2012, to provide for the accelerated payments to small business subcontractors.
- 9000–AM09, FAR Case 2012–009, Documenting Contractor Performance—Provides government-wide standardized past performance evaluation factors and performance rating categories and require that past performance information be entered into the Contractor Performance Assessment Reporting System (CPARS).
- 9000–AM40, FAR Case 2012–028, Contractor Comment Period—Past Performance Evaluations—Reduce the time a contractor has to rebut a performance assessment before the assessment is made available to other agencies in the Past Performance Information Retrieval System.
- 9000–AM12, FAR Case 2011–024, Set-Asides for Small Business—Provides authority to set-aside part or parts of multiple-award contracts, and task and delivery orders under multiple-award contracts.
- 9000–AM59, FAR Case 2013–010, Contracting with Women-owned Small Business Concerns—Implements section 1697 of the NDAA for FY 2013 to remove the statutory limitation on the dollar amount of a contract for which women-owned small businesses can compete.
- 9000–AL82, FAR Case 2011–001, Organizational Conflicts of Interest and Unequal Access to Information—Provides revised regulatory coverage on organizational conflicts of interest (OCI) and additional coverage regarding unequal access to information to help the Government in identifying and addressing circumstances in which a Government contractor may be unable to render impartial assistance or advice to the Government.
- 9000–AM42, FAR Case 2012–029, Contractor Access to Protected Information—Establishes the minimum processes and requirements for the selection, accountability, training, equipping, and conduct of personnel performing private security functions outside the United States.
- 9000–AM55, FAR Case 2013–001; Ending Trafficking in Persons—Strengthen protections against human trafficking in persons in federal contracting.

BILLING CODE 6820–EP–P

Fall 2013 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.

CFPB Regulatory Priorities

The CFPB's regulatory priorities for the period from [November 1], 2013, to [October 31], 2014, include continuing work to implement Dodd-Frank Act mortgage protections, a series of rulemakings to address critical issues in other markets for consumer financial products and services, and following up on earlier efforts to streamline and modernize regulations that the Bureau has inherited from other Federal agencies.

Implementing Dodd-Frank Act Mortgage Protections

As reflected in the CFPB's semiannual regulatory agenda, a principal focus of the CFPB is the Bureau's continuing efforts to implement critical consumer protections under the Dodd-Frank Act to guard against mortgage market practices that contributed to the nation's most significant financial crisis in several decades.

To that end, a major effort of the Bureau is the expected imminent issuance by the Bureau of its final rule combining several disclosures that consumers receive in connection with applying for and closing on a mortgage loan under the Truth in Lending Act (TILA) and the Real Estate Settlement Procedures Act (RESPA). The project to integrate and streamline the disclosures is mandated under the Dodd-Frank Act both to increase consumer understanding of mortgage transactions and to facilitate compliance by industry. The integrated forms are the cornerstone of the Bureau's broader ''Know Before You Owe'' initiative and will be supplemented by consumer education programs and regulatory implementation support programs going forward.

In addition, the Bureau's regulatory priorities include continuing rulemaking activities to implement a number of mortgage-related requirements under title XIV of the Dodd-Frank Act that are designed to strengthen consumer protections involving the origination and servicing of mortgages. The Bureau issued several implementing regulations in January 2013, most of which will take effect in January 2014. The mortgage rules issued by the Bureau included rules on determining a consumer's ability to repay a mortgage loan, and on ''qualified mortgages''; and rules on mortgage servicing; loan originator compensation; escrow requirements for higher-priced mortgages; appraisal requirements under the Equal Credit Opportunity Act; an interagency rule on appraisals for higher-risk mortgage loans; and a rule implementing changes to requirements for high-cost mortgages.

Since the issuance of its January 2013 final rules, the Bureau has issued several clarifications and revisions to address interpretive issues and facilitate compliance with the new requirements. The Bureau also plans to engage in a further rulemaking after the January 2014 effective date, to consider certain additional refinements to the final rules. For example, the Bureau plans to further examine certain provisions of the Dodd-Frank Act that create exceptions to new requirements for small creditors that operate predominantly in ''rural or underserved areas.'' The Bureau plans to engage in additional research and analysis concerning the definition of ''rural or underserved'' in order to address potential concerns regarding access to credit. The Bureau has also agreed to consider issuing additional guidance to facilitate the development of automated underwriting systems for originating qualified mortgages.

The Bureau is also participating in a series of interagency rulemakings to implement various Dodd-Frank Act amendments to TILA and the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) relating to mortgage appraisals. These include supplementing an earlier interagency TILA final rule issued in January 2013 relating to requirements for higher-risk mortgages and implementing certain other Dodd-Frank Act amendments to FIRREA concerning regulation of appraisal management companies and automated valuation models.

Another major rulemaking priority for the Bureau is the implementation of the Dodd-Frank Act amendments to the Home Mortgage Disclosure Act (HMDA) that require supplementation of existing data reporting requirements regarding housing-related loans and applications for such loans. The Bureau has already begun work in preparation for this effort. In addition to obtaining data that is critical to the purposes of HMDA, including providing the public and public officials with information to enable them to determine whether financial institutions are meeting the needs of their communities, assist public officials in the distribution of public sector investments, and identify potential fair lending issues, the Bureau views this rulemaking as a potential opportunity to fulfill its mission under the Dodd-Frank Act to reduce unwarranted regulatory burden. In coming months, the Bureau expects to conduct extensive outreach to stakeholders, including convening a panel under the Small Business Regulatory Enforcement Fairness Act in conjunction with the Office of Management and Budget and the Small Business Administration's Chief Counsel for Advocacy to consult with small lenders who may be affected by the rulemaking.

Bureau Regulatory Efforts in Other Consumer Financial Markets

In addition to the implementation of the Dodd-Frank Act mortgage related amendments, the Bureau is also working on a number of rulemakings to address important consumer protection issues in other markets for consumer financial products and services. Much of this effort will be based on previous work of the Bureau such as Requests for Information, Advance Notices of Proposed Rulemaking (ANPRMs), and previously issued Bureau studies and reports. For instance, the Bureau issued an ANPRM on debt collection. Debt collection is the focus of more consumer complaints to the Federal Government than any other industry. *See* Consumer Financial Protection Bureau, Fair Debt Collection Practices Act: CFPB Annual Report (March 20, 2013), at 14. The Bureau has also been engaged in extensive research and analysis concerning payday loans, deposit advance products, and bank overdraft programs, building on Bureau white papers issued in April and June 2013. The Bureau is considering whether rules governing these products may be warranted to address disclosures or industry practices.

Bureau work is also continuing on a number of earlier initiatives concerning consumer payment services. Following on an earlier ANPRM concerning general purpose reloadable prepaid cards, for example, the Bureau is now engaged in consumer testing of potential disclosures as well as other research and analysis. The Bureau expects to issue a Notice of Proposed Rulemaking concerning prepaid cards in mid-2014. In addition, the Bureau expects early next year to begin work on a further rulemaking concerning consumer remittance transfers to foreign countries. The rulemaking will address whether to extend a provision under the Dodd-Frank Act that allows insured depository institutions to estimate certain information for purposes of consumer disclosures. The provision will sunset in July 2015, unless the Bureau exercises authority to extend it for up to five years.

The Bureau is continuing rulemaking activities that will further establish the Bureau's nonbank supervisory authority by defining larger participants of certain markets for consumer financial products and services. Larger participants of such markets, as the Bureau defines by rule, are subject to the Bureau's supervisory authority.

Bureau Regulatory Streamlining Efforts

Another priority for the Bureau is continuing work on an earlier initiative to consider opportunities to modernize and streamline regulations that it inherited from other agencies pursuant to a transfer of rulemaking authority under the Dodd-Frank Act. In addition to completing work on the TILA–RESPA disclosure project to consolidate and streamline Federal mortgage forms, the Bureau is planning as part of the HMDA rulemaking described above to explore opportunities to reduce unwarranted regulatory burden concerning reporting of mortgage application and origination activity. The Bureau is also expecting to issue a Notice of Proposed Rulemaking in 2014 to explore whether to modify certain requirements under the Gramm-Leach-Bliley Act's implementing Regulation P to which financial

institutions provide annual notices regarding their data sharing practices. The Notice will follow up on comments that the Bureau has previously received suggesting that eliminating the requirement to provide such notices in certain situations—for instance perhaps where financial institutions do not share information with third parties or have not changed their practices since provision of the last annual notice—would significantly reduce compliance burden for industry and unwanted paperwork for consumers.

Additional Analysis, Planning, and Prioritization

The Bureau is continuing to assess timelines for the issuance of additional Dodd-Frank Act related rulemakings and rulemakings inherited by the CFPB from other agencies as part of the transfer of authorities under the Dodd-Frank Act. The Bureau is also continuing to conduct outreach and research to assess issues in various other markets for consumer financial products and services. For example, as directed by Congress, the Bureau is conducting a study on the use of agreements providing for arbitration of consumer disputes in connection with the offering or providing of consumer financial products or services. Upon completion of this study, the Bureau will evaluate possible policy responses, including possible rulemaking actions consistent with the findings of the study. The Bureau will similarly evaluate policy responses to other ongoing research and outreach, taking into account the critical need for and effectiveness of various policy tools. The Bureau will update its regulatory agenda in spring 2014 to reflect the results of further analysis, planning, and prioritization.

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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 when other, less restrictive, efforts are inadequate to address an unreasonable risk of injury, 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;
- participates 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 6335–01–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, containing the rising costs of health care and prescription drugs, fostering competition and innovation in cutting-edge, high-tech industries, challenging deceptive advertising and marketing, and safeguarding the interests of potentially vulnerable consumers, such as children and the financially distressed, continue to be at the forefront of the Commission's consumer protection and competition programs. By subject area, the FTC discusses some of the major workshops, reports,[3] and initiatives it has pursued since the 2012 Regulatory Plan was published.

(a) Protecting Consumer Privacy. As the nation's top cop on the consumer privacy beat, the FTC's goals are to protect consumer privacy in an evolving market for consumer information, make sure companies keep their privacy promises to consumers, and ensure that consumers have confidence to take advantage of the benefits that a dynamic and ever-changing marketplace offer. The FTC achieves those goals through law enforcement, consumer education, and policy initiatives. For example, recent law enforcement activities include a settlement with Cbr, Inc., which resolved charges that its data security failures compromised credit card and other sensitive consumer health information.[4] Settlements with DesignerWare, LLC, and seven rent-to-own companies resolved charges that they monitored the personal activity of people who rented computers and allegedly tricked them into revealing personal information, without their knowledge or consent.[5]

The Commission hosted several workshops seeking to protect consumer privacy; including Mobile Security—Potential Threats and Solutions (June 4, 2013) and The Big Picture: Comprehensive Online Data Collection (December 6, 2012). The Mobile Security forum explored potential challenges that may arise as consumer use of mobile technology continues to grow. For example, there were a range of views of the impact of malware on the current mobile security environment. The U.S. market is taking steps to try to secure the mobile environment, but it is important to stay vigilant.

On December 6, 2012, the FTC also hosted a workshop exploring the practices and privacy implications of comprehensive data collection about consumers' online activities. Entities such as Internet Service Providers (ISPs), operating systems, browsers, social media, and mobile carriers have the capability to collect data about computer users across the Internet, beyond direct interactions between consumers and these entities. The comprehensive data collection workshop follows up on the FTC's March 2012 report, *Protecting Consumer Privacy in an Era of Rapid Change,*[6] which called on companies handling consumer data to implement recommendations for protecting consumers' privacy, including privacy by design, providing simplified privacy choices to consumers, and greater transparency to consumers about data collection and use.

(b) *Protecting Children.* Children increasingly use the Internet for entertainment, information and schoolwork. The Children's Online Privacy Protection Act (COPPA) and the FTC's COPPA Rule protect children's privacy when they are online by putting their parents in charge of who gets to collect personal information about their preteen kids. The FTC enforces COPPA by ensuring that parents have the tools they need to protect their children's privacy. The Commission amended its COPPA Rule to broaden and clarify the Rule's notice and consent requirements in light of fast-paced technological changes since the rule was issued. See *Final Actions* below for more information about this completed rulemaking.

On December 12, 2012, the Commission issued a new staff report, ''Mobile Apps for Kids: Disclosures Still Not Making the Grade,'' examining the privacy disclosures and practices of apps offered for children in the Google Play and Apple App stores.[7] The report details the results of the FTC's second survey of kids' mobile apps. Since FTC staff's first survey of kids' mobile apps in 2011, staff found little progress toward giving parents the information they need to determine what data is being collected from their children, how it is being shared, or who will have access to it. The report also finds that many of the apps surveyed included interactive features, such as connecting to social media, and sent information from the mobile device to ad networks, analytics companies, or other third parties, without disclosing these practices to parents. See item *(g) Food Marketing to Children* for more activities directed at the protection of children.

(c) *Protecting Seniors.* On May 7, 2013, the FTC hosted a workshop on *Senior Identity Theft: A Problem in This Day and Age* that brought together experts from government, private industry, and public interest groups to discuss the unique challenges facing victims of senior identity theft. The forum included panels on different types of senior identity theft—tax and government benefits, medical, and long-term care—and explored the best consumer education and outreach techniques for reaching seniors.

On February 20–21, 2013, FTC representatives and the Florida Attorney General's Office held a town hall event in Boca Raton, Florida to address the rising incidence of identity theft-related tax fraud in South Florida. State and federal law enforcement partners and consumer advocacy groups, including the U.S. Attorney's Office, Internal Revenue Service, U.S. Postal Inspection Service, Seniors vs. Fraud, and AARP, also participated in the program to discuss the problem and address ways to combat identity theft tax fraud. In addition, on the same dates, the Federal Trade Commission also joined a program on ID Theft and Tax Fraud in

[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 release ''Cord Blood Bank Settles FTC Charges that it Failed to Protect Consumers' Sensitive Personal Information'' dated January 28, 2013, at *http://ftc.gov/opa/2013/01/cbr.shtm.*

[5] See press release ''FTC Halts Computer Spying'' dated September 25, 2012, at *http://www.ftc.gov/opa/2012/09/designerware.shtm.*

[6] See March 2012 privacy report at *http://ftc.gov/os/2012/03/120326privacyreport.pdf.*

[7] See December 2012 report at *http://www.ftc.gov/os/2012/12/121210mobilekidsappreport.pdf.*

Pembroke Pines and Sunny Isles, Florida.

(d) *Protecting Financially Distressed Consumers.* Even as the economy recovers, some consumers continue to face financial challenges. The FTC takes effective actions to ensure that consumers are protected from deceptive and unfair credit practices and get the information they need to make informed financial choices. For example, the FTC has continued its efforts to ensure that consumers get the information they need to understand the terms of their mortgages. After reviewing hundreds of mortgage ads, the FTC alerted real estate agents, home builders, and lead generators through warning letters [8] that their mortgage ads may be deceptive and that they needed to review them to ensure compliance with ''truth in advertising'' laws.

The Commission has also continued its efforts to curb deceptive and unfair practices in debt collection. In addition to bringing law enforcement actions against debt collectors that violated the Fair Debt Collection Practices Act and the Federal Trade Commission Act, the FTC issued a report on its Debt Buyer Study and co-hosted a roundtable on debt collection issues with the Consumer Financial Protection Bureau (''CFPB''). The study is the first empirical examination of companies in the business of buying consumer debts and trying to collect on them.[9] In recent years, debt buyers have become a significant part of the debt collection system. The study evaluated the types of information debt buyers received from creditors both at and after the time of purchase, as well as the contracts governing the relationship between debt buyers and creditors. The report, titled *The Structure and Practices of the Debt Buying Industry,* found that while debt buying plays an important role in consumer credit, it also raises significant consumer protection concerns. For example, consumers each year disputed an estimated one million or more debts that debt buyers attempted to collect, but debt buyers verified only about half of the disputed debts. The report also found that (1) creditors imposed limitations on the ability of debt buyers to obtain information and documents about accounts after sale, and (2) most contracts between creditors and debt buyers stated that the creditors generally disclaimed all warranties and representations that the information they provided to buyers about debts was accurate.

The joint FTC–CFPB roundtable held in June 2013 examined the flow of consumer data throughout the debt collection process. The event brought together consumer advocates, credit issuers, collection industry members, state and federal regulators, and academics to exchange information on a range of issues, including: the amount of documentation and other information currently available to different types of collectors and at different points in the debt collection process; the information needed to verify and substantiate debts; the costs and benefits of providing consumers with additional disclosures about their debts and debt-related rights; and information issues relating to pleading and judgment in debt collection litigation.

(e) *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 and the generic competitor makes more money from the sweetheart deal than if it had entered the market and competed. The Commission will pursue federal court challenges to invalidate individual agreements when anticompetitive. On June 17, 2013, the U.S. Supreme Court held that pay-for-delay agreements between brand and generic drug companies are subject to antitrust scrutiny by holding that lower courts should apply an antitrust ''rule of reason'' analysis when evaluating such agreements. *FTC* v. *Actavis, Inc.,* 570 U.S. 756 (2013). The Court stopped short of declaring reverse-payment arrangements presumptively illegal.

(f) *Fostering Innovation & Competition.* For more than two decades, the Commission has examined difficult issues at the intersection of antitrust and intellectual property law—issues related to innovation, standard-setting, and patents. The Commission's work in this area is grounded in the recognition that intellectual property and competition laws share the fundamental goals of promoting innovation and consumer welfare. The Commission has authored several seminal reports on competition and patent law, and conducted workshops to learn more about emerging practices and trends.

For instance, the FTC and DOJ held a joint workshop in December 2012 to explore the impact of patent assertion entity (PAE) activities [10] and encouraged efforts of the Patent Trade Office to provide the public with more complete information regarding patent ownership.[11] The FTC and DOJ also received public comments in conjunction with the workshop. While workshop panelists and commenters identified potential harms and efficiencies of PAE activity, they noted a lack of empirical data in this area, and recommended that FTC use its authority under Section 6(b) of the Federal Trade Commission Act. Responding to these requests, and recognizing its own role in competition policy and advocacy, the Commission announced on September 27, 2013, that it is seeking public comments on a proposal to gather information from approximately 25 companies that are in the business of buying and asserting patents. The FTC intends to use this information to examine how PAEs do business and develop a better understanding of how they impact innovation and competition. After considering the public comments, the FTC will submit a request to the Office of Management and Budget (OMB) in compliance with Paperwork Reduction Act, seeking clearance of the FTC's proposal to issue compulsory process orders seeking information from the PAEs.

(g) *Food Marketing to Children.* On December 21, 2012, the FTC also issued a follow-up study of food and beverage industry marketing expenditures and activities directed to children and teens to gauge progress since the launch of self-regulatory efforts to promote healthier food choices to kids. The study found that industry self-regulation resulted in modest nutritional improvements from 2006 to 2009 within specific food categories heavily marketed to kids.[12] The study also

[8] See press release ''FTC Warns Mortgage Advertisers that Their Ads May Violate Federal Law'' dated November 19, 2012, at *http://www.ftc.gov/opa/2012/11/mortgageadvertise.shtm.*

[9] See press release ''The First of Its Kind, FTC Study Shines a Light on the Debt Buying Industry, Finds Consumers Would Benefit from Use of Better Data in Debt Collection'' dated January 30, 2013, at *http://www.ftc.gov/opa/2013/01/debtbuyer.shtm.*

[10] See press release ''Federal Trade Commission, Department of Justice to Hold Workshop on Patent Assertion Entity Activities'' dated November 19, 2012, at *http://www.ftc.gov/opa/2012/11/paeworkshop.shtm.*

[11] See Comments of the Antitrust Division of the United States Department of Justice And the United States Federal Trade Commission, February 1, 2013, Before the United States Department of Commerce Patent and Trademark Office, In the Matter of Notice of Roundtable on Proposed Requirements for Recordation of Real-Party-in-Interest Information Throughout Application Pendency and Patent Term, Docket No. PTO–P–2012–0047, at *http://www.ftc.gov/os/2013/02/130201pto-rpi-comment.pdf.*

[12] See press release ''FTC Releases Follow-Up Study Detailing Promotional Activities,

Continued

found that overall spending on marketing to youth was down 19.5 percent from 2006, while spending on marketing in new media (such as online, mobile, and viral marketing) increased by 50 percent.

(h) *Alcohol Advertising.* On February 1, 2012, the Office of Management and Budget (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.[13] The Commission staff estimates that the study will be completed, and a report issued, in fall 2013. The Commission also continues to promote the ''We Don't Serve Teens'' consumer education program, supporting the legal drinking age.[14]

(i) *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.[15] 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. Other activities complement these efforts, including merger enforcement and an agreement with the Commodity Futures Trading Commission to share investigative information.

(j) *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 Commission conducted an exploratory experimental study in a university economics laboratory to see whether we could identify characteristics of consumers who might be more likely to fall victim to fraud. The results of that study are still being analyzed. The most recent consumer fraud survey was conducted between late November 2011 and early February 2012, and a report describing the findings was released in April 2013. Currently, BE is seeking OMB approval to conduct a second exploratory study on consumer susceptibility to fraudulent and deceptive marketing practices. The results of these efforts may aid the FTC to better target its enforcement actions and consumer education initiatives, and improve future fraud surveys.

(k) *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. Recognizing the continuing challenge of cross-border fraud and the FTC's ongoing efforts to combat it, Congress recently reauthorized the US SAFE WEB Act. The Act, which enables the agency both to share information with foreign law enforcement agencies and to obtain information on their behalf, is vital to strengthening the culture of mutual assistance that enables law enforcers to achieve greater results working together than they could alone. One example of this cooperation is the six cases the FTC filed this year against mostly foreign-based operators of a massive tech support scam.[16] The FTC used its US SAFE WEB Act tools to work with law enforcers in Australia, Canada and the U.K., among other countries who provided invaluable assistance to the FTC. Australia and Canada also brought administrative actions for violations of their Do Not Call laws.

The FTC strives to promote sound approaches to common problems by building relationships with sister agencies around the world. The FTC and DOJ entered into a Memorandum of Understanding with the Indian competition authorities, providing for increased cooperation and mechanisms to further strengthen relations among the agencies. The FTC's network of formal and informal arrangements enables it to cooperate in merger and conduct cases such as Vivendi/EMI[17] and Google.[18]

The FTC continues to lead efforts to promote convergence toward sound and effective antitrust enforcement internationally. The FTC co-leads the International Competition Network's Agency Effectiveness Working Group and its Investigative Process Project, which has focused on transparency in competition investigations. The FTC also leads the Curriculum Project, which produced new video training modules on the analysis of competitive effects, leniency programs, merger analysis, and predatory pricing.

(l) *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. More than 425 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 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 2012 Regulatory Plan was published.

FACTA Rules. The Commission has issued all of the rules required by FACTA (Fair and Accurate Credit Transactions Act). These rules are codified in several parts of 16 CFR 602 *et seq.,* amending or supplementing

Expenditures, and Nutritional Profiles of Food Marketed to Children and Adolescents'' dated December 21, 2012, at *http://www.ftc.gov/opa/2012/12/foodmarketing.shtm.*

[13] 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.*

[14] More information can be found at *http://www.dontserveteens.gov/.*

[15] 16 C.F.R. 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.*

[16] See press release ''FTC Halts Massive Tech Support Scams'' dated October 3, 2012, at *http://ftc.gov/opa/2012/10/pecon.shtm.*

[17] See press release ''FTC Closes Its Investigation Into Vivendi, S.A.'s Proposed Acquisition of EMI Recorded Music'' dated September 21, 2012, at *http://www.ftc.gov/opa/2012/09/emi.shtm.*

[18] See press release ''Google Agrees to Change Its Business Practices to Resolve FTC Competition Concerns In the Markets for Devices Like Smart Phones, Games and Tablets, and in Online Search'' dated January 1, 2013, at *http://www.ftc.gov/opa/2013/01/google.shtm.*

regulations relating to the Fair Credit Reporting Act. See *Final Actions* below for information about the recent revision of the Identity Theft Rule, 16 CFR 681.

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 worked with their vendor to ensure the security of delivering the data set to the FTC's own and separate vendor. That data has now been sent to the FTC's vendor; upon completion of its work, some of the data will be sent to the FTC and some will be sent to the Social Security Administration to obtain additional information before returning the data to the FTC. Staff expects to prepare and submit the report to Congress in late Spring 2014. This study is not affected by the Consumer Financial Protection Act.

Section 319 of FACTA 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. The Commission's December 2012 report to Congress on credit reporting accuracy focused on identifying potential errors that could have a material effect on a person's credit standing. Any participant who identified a potentially material error on their report was encouraged to dispute the erroneous information. The study found that 26 percent of consumers reported a potential material error on one or more of their three reports and filed a dispute with at least one credit reporting agency (CRA) and half of these consumers experienced a change in their credit score. For five percent of consumers, the error on their credit report could lead to them paying more for products such as auto loans and insurance. Congress instructed the FTC to complete this study by December 2014, when a final report is due.

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 TFLA provisions, and eliminate unnecessary requirements. The comment period closed on November 16, 2012. *See* 77 FR 57043. On June 19, 2013, the Commission issued a supplemental NPRM seeking public comment on proposed changes to the guaranty provisions of the Fur Rules. *See* 78 FR 36693. These changes would align the Fur Rules with proposed changes to the guaranty provisions of the Rules under the Textile Fiber Products Identification Act. The comment period closed on July 23, 2013. Staff anticipates sending a recommendation to the Commission by the end of 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 are reviewed on a 10-year schedule. For many rules, this has resulted in more frequent reviews than 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. The Commission is currently reviewing 22 of the 65 rules and guides within its jurisdiction.
- The Commission continues to request and review public comments on the effectiveness of its regulatory review program and suggestions for its improvement.
- The FTC maintains 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.

In addition, the Commission's 10-year periodic review schedule includes initiating reviews for the following rules and guides (78 FR 30798, May 23, 2013) during 2013 and 2014:

(1) Telemarketing Sales Rule, 16 CFR 310,

(2) Regulations Under Section 4 of the Fair Packaging and Labeling Act, 16 CFR 500,

(3) Exemptions From Requirements and Prohibitions under Part 500, 16 CFR 501,

(4) Regulations Under Section 5(c) of the Fair Packaging and Labeling Act, 16 CFR Part 502,

(5) Statements of General Policy or Interpretation [under the Fair Packaging and Labeling Act], 16 CFR 503.

(6) Rules and Regulations under the Hobby Protection Act, 16 CFR 304,

(7) Standards for Safeguarding Customer Information, 16 CFR 314, and

(8) Preservation of Consumers' Claims and Defenses [Holder in Due Course Rule], 16 CFR 433.

Furthermore, consistent with the goal of reducing unnecessary burdens under section 6 of Executive Order 13563, the Commission amended:

- The Energy 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, by harmonizing FTC and Environmental Protection Agency fuel economy labeling requirements for alternative fuel vehicles.

In particular, the Alternative Fuel Rule amendments are estimated to save industry approximately 35,000 hours in compliance time [19] by consolidating the labels required on alternative fuel vehicles (AFVs) with those required by the U.S. Environmental Protection Agency (EPA), and eliminating the need for two different labels. Please see the relevant sections under *Final Actions* below for further information on both rulemakings.

Ongoing Rule and Guide Reviews

The Commission is continuing review of a number of rules and guides, which are discussed below.

(a) Rules

Premerger Notification Rules and Report Form, 16 CFR 801–803. On August 20, 2012, the Commission, in conjunction with the DOJ's Antitrust Division, announced it was 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 expired on October 25, 2012, with three comments received. Staff estimates the final rule will be issued by the fourth quarter of 2013.[20]

Negative Option Rule, 16 CFR 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 reviewed the comments and anticipates Commission action by the end of 2013.

Telemarketing Sales Rule (TSR), 16 CFR 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. *See* 75 FR 78179. The comment period closed on January 28, 2011. Staff anticipates further Commission action by the end of 2013.

TSR/Anti-Fraud Provisions—Commission staff are considering proposed ''Anti-Fraud'' amendments to the TSR concerning, among other things, the misuse of novel payment methods by telemarketers and sellers. On May 21, 2013, the Commission issued a Notice of Proposed Rulemaking (NPRM), which was published in the **Federal Register** on July 9, 2013. *See* 78 FR 41200. After a short extension, the comment period closed on August 8, 2013. Commission staff is reviewing the comments submitted in response to the NPRM, and anticipates making a recommendation to the Commission in early 2014.

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. *See* 76 FR 60765. The comment period closed on December 14, 2011. On April 29, 2013, the Commission announced the availability of the Staff Report on the Rule and solicited comment for a period of 75 days. The comment period closed on July 15, 2013. Staff anticipates sending a recommendation to the Commission by the fall of 2013.

Care Labeling Rule, 16 CFR 423. Promulgated in 1971, the Rule on Care Labeling of Textile Apparel and Certain Piece Goods as Amended (the Care Labeling Rule) makes it an unfair or deceptive act or practice for manufacturers and importers of textile wearing apparel and certain piece goods to sell these items without attaching care labels stating ''what regular care is needed for the ordinary use of the product.'' The Rule also requires that the manufacturer or importer possess, prior to sale, a reasonable basis for the care instructions, and allows the use of approved care symbols in lieu of words to disclose care instructions. After reviewing the comments from a periodic rule review (76 FR. 41148; July 13, 2011), the Commission concluded on September 20, 2012, that the Rule continued to benefit consumers and would be retained, and sought comments on potential updates to the Rule, including changes that would: Allow garment manufacturers and marketers to include instructions for professional wetcleaning on labels; permit the use of ASTM Standard D5489–07, ''Standard Guide for Care Symbols for Care Instructions on Textile Products,'' or ISO 3758:2005(E), ''Textiles—Care labeling code using symbols,'' in lieu of terms; clarify what can constitute a reasonable basis for care instructions; and update the definition of ''dryclean.'' *See* 77 FR 58338. On July 24, 2003, the Commission announced that it will host a public roundtable on October 1, 2013, to analyze proposed changes to the Rule. *See* 78 FR 45901. Staff anticipates further Commission action by April 2014.

Textile Labeling Rules, 16 CFR 303. The Textile Fiber Products Identification Act (Textile Act) requires wearing apparel and other covered household textile articles to be marked with (1) the generic names and percentages by weight of the constituent fibers present in the textile fiber product; (2) the name under which the manufacturer or another responsible

[19] See 78 FR 23832, 23834.

[20] *See Final Actions* for information about a separate final rule proceeding for HSR Rules.

USA company does business, or in lieu thereof, the registered identification number (RN) of such a company; and (3) the name of the country where the textile product was processed or manufactured. The implementing rules are set forth at 16 CFR 303 (Rules and Regulations Under the Textile Fiber Identification Act or Textile Labeling Rules).

On November 7, 2011, as part of its systematic review of all current Commission regulations and guides, the Commission requested comments on the Rule. *See* 76 FR 68690. The comment period closed on January 4, 2012. The Commission issued an NPRM on May 20, 2013, proposing changes designed to clarify and update the Rules, and make them more flexible, giving businesses more compliance options without imposing significant new obligations. *See* 78 FR 29263. The FTC also sought comment on the costs and benefits of the proposed changes. The comment period closed on July 8, 2013. Staff is reviewing comments and anticipates further Commission action by early 2014.

Used Car Rule, 16 CFR 455. 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. *See* 73 FR 42285 (July 21, 2008). The comment period, as extended and then reopened, ended on June 15, 2009. In response to comments, the Commission published a Notice of Proposed Rulemaking on December 17, 2012 (*See* 77 FR 74746) and a final rule revising the Spanish translation of the window form on December 12, 2012. *See* 77 FR 73912. The extended comment period on the NPRM ended on March 13, 2012. Staff anticipates the next Commission action by the end of 2013.

Wool Rules, 16 CFR 300. The Wool Products Labeling Act of 1939 (Wool Act) requires covered wool products to be marked with (1) the generic names and percentages by weight of the constituent fibers present in the wool product; (2) the name under which the manufacturer or another responsible USA company does business, or in lieu thereof, the registered identification number (RN) of such a company; and (3) the name of the country where the wool product was processed or manufactured. The implementing rules and regulations are set forth at 16 CFR 300 (Rules and Regulations Under The Wool Products Labeling Act of 1939 or Wool Rules). On January 30, 2012, as part of its systematic review of all current Commission regulations and guides, the Commission requested comments on the Rule. *See* 77 FR 4498. On September 16, 2013, the Commission announced it was issuing an NPRM proposing changes designed to clarify and update the Rules, to make them more flexible, and to align them with the Commission's proposed amendments to the Textile Rules. See 78 FR 57808. The proposed changes include incorporating the Wool Act's new definitions for cashmere and very fine wools, clarifying descriptions of products containing virgin or new wool, and revising the Rules to allow certain hang-tags disclosing fiber trademarks and performance even if they do not disclose the product's full fiber content. The comment period closes on November 25, 2013.

Consumer Warranty Rules, 16 CFR 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 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 FTC rules and guides, the Commission requested comments on, among other things, the economic impact and benefits of these Rules, Guides, and Interpretations [21]; 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. *See* 76 FR 52596. The comment period closed on October 24, 2011. Staff anticipates sending a recommendation to the Commission by December 2013.

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. As part of its systematic regulatory review process, and following public comment, the Commission announced that it was retaining the Cooling Off Rule and proposed increasing its $25 exclusionary limit to $130 to account for inflation. 78 FR 3855 (Jan. 17, 2013). The comment period closed on March 4, 2013. Staff reviewed the comments and the Commission is currently reviewing their recommendation.

Unavailability Rule. The Unavailability Rule, 16 CFR 424, states that it is a violation of section 5 of the FTC 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 2013.

(b) Guides

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

[21] 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.

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 has reviewed the comments and the Commission is currently reviewing their recommendation.

Jewelry Guides, 16 CFR 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 also conducted a public roundtable to examine possible modifications to the Guides in June 2013. Staff is currently reviewing the record, including comments and the roundtable transcript.

Used Auto Parts Guides, 16 CFR 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 by late 2013.

Fred Meyer Guides, 16 CFR 240. As part of the periodic review process, 77 FR 71741 (Dec. 4, 2012) (comment period ended Jan. 29, 2013), staff received public comments 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. Staff is considering revisions to the Guides in light of the public comments and anticipates that revised Guides will be published during 2013. 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.''

Final Actions

Since the publication of the 2012 Regulatory Plan, the Commission has issued the following final rules or taken other actions to terminate rulemaking proceedings.

Children's Online Privacy Protection Rule (COPPA Rule), 16 CFR 312. On January 17, 2013, the Commission amended the COPPA Rule to clarify the scope of the Rule and strengthen its protections for children's personal information, in light of changes in online technology since the Rule went into effect in April 2000. 78 FR 3972. The final amended Rule included modifications to the definitions of operator, personal information, and Web site or online service directed to children. The amended Rule also updated the requirements set forth in the notice, parental consent, confidentiality and security, and safe harbor provisions, and adds a new provision addressing data retention and deletion. The amendments were effective on July 1, 2013.

Premerger Notification Rules and Report Form, 16 CFR 801–803. On February 1, 2013, the Commission proposed amendments to the HSR rules regarding the withdrawal of HSR filings. *See* 78 FR 10574. The comment period expired on April 15, 2013. The final rule was issued on June 25, 2013, and effective on August 9, 2013. *See* 78 FR 41293.[22]

Energy Labeling Rule, 16 CFR 305. Regional Efficiency Standards—As required by the Energy Independence and Security Act of 2007, the Commission issued a final rule adding regional information to the familiar yellow EnergyGuide label on residential furnaces, heat pumps and central air conditioners. The additional information on the new labels, including a map, will help consumers and businesses install equipment appropriate for their location under new Department of Energy (DOE) regional efficiency standards. 78 FR 8362 (Feb. 6, 2013).

Comparability Ranges—On July 23, 2013, the Commission issued new EnergyGuide labels for refrigerators and clothes washers, and updated comparative energy consumption information on labels for other appliances, to help consumers compare products in light of new Department of Energy (DOE) tests for measuring energy costs. See 78 FR 43974 (final rule); 78 FR 1779 (NPRM). The amendments are effective on November 15, 2013.

Periodic Rule Review—As part of its ongoing regulatory review of the Rule, the Commission amended the Rule by streamlining data reporting requirements for manufacturers, clarifying testing requirements and enforcement provisions, improving online energy label disclosures, and making several minor technical changes and corrections. 78 FR 2200 (Jan. 10, 2013). The Commission continues to consider other issues related to this regulatory review and may seek comment on additional proposals in the future.

Labeling Requirements for Alternative Fuels and Alternative Fueled Vehicles Rule (''Alternative Fuel Rule''), 16 CFR 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. After a periodic review of the Rule, the Commission issued a final rule amendment on April 23, 2013, which (1) consolidated 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) eliminated the requirement for a separate AFV label for used vehicles. *See* 78 FR 23832. The amendments became effective on May 31, 2013.

Identity Theft Rules, 16 CFR 681. On December 18, 2010, Congress enacted the Red Flag Program Clarification Act of 2010, Public Law No. 111–319, which limited the scope of entities required to comply with the Red Flag Rule. The amendment provided that a creditor is covered only if, in the ordinary course

[22] *See Ongoing Rule and Guide Reviews* for information about a separate ongoing rulemaking proceeding for HSR Rules.

of business, it regularly: obtains or uses consumer reports in connection with a credit transaction; furnishes information to consumer reporting agencies in connection with a credit transaction; or advances funds to or on behalf of a person, in certain cases. The Commission published an Interim Final Rule to implement this legislation on December 6, 2012, which became effective on February 11, 2013. *See* 77 FR 72712.

Guides for the Use of Environmental Marketing Claims (Green Guides), 16 CFR 260. On October 11, 2012, the Commission issued revised ''Green Guides'' that are designed to help marketers ensure that the claims they make about the environmental attributes of their products are truthful and non-deceptive. *See* 77 FR 62122. The revisions to the Green Guides reflected a wide range of public input, including hundreds of consumer and industry comments on previously proposed revisions. They include updates to the existing Guides, as well as new sections on the use of carbon offsets, ''green'' certifications and seals, and renewable energy and renewable materials claims.

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.[23] 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.

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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:

[23] 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.

RIN	Title
3141–AA32	Amendment of Definitions.
3141–AA55	Minimum Internal Control Standards.
3141–AA56	Class II Minimum Internal Control Standards and Class II Minimum Technical Standards.
3141–AA58	Amendment of Approval of Management Contracts.
3141–AA59	Self-Regulation of Class II Gaming.

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 in parts 543 and 547 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) Amendments to its regulatory definitions to conform to the newly promulgated rules; (ii) the removal, revision, or suspension of the existing minimum internal control standards (MICS) in part 542; and (iii) updates or revisions to its management contract regulations to address the current state of the industry. 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 2013 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) 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.

The NRC's Regulatory Plan contains a statement of the major rules that the Commission expects to publish in the current fiscal year (FY) and a description of the other significant rulemakings that the Commission expects to work on during the current FY, the coming FY, and beyond.

B.1. Major Rules (FY 2013)

The NRC will have published two major rules (Regulation Identifier Numbers (RIN) 3150–AJ19 and 3150–AI12) by the end of FY 2013.

Revision of Fee Schedules; Fee Recovery for Fiscal Year 2013 (RIN 3150–AJ19)

Through this rule, the NRC will amend the licensing, inspection, and annual fees charged to its applicants and licensees in order to continue fulfilling the NRC's statutory requirement to recover approximately 90 percent of its budget authority in FY 2013. This recovery does not include amounts appropriated for waste incidental to reprocessing, and for generic homeland security activities (non-fee items). Each year, the NRC receives 10 percent of its budget authority from the general fund controlled by the U.S. Treasury to pay for the cost of agency activities that do not provide a direct benefit to NRC licensees. Such activities include international assistance and Agreement State activities (as defined under Section 274 of the Atomic Energy Act of 1954, as amended). The comment period for the proposed rule ended on April 8, 2013.

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, and enhanced 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 of Title 10 of the *Code of Federal Regulations* (10 CFR)]).'' Most of these requirements were previously imposed by the NRC and Agreement States between 2003 and 2005 using orders and other regulatory mechanisms. The effective date for the final rule is May 20, 2013.

B.2. Major Rules (FY 2014)

The NRC anticipates publishing one major rule in FY 2014.

- Revision of Fee Schedules and Fee Recovery for FY 2014—The NRC will update its requirement to recover approximately 90 percent of its budget authority in FY 2014.

C.1. Other Significant Rulemakings (FY 2013)

The NRC anticipates completing two other significant rulemakings in FY 2013.

- Revisions to Environmental Review for Renewal of Nuclear Power Plant Operating Licenses (RIN 3150–AI42)—The rule amends the Commission's regulations that provide the environmental protection requirements for renewing nuclear power plant operating licenses. This final rule will redefine the number and scope of the environmental impact issues that must be addressed by the NRC and applicants during license renewal environmental reviews. This rule incorporates lessons learned and knowledge gained from license renewal environmental reviews

conducted by the NRC since 1996. This rule is in the final rule stage.

• Domestic Licensing of Source Material—Amendments and Integrated Safety Analysis (RIN 3150–AI50)—The final rule would amend the Commission's regulations by adding additional requirements for source material licensees that possess significant quantities of uranium hexafluoride. The rule would require these licensees to conduct integrated safety analyses. This rule is in the final rule stage.

C.2. Other Significant Rulemakings (FY 2014)

The NRC's other significant rulemakings for FY 2014 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,'' dated July 12, 2011 (NRC's Agencywide Documents Access and Management System Accession No. ML111861807).

• Station Blackout Mitigation Strategies (RIN 3150–AJ08)—(addresses Fukushima Dai-ichi Near-Term Task Force Recommendations 4 and 7). A request for comment containing specific questions on the draft regulatory basis and draft rule concepts was published in the **Federal Register** on April 10, 2013 (78 FR 21275) to solicit stakeholder feedback. The NRC's draft regulatory basis supports the potential amendment of its regulations for nuclear power plant licensees and their station blackout (SBO) mitigation strategies.

• 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. Further, the proposed rule would allow licensees to use an alternative risk-informed approach to evaluate the effects of debris on long-term cooling.

• Strengthening and Integrating Onsite Emergency Response Capabilities (RIN 3150–AJ11)—(addresses Fukushima Dai-ichi Near-Term Task Force Recommendation 8). The draft regulatory basis for this rulemaking was published in the **Federal Register** on January 8, 2013 (78 FR 1154). The NRC solicited stakeholder feedback on why the NRC finds rulemaking necessary to remedy shortcomings in its regulations governing the integration and enhancement of requirements for onsite emergency response capabilities.

• Medical Use of Byproduct Material (Formerly titled: Preceptor Attestation Requirements) (RIN 3150–AI63)—The proposed rule would amend medical use regulations related to medical event definitions for permanent implant brachytherapy; training and experience requirements for authorized users, medical physicists, Radiation Safety Officers, and nuclear pharmacists; and requirements for the testing and reporting of failed molybdenum technetium and rubidium generators; make changes that would allow Associate Radiation Safety Officers to be named on a medical license, and make other clarifications. This rulemaking would also consider a request filed in a petition for rulemaking (PRM), PRM–35–20, to ''grandfather'' certain board-certified individuals, and per Commission direction in the Staff Requirements Memorandum dated August 13, 2012, to SECY–12–0053, subsume a proposed rule previously published under RIN 3150–AI26, ''Medical Use of Byproduct Material-Amendments/Medical Event Definition'' [NRC–2008–0071].

• 10 CFR Part 26 Drug and Alcohol Testing (RIN 3150–AJ15)—This proposed rule would amend the drug testing requirements of 10 CFR Part 26, ''Fitness-for-Duty Programs,'' to incorporate lessons learned from implementing the 2008 Part 26 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 proposed 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 both currently operating and future low-level radioactive waste disposal facilities to enhance safe disposal of low-level radioactive waste by conducting 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.''

• 10 CFR Part 26 Drug Testing—U.S. Department of Health and Human Services (HHS) Guidelines (RIN 3150–AI67)—The proposed rule would amend the Commission's regulations to selectively align drug testing requirements in 10 CFR Part 26 with Federal drug testing guidelines issued by HHS.

• Two 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 (RIN 3150–AJ20)—The proposed 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.

[FR Doc. 2013–29627 Filed 1–6–14; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL REGISTER

Vol. 79 Tuesday,

No. 4 January 7, 2014

Part III

Department of Agriculture

Semiannual Regulatory Agenda